

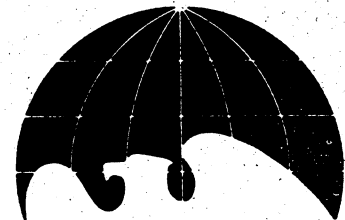
OPERATION OF THE TRADE AGREEMENTS PROGRAM

42nd Report 1990

United States
International
Trade
Commission

Washington, DC
20436

USITC Publication 2403
July 1991



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INTERNATIONAL
TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

**OPERATION OF THE TRADE AGREEMENTS PROGRAM
42nd REPORT
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July 1991

**Prepared in Conformity With
Section 163(b) of the
Trade Act of 1974**

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 42nd in a series submitted under section 163(b) of the Trade Act of 1974 and its predecessor legislation.¹ The trade agreements program includes "all activities consisting of, or related to, the administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution . . ." and congressional legislation.² Among such laws are the Reciprocal Trade Agreements Act of 1934 (which initiated the trade agreements program), the Trade Expansion Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, and the Omnibus Trade and Competitiveness Act of 1988.

The report consists of a summary, an overview, five chapters, and a statistical appendix. The overview sketches the economic and international trade environment within which U.S. trade policy was conducted in 1990. 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. 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 1990, although occasionally, to enable the reader to understand developments more fully, events in early 1991 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.

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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
CVD	Countervailing Duty
EC	European Community
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
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

Summary

Selected Issues In Trade Agreements Activities In 1990

Chapter 1 of this report highlights two significant trade developments in 1990: the Uruguay Round of Trade Negotiations, and U.S. trade initiatives in the Western Hemisphere. The Uruguay Round is a 4-year trade negotiation under the General Agreement on Tariffs and Trade (GATT), aimed at expanding and improving the multilateral trading system. It includes negotiations in areas, such as services and intellectual property rights, not previously covered by the GATT. Progress was made in a number of areas during the year, such as revisions to the standards, import licensing and customs valuation codes, and improvements in transparency. The talks virtually collapsed in December—at what was to be the conclusion of the round—over a deadlock in negotiations regarding agricultural subsidies. This section reviews progress made in 1990 by the 15 negotiating groups, and discusses progress made at the December ministerial conference in Brussels, thereby providing the status of the negotiations when the talks were resumed in February 1991.

Several U.S. trade initiatives with Latin American countries were announced in 1990. These include the Andean Trade Preferences Act, and the Enterprise for the Americas. In addition, the Governments of the United States and Mexico announced their intention to begin negotiations on a free trade agreement. Included in this section is a background discussion of the economic and trade policy environment in Latin America in the 1980s, and policy reform efforts of recent years.

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

The GATT is a multilateral agreement drafted 44 years ago that sets general rules of conduct for trade among signatory countries. The GATT is both a comprehensive set of rules governing most aspects of international trade, and a forum for multilateral trade negotiations and dispute resolution among the contracting parties. GATT membership reached 100 signatories in 1990, with seven more countries seeking to accede.

Work of the GATT committees and actions taken under the General Agreement continued, but with less intensity than in previous years, because of the Uruguay Round. GATT dispute-settlement panels considered matters raised by the United States regarding subsidies paid by the European Community (EC) to processors and producers of oilseeds, Thai restrictions on cigarettes, EC restrictions on exports of copper scrap, Canadian restrictions on imports of ice cream and yoghurt, and the import, distribution, and sale of alcoholic drinks by Canadian Provincial marketing agencies. Panels also considered EC and Australian complaints regarding U.S. import restrictions on sugar, a Canadian complaint on U.S. countervailing duties on pork imports, and followup on a Canadian and EC complaint on the U.S. customs users' fee. Also considered were U.S., Australian, and New Zealand complaints on Korean restrictions on imports of beef, a working party report regarding Swiss Accession, and a Japanese complaint on EC anticircumvention regulations on imports of parts and components for assembly in so-called "screwdriver assembly" plants.

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. Chapter 2 reviews GATT activities under these nine Tokyo Round agreements. Provisional agreement on revisions to the standards, import licensing, and customs valuation codes was reached in the Uruguay Round in 1990.

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 fora for consultation and policy coordination on issues including international 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 1990 activities in these organizations and also covers the United States-Israel FTA, the United States-Soviet Grain Agreement, the Arrangement Regarding International Trade in Textiles, and trade developments in selected service industries.

OECD highlights in 1990 include the annual ministerial meeting which focused on political and economic reforms in Central and Eastern Europe. The ministers stressed that the organization should play a "distinct and important role" by engaging in a policy dialogue to promote economic reforms in that region. In the area of agricultural trade, a subject of long-standing interest to member countries, the ministers endorsed a report by the Agricultural and Trade Committees and noted that "OECD countries have made only limited and uneven progress in implementing the agreed long-term objective of policy reform."

During 1990, the CCC worked in a number of areas to achieve a greater degree of simplification and international harmonization of customs procedures. It continued to administer the Harmonized Commodity Description and Coding System (HS), which entered into force internationally in 1988 and for the United States on January 1, 1989. The organization began a systematic review of the HS nomenclature to prepare recommended changes to deal with new products, processes, and trade patterns.

In 1990, UNCTAD focused on problems of trade relations with Central and Eastern European countries and on the Generalized System of Preferences. Under the auspices of UNCTAD, commodity agreements are administered for cocoa, jute, natural rubber, sugar, wheat, coffee, and tropical timber. At the end of 1990, the United States was participating in six of the seven international commodity agreements. In 1990, there were several developments affecting various commodities and accompanying agreements, including difficulties renegotiating the International Cocoa Agreement, extension of the International Sugar Agreement for 1 year, and efforts to extend the International Wheat Agreement until 1993.

Turning to developments in several bilateral trade agreements, in 1990, under the Bilateral Investment Treaty Program, designed to guarantee U.S. investors abroad certain rights and protections, treaties with Poland and Panama were submitted to and ratified by Congress. In 1990, the 5th full year of operation of the United States-Israel FTA, the total reported value of imports under special duty provisions was \$853 million. For the first time, dispute-settlement procedures of the FTA were invoked. The case involved U.S. measures affecting machine-tool imports. The United States and the Soviet Union signed the third 5-year grain agreement in 1990. Regarding trade agreements negotiated under the Multifiber Arrangement (MFA), U.S. imports of MFA-covered products grew by less than 1 percent in 1990, down sharply from the average 1980-89 rate of 11 percent.

Chapter 3 also reviews 1990 progress on services trade agreements. OECD and UNCTAD work programs regarding services trade issues are discussed. Also reviewed are activities in three major service industries: architectural, engineering, and construction services; financial services; and maritime transportation services.

Developments in Major U.S. Trading Partners

Chapter 4 reviews the economic performance of major U.S. trading partners, including the EC, Canada, Japan, Mexico, Taiwan, the Republic of Korea (Korea), and Brazil, U.S. trade with those countries, and important bilateral trade issues in 1990. The overall U.S. merchandise trade deficit was \$116.0 billion in 1990. This decrease of over \$2.5 billion from the 1989 level was the third successive decline in the U.S. merchandise trade deficit. Nearly two-thirds of this deficit was with the countries under review in this chapter. Of the seven trading partners covered here, the United States had a 1990 merchandise trade surplus only with the EC.

The EC countries as a whole remained the largest trading partner of the United States, accounting for over one-fifth of total U.S. trade. In 1990, U.S. exports to the EC were \$93.1 billion and imports stood at \$90.8 billion. Long-standing differences over how to handle issues such as agricultural subsidies in the Uruguay Round continued to influence the bilateral

relationship. The EC internal market program progressed steadily during the year as the EC moved closer to the goal of economic and monetary union.

Canada is the second largest U.S. trading partner. U.S. exports to Canada reached \$78.2 billion, whereas imports amounted to \$91.2 billion. The United States-Canada Free-Trade Agreement (FTA), in effect since 1989, continued to be the centerpiece of bilateral trade relations. A number of disputes were referred to the bilateral dispute-settlement panels authorized under the agreement, and the process has, in the view of some observers, operated smoothly and with a minimum of rancor. Two internal Canadian developments—the nature of Quebec's relationship to the rest of the country, and the movement toward imposition of a new goods and services tax—formed a backdrop for United States-Canadian trade relations in 1990.

Japan was the third most significant U.S. trading partner. This year marked the fourth successive annual decline in the U.S. merchandise trade deficit with Japan, from \$59.1 billion in 1986 to \$42.7 billion in 1990. U.S. exports to Japan in 1990 rose to \$46.1 billion. The trade deficit has strongly influenced bilateral relations and contributed to a heightened sensitivity in a number of continuing problem areas, such as telecommunications, semiconductors, supercomputers, beef, satellites, automobiles, and rice.

United States-Mexican trade continued to flourish in 1990, making the country the United States' fourth-largest trading partner. U.S. exports rose to \$27.5 billion, and imports rose to \$29.5 billion. Bilateral trade relations between the United States and Mexico continued to improve in 1990. As part of its own domestic policy reforms, Mexico put into effect new measures affecting foreign exchange, foreign investment, and privatization. The year's highlight was an announcement by the presidents of both countries of their intention to negotiate a bilateral free-trade agreement. Other areas of bilateral progress were textiles and intellectual property rights. A U.S. embargo on Mexican tuna was considered to be the major bilateral dispute of the year.

Taiwan remained the fifth-largest trading partner of the United States in 1990. With U.S. imports from Taiwan decreasing and exports increasing, the U.S. bilateral trade deficit reached its lowest point in 5 years. U.S. exports to Taiwan were \$11.1 billion, and imports reached \$22.6 billion. Some progress was made during the year in bilateral negotiations on intellectual property rights protection, distilled spirits, and beef. Progress on Taiwan's "Trade Action Plan," introduced in 1989, was limited, however, as the tariff reductions scheduled under the plan for 1990 failed to gain the approval of the Taiwan legislature.

U.S. exports to Korea, the sixth-largest U.S. trading partner, continued to grow in 1990, whereas U.S. imports from Korea fell for the fourth year in a row. U.S. exports to Korea rose to \$14.1 billion, and imports fell to \$18.3 billion. While progress occurred in certain areas (e.g., beef, exchange rates, intellectual property rights, and telecommunications), U.S. trade relations with Korea in 1990 also suffered setbacks. The United States accused the Government of Korea of operating an "anti-import campaign" to discourage Korean consumers from purchasing imported items.

Brazil remained the seventh-largest trading partner of the United States. A 1990 economic stabilization program in which trade liberalization played a major role significantly lessened the recent tension in United States-Brazil trade relations. U.S. retaliatory sanctions imposed in 1988 were lifted during the year, and a U.S. investigation into Brazilian trading practices was suspended following the Brazilian Government's trade policy reforms. While U.S. concern over intellectual property rights, particularly as they affect the pharmaceutical industry, continues, a Brazilian promise to introduce legislation recognizing international patents further improved bilateral relations in 1990. U.S. exports to Brazil rose to \$4.9 billion in 1990, and U.S. imports fell to \$7.8 billion.

Administration of U.S. Trade Laws And Regulations

Chapter 5 reviews activities related to the administration of U.S. trade laws in 1990. Actions under import relief laws, unfair trade laws, and other import-administration laws are included.

One investigation, involving hand-held cameras, was instituted in 1990 under section 201 of the Trade Act of 1974 ("escape clause"), compared with no investigations instituted during 1989. There were no investigations instituted under section 406 of the Trade Act of 1974 ("market disruption").

In fiscal year 1990, the U.S. Department of Labor instituted 1,455 trade adjustment assistance (TAA) investigations, a decrease of 36 percent from the 2,282 investigations instituted in fiscal year 1989. The number of completed certifications in fiscal year 1990, both fully and partially granted, decreased to 588 from 1,115 in fiscal year 1989. The surge in TAA investigations and certifications for 1989 was due to a special provision of the Omnibus Trade and Competitiveness Act of 1988, that gave oil and gas industry workers a 90-day period in which to file petitions for eligibility retroactive to 1985.

The U.S. Department of Commerce certified 171 firms as eligible to apply for trade adjustment assistance during fiscal year 1990, representing a small decline from the 175 firms certified in the previous fiscal year.

The Department of Commerce and the Commission conducted numerous antidumping and countervailing duty (CVD) investigations in 1990 under title VII of the Tariff Act of 1930. In 1990, the Commission completed 34 preliminary and 17 final antidumping duty investigations, compared with 25 preliminary and 38 final investigations in 1989. The Commission completed 5 preliminary and no final countervailing duty investigations in 1990, compared with 3 preliminary and 9 final investigations in 1989.

In 1990, the Commission completed 25 investigations under section 337 of the Tariff Act of 1930, compared with 19 in 1989. As of December 31, 1990, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect.

In 1990, three investigations under section 301 of the Trade Act of 1974 were initiated by United States Trade Representative (USTR), compared with one self-initiated investigation in 1989. Two were initiated as a result of petitions filed by private parties: G. Heileman Brewing Co., which alleged that Canada's import restrictions on beer are inconsistent with the GATT and the United States-Canada Free Trade Agreement; and the International Intellectual Property Alliance, the Motion Picture Export Association of America, and the Recording Industry Association of America, which alleged that the Government of Thailand inadequately enforces its copyright laws. The third, initiated by USTR on its own motion, concerned denial of benefits under a trade agreement by the EC, arising from accession of Spain and Portugal into the EC. Other active section 301 investigations in 1990 involved Norwegian procurement practices regarding the sale of highway toll equipment, Thailand's practices affecting imports of cigarettes, separate cases regarding EC restrictions on copper scrap, oilseeds, and an animal hormone directive, Korean protection of intellectual property rights and its beef-licensing system, Canadian salmon and herring, Brazil's informatics policies, and Argentina's differential export taxes on soybeans and soybean products. All six "Super 301" investigations initiated in 1989 were terminated or suspended in 1990. These investigations involved insurance and investment in India, forest products, supercomputers, and satellites in Japan, and import licensing in Brazil.

In 1990, the Commission initiated one investigation under section 22 of the Agricultural Adjustment Act. The investigation involved assessment of the import effects of peanuts on USDA price-support programs. Quantitative import restrictions established pursuant to section 22 authority remained in place throughout 1990 on cotton of specified staple lengths, peanuts, certain dairy products, and certain products containing sugar. Compensatory import fees remained in effect on refined sugar. In November 1990, the President suspended indefinitely the existing quota on cotton waste products.

The Caribbean Basin Economic Recovery Act (CBERA) concluded its 7th year of operation at the end of 1990. Imports entering the United States free of duty under the CBERA increased by about 13 percent between 1989 and 1990, to a total of \$1.0 billion. Cane sugar, beef, medical appliances, cigars, pineapples, and baseballs and softballs led U.S. imports for consumption under CBERA provisions.

Duty-free imports entering the United States under the Generalized System of Preferences (GSP) program rose to \$11.1 billion, from \$10.0 billion in 1989. Approximately 11.7 percent of U.S. imports from GSP designated beneficiary countries entered duty-free under the GSP. GSP duty-free imports from Mexico accounted for 24.2 percent of total imports under the program in 1990. Other major beneficiary countries were Malaysia, Thailand, Brazil, and the Philippines. Leading items that entered under the GSP in 1990 were cane sugar, jewelry, leather footwear uppers, wooden furniture, Christmas tree lighting sets, telephones, and telephone answering machines.

Administration of the following U.S. trade laws in 1990 is also summarized in chapter 5: the Meat Import Act of 1979, National Security Import Restrictions, and the Steel Import Program.

Overview:

The International Economic Environment in 1990

World output and trade increased at a lower rate in 1990 after 8 years of increasing growth. World real output grew at an estimated annual rate of 2.0 percent in 1990, down from 3.0 percent in 1989 and 4.1 percent in 1988. The slowdown in world growth reflects the economic performances of both industrial and developing countries, particularly the output contraction in Eastern Europe and the U.S.S.R.³

In industrial countries as a group, output growth declined to an estimated 2.6 percent from an actual rate of 3.4 percent in 1989, and 4.4 percent in 1988. Inflation climbed to 4.8 percent from 4.4 percent in 1989 and 3.3 percent in 1988. Within this group of countries, output grew by 4.2 percent in the Federal Republic of Germany and by 1.1 percent in Canada.⁴

In the United States, the 8-year-old economic expansion slowed down. The real GNP growth rate fell to 0.9 percent from 2.5 percent in 1989. The Federal Reserve's tight monetary policy has affected aggregate demand, in particular the growth of residential construction and business investment. However, the Federal Reserve policy has succeeded in containing inflationary pressures without pushing the economy into a deep recession. The Federal budget deficit increased after declining during the prior 4 years, as a result of the economic slowdown, the decline in tax revenue, and the bailout of savings and loan institutions.⁵

The deficit in the U.S. current account, the widest measure of trade in goods and services, dropped to \$99.3 billion from \$110.0 billion in 1989. The improvement in the U.S. merchandise trade balance was fueled by increased exports of computers and office equipment, aerospace goods, chemicals, and construction and mining equipment. The U.S. trade surplus in services increased by \$2.4 billion over 1989, rising to \$22.9 billion. The United States also registered a \$7.5 billion surplus on receipts from foreign investment, compared with a \$900 million deficit in 1989. By the end of 1990, foreign-owned assets in the United States surpassed U.S.-owned assets abroad by \$760 billion. U.S. inflows of foreign capital declined as foreign direct investment inflows receded by \$46.5 billion in 1990, to \$25.7 billion, and indirect investment in Treasury bonds dropped to \$1.1 billion, from \$30.0 billion in 1989.⁶

In Japan, stock prices tumbled by almost 40.0 percent and real estate values also fell. Consequently, banks experienced profit declines and rising regulatory capital requirements. Moreover, Japanese industries faced declining profits, tight labor markets, and declining demand for exports. Real GNP growth slowed to an estimated rate of 4.1 percent after 4 consecutive years of 5.0 percent average annual growth. Japan's current account surplus narrowed to \$35.8 billion in 1990 from \$57.2 billion in 1989, the 3rd consecutive yearly decline. Japan's service account posted a record deficit of \$22.6 billion in 1990 as transport costs and Japanese travel abroad increased. Japan's long-term capital deficit narrowed sharply. The outflow of capital for international lending was reduced both by Japan's contribution to the Persian Gulf effort (which reduced the pool of funds available for lending) and by lower U.S. interest rates (which reduced incentive to invest). Japan's deficit on the capital account declined to \$43.5 billion in 1990 from \$89.3 billion in 1989. Japanese exports rose to \$280 billion from \$260 billion in 1989 due to the rise in exports of automobiles, auto parts, and audio and video equipment.⁷

In the EC, output growth slowed to an estimated rate of 3.0 percent, compared with 3.5 percent in 1989, and 3.9 percent in 1988.⁸ The EC's economic and monetary policies reflect in large part the momentum toward economic integration. The first stage toward economic and monetary union, which has already begun, will include the completion of the single market, full participation of all EC currencies in the narrow band (2 1/4 percent on each side) of the

³ *World Economic Outlook*, International Monetary Fund, October 1990, p. 6. Real GDP or GNP for the industrial and developing countries or of composite country groups are averages of percentage changes for individual countries weighted by the average U.S. dollar value of their respective GNPs or GDPs over the preceding 3 years.

⁴ *Ibid.*

⁵ *Ibid.* and *Federal Reserve Bulletin*, March 1991, pp. 147-164.

⁶ *U.S. Department of Commerce press release*, Mar. 12, 1991.

⁷ *Monthly Economic Review of the Bank of Japan, several issues, and The Japan Economic Journal*, Dec. 15, 1990, p. 5.

⁸ *World Economic Outlook*, International Monetary Fund, October 1990.

exchange-rate mechanism (ERM), and enhanced policy coordination. The process toward monetary union has gained considerable momentum with the United Kingdom joining the exchange rate mechanism in 1990. The British pound can fluctuate within 6.0 percent of the ERM fixed exchange rate during a transition period. Progress has been slow and obstacles remain, however, with regard to other issues, like the role of the European Currency Unit (ECU) in replacing national currencies and the harmonization of indirect taxes like the value added tax (VAT). The harmonization of VAT rates, rate structures, and documentation requirements represents a difficult challenge for the EC. VAT rates vary widely between the EC countries, and these taxes are an important source of revenue. Changes in these rates, therefore, can have significant revenue and policy implications to member states. However, without harmonizing indirect taxes, it would be impossible to remove all frontier controls on the movement of goods. Finally, many of the internal market measures adopted have yet to be incorporated into the national legislation of member states.

In developing countries, real output grew by an estimated rate of 2.2 percent in 1990, compared with 3.0 percent in 1989, and 4.2 percent in 1988. Brisk output gains were recorded in the East Asian newly industrializing economies (NIEs) which together expanded at an estimated rate of 6.3 percent. Declines were recorded in Eastern Europe and the U.S.S.R., whose economies contracted at an average rate of 2.8 percent. Eastern European countries as a group recorded a loss of output at an estimated annual rate of 5.3 percent.⁹

Meanwhile, the external debt of developing countries rose in nominal value by 6.0 percent, to \$1,341 billion. The World Bank report on 107 indebted countries shows that the external debt of these countries rose by an estimated \$74.3 billion, to \$1,221 billion in 1990, despite a \$21.0 billion debt reduction effected in the year. Exchange-rate adjustments, a net rise in interest rates, and rescheduled interest arrears increased the debt stock. Some indebted countries experienced faster growth of exports (8.5 percent) over debt growth (6.5 percent), which improved somewhat their credit worthiness. However, arrears of the severely indebted groups grew rapidly.¹⁰

World Trade in 1990

Corollary to the slowdown in world output was the slowdown of world trade growth. GATT estimates show that world trade volume expanded by 5.0 percent in 1990, compared with an actual expansion of 7.0 percent in 1989 and 8.5 percent in 1988.¹¹ The nominal value of world merchandise trade rose by 13.0 percent, to a record of \$3.5 trillion in 1990. World trade in commercial services—transportation, banking, tourism, insurance, and other services—is estimated to have grown by 12.0 percent, to \$770 billion from \$690 billion. Merchandise exports of 15 highly indebted countries were estimated to have increased by 11.0 percent in value compared with a 17.0 percent increase in 1989. Imports of these countries increased by 16.0 percent and their overall merchandise trade surplus dropped to \$27.0 billion from \$30.0 billion in 1989. Imports of leading Asian trading nations rose much faster than exports did. For example, Japan's imports rose by 11.5 percent, but exports rose by only 4.5 percent.

Over the 1980 decade the volume index of world trade rose by about 50.0 percent and the value of world trade rose by 75.0 percent. The shares of mining and agricultural products in world trade declined as did the shares of the Middle East, Africa, and Latin America. North America became the most dynamic region in terms of output and trade growth, followed by Asia.¹²

U.S. Trade Policies

The U.S. administration describes its trade policies as based on free trade as the cornerstone of growth and development.¹³ As such, the United States has initiated a number of recent multilateral, bilateral, and regional trade initiatives to lower the barriers to trade in

⁹ Ibid.

¹⁰ The World Bank, *World Debt Tables 1989-90: External Debt of Developing Countries*, first supplement, (World Bank, Washington D.C.).

¹¹ GATT Press Release GATT/1494, Nov. 19, 1990.

¹² Ibid.

¹³ *Economic Report of the President*, February 1991, pp. 252-256.

goods, services, and investment. The top priority in U.S. trade policy continues to be the successful completion of the Uruguay Round of negotiations of the General Agreement on Tariffs and Trade (GATT). In the Western Hemisphere, the implementation of the U.S.-Canada Free-Trade Agreement has already reduced trade and investment barriers. Negotiations on a free-trade agreement with Mexico were proposed in 1990. President Bush has said that the proposed agreement would fuel growth and prosperity throughout this hemisphere by removing barriers to trade and investment. In June 1990, the President unveiled the Enterprise for the Americas Initiative (EAI) which is, among other things, to pave the way to free trade throughout the Western Hemisphere. The United States entered into EAI framework agreements with Bolivia, Chile, Colombia, Ecuador, Honduras, and Costa Rica. In October 1990, the President sent the Andean Trade Preference Act to the Congress. The proposal would eliminate U.S. import duties on many products imported from Bolivia, Colombia, Ecuador, and Peru. Meanwhile, the U.S.-Japan Structural Impediments Initiative has focused on identifying and removing basic impediments to trade, market competition, and balance-of-payments adjustments.¹⁴

U.S. Trade Performance

In 1990, the United States lost its position as the world's largest merchandise exporter to the Federal Republic of Germany, due to a 16.5 percent increase in the value of the German mark and the unification of the east and west regions. East Germany's exports added \$22.5 billion to total German exports. However, the United States recorded a greater increase in export volume. An export quantity index shows that U.S. exports increased by 8.5 percent, compared with only a 1.5 percent increase for Germany and 4.5 percent for Japan.¹⁵

Meanwhile, the 1990 U.S. merchandise trade deficit reached its lowest level in recent years, \$116.0 billion. Exports rose by 7.5 percent in 1990, to reach \$375.0 billion, and imports rose by 4.9 percent, to \$491.0 billion. Manufactures exports grew by 9.7 percent, to \$298.7 billion, and constituted 75.8 percent of total exports. Within the manufactured goods category, exports of advanced-technology products grew by 11.9 percent, and the United States ran a surplus of \$34.1 billion in 1990. Other exporting sectors showed balanced growth and contributed variably to total exports. Electrical machinery contributed the most in 1990, at 7.2 percent of total exports of manufactures, followed by automatic data processing and office equipment (6.3 percent), airplanes (5.0 percent), and general and specialized industrial machinery (4.0 percent each). Imports of oil rose to \$61.4 billion in 1990 from \$49.7 billion in 1989.¹⁶

U.S. trade performance with major trading partners improved significantly in 1990. The 1990 trade deficit with Japan declined by about \$8.0 billion, to \$41.1 billion, the lowest since 1984. Exports to Japan rose by 9.2 percent, whereas imports from Japan fell by 4.2 percent. The 1990 trade deficit with the newly industrializing economies declined by about \$5.0 billion, to \$19.7 billion. The trade surplus with the EC increased sixfold, to \$6.1 billion. In contrast, the U.S. trade deficit with OPEC increased to \$24.3 billion in 1990, from \$17.4 billion in 1989. U.S. exports to OPEC amounted to \$13.7 billion, and imports climbed to \$38.0 billion. U.S. total trade (exports plus imports) with Eastern European countries declined to \$6.4 billion in 1990 from \$7.3 billion in 1989. The United States incurred a trade surplus with the U.S.S.R. of \$2.0 billion in 1990, and a small trade deficit with other Eastern European countries. U.S. total trade with China climbed to \$19.9 billion in 1990 from \$17.6 billion in 1989. Because imports increased while exports declined, the U.S. trade deficit with China climbed to \$10.3 billion from \$6.1 billion in 1989.¹⁷

¹⁴ *Ibid.*

¹⁵ *GATT Press Release*, GATT/1494, Nov. 19, 1990.

¹⁶ U.S. Bureau of the Census, *Foreign Trade Division, report FT 900 (CB 91-56)*, Feb. 15, 1991.

¹⁷ U.S. International Trade Commission, *International Economic Review*, March 1991.

Chapter 1

Selected Issues in Trade Agreements Activities in 1990

This chapter describes two significant trade developments in 1990: the Uruguay Round of trade negotiations, and the development of three U.S. trade initiatives that were advanced in 1990 to support Latin America's economic reforms. The Uruguay Round is a four-year effort designed to expand and improve the multilateral trading system through negotiations in the GATT, including negotiating agreements in several areas not previously covered by the GATT. U.S. trade initiatives with Latin American countries announced in 1990 include the Andean Trade Preferences Act, the Enterprise for the Americas Initiative, and the announcement by the Governments of the United States and Mexico of their intent to begin discussions on a Free Trade Agreement.

The Uruguay Round Negotiations

Introduction

Four years of negotiations aimed at expanding and improving the multilateral trading system virtually collapsed in December 1990, as signatories to the General Agreement on Tariffs and Trade (GATT) proved unable to break a deadlock in negotiations over agricultural subsidies. The impasse frustrated progress elsewhere at the conference originally set to conclude the Uruguay Round of multilateral trade negotiations (MTN), and left the future of the Round in doubt. The United States has been a leading advocate of the ambitious agenda adopted when the Round was launched in 1986, pushing hard for a major overhaul of GATT trade rules to reflect new market realities. U.S. priorities include seeking stronger world trade rules for agriculture, expansion of multilateral disciplines to intellectual property and services, and improvements to current GATT trading rules in areas such as subsidies and safeguards.¹ This chapter reviews developments in 1990 by the 15 negotiating groups set up to discuss the subjects agreed in the Ministerial Declaration inaugurating the Round.² It includes developments at the ministerial conference held in Brussels, Belgium, December 3-7, 1990, thus providing a view of where negotiations stood when the Round was subsequently resumed February 26, 1991.³

¹ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991.

² GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986. This ministerial declaration, the "Punta del Este Declaration," is reprinted in USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC publication 1995, July 1987, App. A.

³ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 46, Mar. 4, 1991, p. 1-10. At

Overview

The pace of the Uruguay Round negotiations gathered steam during 1990 as negotiators aimed at concluding by December 1990 the four years of trade talks that opened in 1986 at Punta del Este, Uruguay. Progress had been slow to restart following the initial failure at the December 1988 Mid-Term Review to agree on a framework for negotiations⁴ in 4 of the 15 subject areas for negotiation. High-level consultations with key participants resulted in a compromise in April 1989 on the subjects of agriculture, textiles, safeguards, and trade-related aspects of intellectual property rights (TRIPs).

Beginning in late 1989 and during 1990, participants began to present more detailed and comprehensive proposals. Previously discussed ideas were integrated into single packages, allowing negotiators to begin considering possible concessions and compromises in the various negotiating groups. Concessions embodied in these proposals were made provisionally, pending the final outcome of the Uruguay Round, and conditioned typically on the provision in the Punta del Este declaration that "the launching, the conduct and the implementation of the outcome of the negotiations shall be treated as parts of a single undertaking."⁵ As succinctly stated by the GATT Director-General who oversees the Round, this meant "that nothing is final until everything is final."⁶

Provisional agreements already reached at the Mid-Term Review in April 1989 continued in effect during 1990. These included greater involvement of trade ministers in managing the world trade system through discussions in the GATT and an increased GATT contribution toward achieving coherence in world economic policy making.⁷ Periodic multilateral review of GATT members' trade policies under the Trade Policy Review Mechanism (TPRM) and expedited dispute settlement procedures also continued in force, to be re-examined at the conclusion of the Round.⁸

³—Continued

the adjournment of the Brussels conference, TNC chairman Arthur Dunkel was charged with pursuing intensive consultations to narrow outstanding differences in the negotiations. Following informal talks, Dunkel reported that on Feb. 20, 1991 some 30 key participants in the agriculture negotiations, including the EC, had agreed to "specific binding commitments" in the three areas of domestic support, market access, and export competition. Subsequently, Dunkel held further talks with participants on nonagricultural subjects and, on Feb. 26, 1991, convened a meeting of the TNC to announce that the Uruguay Round could now be formally resumed. For more information on the resumption of talks, see the following section on resumed talks. The program of work proposed by Dunkel on Feb. 26 for resumption of the Uruguay Round is reprinted in *Inside U.S. Trade*, "Dunkel Outlines Plan to Resume Uruguay Round with Technical Talks," Special Report, Mar. 1, 1991, pp. S-2 to S-5.

⁴ For a discussion of areas of agreement and disagreement at the Mid-Term Review, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, July 1989, p. 1-9 to 1-15.

⁵ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986, p. 2.

⁶ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 39, July 30, 1990, p. 8.

⁷ *Ibid.*, press release No. 46, Mar. 4, 1991, p. 2.

⁸ *Ibid.*

By the end of 1990, the 15 negotiating groups could be characterized as falling into one of three categories. In the first category, provisional agreement was publicly announced, or agreed to less formally during negotiations, but still awaits a final Uruguay Round package before becoming effective. These areas are already substantially agreed or are expected to fall into place rapidly once agreement in other fields is reached. In a second category, partial agreement has been reached, there is an agreed negotiating text or agreement on some issues,⁹ but the group continues to negotiate on other issues of substance. Political-level decisions will be required to resolve these issues, but they are anticipated to fall into place as a final Uruguay Round package begins to take shape. In the third category belong those groups that have reached little or no substantive agreement. The prospect for fully successful negotiations in these areas appears dim at this time, although agreement on different aspects of these difficult areas could well be reached given sufficient political will.

In the first category, provisional agreement was announced in 1990 on revisions to GATT Articles governing various aspects of world trade. Changes to GATT rules were announced in June 1990¹⁰ aimed at making import charges beyond tariffs more transparent, and in August 1990 aimed at increasing the transparency of transactions and operations involving state trading enterprises.¹¹ Revisions were also announced in October 1990 to three Codes of conduct concluded in the 1979 Tokyo Round MTN: the Standards, Import Licensing, and Customs Valuation Codes.¹² Other subjects that could be included in this category, where less formal progress was made up to and including the Brussels ministerial conference,¹³ involved certain nontariff measures such as rules of origin and preshipment inspection (PSI), agricultural sanitary and phytosanitary rules, and certain procedural rules under the General Agreement, such as supplier rights during tariff negotiations, procedures for forming regional customs or trading unions, and accession procedures.

In a second category are subjects in which negotiators made progress in 1990, but which still depend on political-level attention to disputed issues. These areas include textiles;¹⁴ waivers of obligations under the

General Agreement; Government Procurement; Safeguard measures; Dispute Settlement; and Services. Resolution of the remaining substantive disagreements in these areas is likely to be held back until the shape of the final Uruguay Round package begins to emerge, so negotiators can gauge what concessions and trade-offs are likely to be offered both within any single group and among all negotiating groups. Market access negotiations, involving tariffs, nontariff barriers, natural resource products, and tropical products, have made some progress in 1990,¹⁵ although time lost prior to 1990 over procedural issues¹⁶ meant that only limited progress was achieved on industrial tariffs and nontariff measures before the impasse over agriculture brought the Brussels conference to an end.¹⁷ Participants have been generally unwilling to negotiate market access issues until the Round formally resumes.¹⁸ Although additional market access offers may be advanced without the acute political attention needed to resolve disputed issues in other negotiating groups in this category, more forthcoming tariff and nontariff offers are still likely to await a clearer picture of the final shape of the Uruguay Round package.

In the last category exist the most difficult areas that claim little or no substantive agreement. First and foremost is the area of agriculture, which was responsible for the failure both at the Montreal Mid-Term Review and at the Brussels conference.¹⁹ In both cases, the European Community (EC) would not agree to a negotiating framework that would lead to reductions in agricultural subsidies sufficient to satisfy a number of interested participants, the United States and the Cairns Group of agricultural exporting countries,²⁰ in particular. Other difficult areas include subsidies and anti-dumping, intellectual property rights, investment measures, and balance-of-payments reform.

The resumption of the Round in February 1991 means that the status of negotiations in particular groups remains fluid, with the possibility that the partial agreement on some subjects such as Safeguards or Textiles may unravel and the difficulties in other subjects such as TRIPs²¹ or TRIMs may become less blocked in future negotiations than was the case at

⁹ *International Trade Reporter*, "Uruguay Round TNC meeting a 'net plus,' not a complete failure, Deputy USTR Katz says" vol. 7, no. 33, Aug. 15, 1990, pp. 1259-1260.

¹⁰ *Ibid.*, press release No. 37, June 19, 1990.

¹¹ *Ibid.*, press release No. 40, Aug. 1, 1990.

¹² *Ibid.*, press release No. 42, Oct. 24, 1990.

¹³ For a summary of results at the Brussels ministerial conference, see Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 10 to 14. The author is acting director of Office of Multilateral Affairs at the U.S. Department of Commerce. A short summary by TNC chairman Dunkel from Nov. 5, 1990 can be found under 'Status of Talks by Area' in *International Trade Reporter*, "USTR Hills says GATT talks 'hang in balance' as EC wrangles over farm subsidies proposal," vol. 7, no. 44, Nov. 7, 1990, pp. 1695-1696.

¹⁴ *International Trade Reporter*, "U.S., others blame EC for failure in Brussels to agree on new rules to govern world trade," vol. 7, no. 49, Dec. 12, 1990, pp. 1878-79.

¹⁵ *International Trade Reporter*, "Uruguay Round Groups on Market Access, Non-Tariff Measures Making Steady Progress," vol. 7, no. 41, Oct. 17, 1990, p. 1580.

¹⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, March 1, 1991, Annex p. 3.

¹⁷ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

¹⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, March 1, 1991, Annex p. 5.

¹⁹ *International Trade Reporter*, "U.S., others blame EC for failure in Brussels to agree on new rules to govern world trade," vol. 7, no. 49, Dec. 12, 1990, pp. 1878-79.

²⁰ *International Trade Reporter*, "GATT delegates asking 'what went wrong?' as concluding Uruguay Round session begins," vol. 7, no. 48, Dec. 5, 1990, p. 1851.

²¹ *International Trade Reporter*, "Negotiators on intellectual property rights making 'steady' progress in Uruguay Round" vol. 7, no. 38, Sep. 26, 1990, p. 1477.

Brussels. However, virtually all participants agree that agriculture is the predominant stumbling block to the successful conclusion of the Round, with little or no agreement yet on what is to be done other than to continue discussion.²² The clear lack of consensus on agriculture at Brussels appeared to reduce the impetus to resolve outstanding issues in a number of other negotiating areas, such as in tariff and nontariff negotiations,²³ TRIPs,²⁴ and TRIMs.²⁵ In addition, decisions in some negotiating groups are intertwined with agreements in other groups, for instance, the agricultural standards being negotiated in the agriculture group relate to the Standards Code negotiations in the MTN Agreements and Arrangements group;²⁶ the agreement in the dispute settlement group relates to dispute settlement procedures for the Standards Code and for other groups;²⁷ tropical products negotiations now depend on negotiations in the groups discussing agriculture and tariff and non-tariff measures.²⁸

Addendum on Resumed Talks

Consultations held by TNC chairman Arthur Dunkel with key participants in the agriculture negotiations laid the basis for his announcement on February 26, 1991, of the resumption of the Round. Dunkel has organized seven issue-specific groups rather than reconvene the 15 Uruguay Round negotiating groups,²⁹ in part to assist the discussion of the overlapping and intertwined subjects mentioned above.

These groups began technical-level talks on a staggered schedule,³⁰ starting March 1, 1991. The groups are (1) Agriculture, (2) Textiles and Clothing, (3) Services, (4) Rule-Making, (5) TRIMs and TRIPs, (6) Dis-

²² The basis for resuming the Uruguay Round negotiations in 1991 rested upon the EC's agreement not to dispute that the goal of the agriculture negotiations is to reach specific reductions in the trade-distorting protection provided by each of the three areas under discussion in the group - internal support, import access barriers, and export subsidies. While considered an important breakthrough, it nonetheless, signifies that the agriculture negotiating group is only now formalizing its framework for negotiation, something that other groups had already agreed at the Mid-Term Review.

²³ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

²⁴ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

²⁵ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

²⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 24.

²⁷ *Ibid.*

²⁸ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

²⁹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 46, Mar. 4, 1991, p. 1-10.

³⁰ *Inside U.S. Trade*, "Dunkel Outlines Plan to Resume Uruguay Round with Technical Talks," Special Report, Mar. 1, 1991, p. S-1. The groups' initial meeting dates were as follows: agriculture began on Mar. 1, textiles and clothing on Mar. 5, services on Mar. 8, rule-making on Mar. 14, TRIMs and TRIPs on Mar. 18, dispute settlement and the final act on Mar. 20, and

pute Settlement and the Final Act, and (7) Market Access. Previous subjects and negotiating groups are represented under these seven issues. For example, discussions under the Rule-Making group cover a number of negotiating groups: Subsidies, MTN Codes, GATT Articles,³¹ the Dispute Settlement and Final Act group including Dispute Settlement, the Final Act addressing how to incorporate the Round's results, and the subject of greater coherence in international policy-making from the Negotiating Group on Functioning of the GATT System (FOGS). The Market Access group comprises, as explained below in the review of discussions in the 15 negotiating groups during 1990, the groups on Tariffs, Nontariff Measures, Natural Resource-Based Products, and Tropical Products. This review is preceded by a review of the activities of the organizational bodies overseeing the operation of the Round.

Organizational Structure of the Negotiations

Some 15 negotiating groups and a surveillance body are involved in the negotiating process. All of them report to the Trade Negotiations Committee (TNC), which periodically meets to review the overall status of the Round and to set out work plans for its completion. The Group of Negotiations on Goods (GNG) is made up of 14 negotiating groups. These groups cover, in the order set out in the Punta del Este declaration, (1) Tariffs, (2) Nontariff Measures, (3) Tropical Products, (4) Natural Resource-Based Products, (5) Textiles, (6) Agriculture, (7) GATT Articles, (8) Safeguards, (9) MTN Codes, (10) Subsidies, (11) Dispute Settlement, (12) Trade-Related Intellectual Property Rights (TRIPs), (13) Trade-Related Investment Measures (TRIMs), and (14) the Functioning of the GATT System (FOGS). The separate Group of Negotiations on Services (GNS) also reports to the TNC chairman, as does the Surveillance Body, created by the TNC to oversee the commitment made in the Punta del Este declaration to stop as well as to reverse national protectionist trade measures, a commitment known as "standstill and rollback." See figure 1 for the structure and groups of the Uruguay Round.

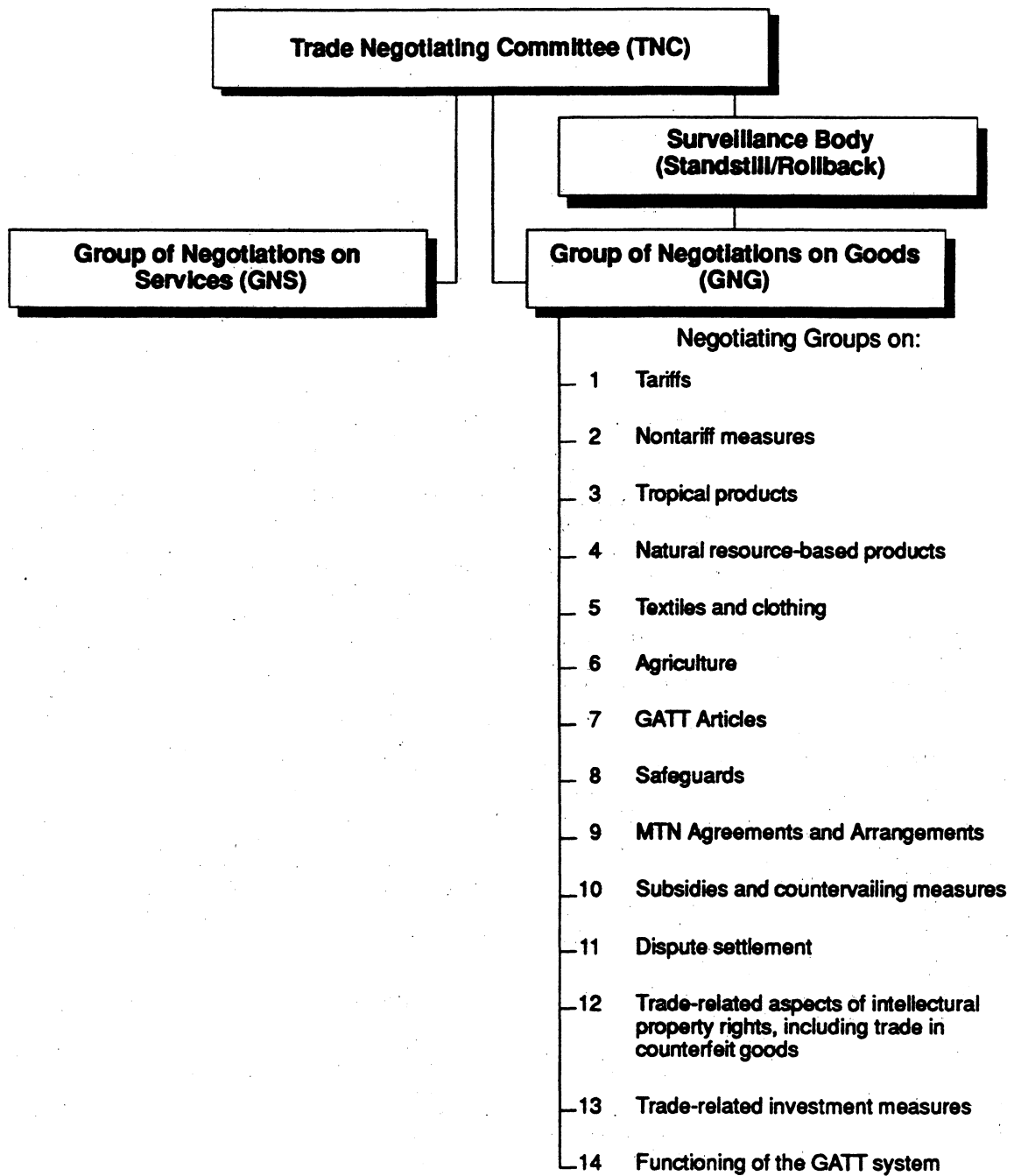
Trade Negotiations Committee Review

During 1990, the Trade Negotiations Committee (TNC) met formally and informally to assess progress being made toward agreement at the December ministerial conference. In April, the committee decided to

³⁰—Continued
market access on Mar. 21. These initial talks were primarily procedural. These groups will consider only technical-level topics, with topics requiring political-level attention postponed until later in 1991. This political-level attention is intertwined with renewal of U.S. "fast-track" negotiating authority, which expires June 1, 1991, as well as the EC annual price setting procedure under the Common Agricultural Policy, both of which are expected to be resolved by mid-year 1991.

³¹ Topics include subsidies and countervailing duties, anti-dumping, safeguards, preshipment inspection, rules of origin, the Standards Code, import licensing procedures, customs valuation, government procurement and GATT Articles.

Figure 1
Uruguay Round Structure



Source: The President, Report to the Congress on the Extension of Fast Track Procedures.

develop a complete "profile" of the agreements that would make up the final Uruguay Round package, for review at the next TNC meeting in July.³²

At the TNC meeting held July 23-26, 1990, GATT Director-General Arthur Dunkel, chairman of the TNC, conducted a political-level review of the status of negotiations.³³ He noted the unadvanced state of agreements in the various negotiating groups, observing that many of "the profiles . . . represent a compendium of positions, rather than draft agreements."³⁴ This situation, he concluded, put the negotiations "collectively behind schedule."³⁵ His summary cataloged such major issues faced in individual negotiating groups as how to improve tariff and nontariff offers; how to integrate the Multifiber Arrangement governing world textile trade into the GATT; how to proceed with agriculture negotiations; whether or not safeguard measures against import surges should be allowed on a selective basis; as well as how to bring together differences in other groups, such as Subsidies, Intellectual Property Rights, and Services.³⁶

The chairman also presented his work program for the final leg of negotiations. He called for all negotiating teams to be present in Geneva, beginning October 8, 1990, pointing out that the Punta del Este declaration calls for the GNG to evaluate the results of the Uruguay Round in regard to differential and more favorable treatment for developing countries before the Round concludes.³⁷

Standstill and Rollback

In the standstill and rollback commitment in the Punta del Este declaration, participants agreed not to take trade-restrictive or trade-distorting measures during the Round that are inconsistent with the General Agreement's rules, nor to take legitimate actions under the General Agreement that exceed the minimum necessary to correct specific situations.³⁸ The participants also agreed not to take other measures to improve their negotiating position.³⁹

Participants notify trade restrictive actions to the Surveillance Body created to oversee the standstill and rollback commitment. At the outset of the Round, there was debate over what to do with these notifications. Developing countries, in particular, felt that rollback provisions should be put into effect during the Round,⁴⁰ with countries removing trade measures

³² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 19, 1990, p. 1.

³³ *International Trade Reporter*, "TNC ends with little tangible progress, LDCs criticize meeting as waste of time," vol. 7, no. 31, Aug. 1, 1990, pp. 1180-1181.

³⁴ *Ibid.*, press release No. 39, July 30, 1990, p. 3.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986, p. 4.

³⁹ *Ibid.*

⁴⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 31.

deemed inconsistent with the General Agreement, such as voluntary export restraints. Industrial countries saw standstill and rollback as essentially a political commitment to ensure that participants would not seek concessions in exchange for removing trade measures already inconsistent with the GATT.⁴¹ To date, the Surveillance Body has met just prior to TNC meetings to provide a political-level forum for addressing concerns over measures that participants feel affect their interests in the negotiations.⁴²

In 1990, the Surveillance Body was not as active as in previous years.⁴³ In February, the United States raised the issue of the proposed EC import restraints on Japanese automobiles.⁴⁴ The United States noted that it expected any such agreement to be shortlived, transparent, and consistent with the safeguards agreement under negotiation.⁴⁵ The United States also voiced concerns against the EC proposed criterion for biotechnology that would add a socioeconomic needs test and an environmental impact assessment to the regulatory review process.⁴⁶

Argentina notified the Surveillance Body of an increase in EC subsidies to producers of high quality flint-corn.⁴⁷ Argentina also notified a rollback commitment that, it stressed, was part of an overall policy designed to liberalize its foreign trade sector.⁴⁸ The EC and Australia expressed their concern over the U.S. farm bill being considered by Congress.⁴⁹

At the July 1990 TNC review, the TNC chairman called for participants to notify by October 15, 1990, the measures they were prepared to rollback under the standstill and rollback commitment.⁵⁰ He noted further that the elimination of measures found inconsistent with the General Agreement will take place only at the end of the Round.⁵¹ The chairman of the Surveillance Body had reported at the April 1990 TNC meeting that a major effort would be needed to honor the rollback commitment by December 1990.⁵²

In November 1990, countries submitted reports to the Surveillance Body on the implementation of their rollback commitment.⁵³ Rollback contributions were made by Argentina, Australia, Canada, Chile, Colombia, the EC, Finland, Hong Kong, Indonesia, Japan, Korea, and the United States.⁵⁴ The United States said it would implement the recommendations made by two

⁴¹ *Ibid.*

⁴² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 19, 1990, p. 19.

⁴⁸ *Ibid.*, Apr. 11, 1990, p. 19.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, press release No. 39, July 30, 1990, p. 6.

⁵¹ *Ibid.*

⁵² *Ibid.*, press release No. 35, Apr. 19, 1990, p. 1.

⁵³ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986, p. 4-5.

⁵⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 31-32.

dispute panels that found U.S. customs users fees and the U.S. "Superfund" tax on imports to be inconsistent with GATT rules.^{55 56}

Group of Negotiations on Services

The Group of Negotiations on Services (GNS) set out in 1990 to develop a draft services framework agreement by July. In particular, the group sought to agree on sector coverage under the framework as well as the means by which to liberalize trade in services.⁵⁷ Increased LDC participation in the services negotiations was another major aim. In this regard, 11 members of the Latin American Economic System (SELA) presented a draft text that stressed special considerations for developing countries in liberalizing trade in services.⁵⁸

The group created several working groups in May 1990 to examine particular services sectors and elements in those individual sectors that may need to be taken into account in the application of an overall services agreement.⁵⁹ The working groups covered financial services, telecommunications services, transportation services, construction and engineering, professional services, tourism, with agreement also to hold discussions on labor mobility issues.⁶⁰ An eighth working group was subsequently added on the audiovisual sector to cover films and broadcasting.⁶¹ The sectors chosen for working groups were to be independent of final sector coverage under a services agreement.⁶²

By the time of the Brussels conference, a number of these working groups had produced annexes that are to be attached to the overall framework agreement on services to address issues unique to these sectors.⁶³ The annexes developed prior to the Brussels meeting cover all transport services, telecommunications, labor mobility, and audiovisual services.⁶⁴ A fifth annex on financial services was introduced by Canada, Japan, Sweden, and Switzerland at the Brussels ministerial conference and, supported by the United States and the

⁵⁵ Ibid.

⁵⁶ For discussion of the cases involving the customs user fees and the "Superfund" tax, see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC publication 1995, July 1987, p. 2-9, and subsequent issues.

⁵⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, p. 12.

⁵⁸ Ibid., press release No. 35, Apr. 19, 1990, p. 20-21. These special considerations included: the principle of relative reciprocity, i.e. market access commitments in line with individual levels of development; flexibility for LDCs to liberalize fewer sectors or types of transactions; priority to be given to liberalization measures of particular interest to LDCs; an LDC right to furnish incentives to domestic service providers; an LDC right to regulate market access to promote domestic supply capacity; and technical aid to develop LDC service infrastructure.

⁵⁹ Ibid., press release No. 36, June 1, 1990, p. 11.

⁶⁰ Ibid.

⁶¹ Ibid., press release No. 38, July 16, 1990, p. 13.

⁶² Ibid., press release No. 36, June 1, 1990, p. 11.

⁶³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex P. 54.

⁶⁴ GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," *MTN.TNC/W/35/Rev.1*, December 3, 1990, p. 364-378.

EC,⁶⁵ is likely to form the basis for future negotiations in this sector.⁶⁶ Other annexes may be developed as a result of further negotiations.⁶⁷ Following is a discussion of the major issues being addressed in the Negotiating Group on Services (GNS) as part of developing the overall framework agreement, as well as the individual working groups examining the need for possible sector annotations.

Framework Agreement on Services

During 1990, the negotiating group discussed several proposals, including a comprehensive legal draft submitted by a group of primarily African countries,⁶⁸ as well as full legal texts by the EC⁶⁹ and Switzerland.⁷⁰ A draft framework text submitted by the group chairman during these discussions focused attention first on rules and principles,⁷¹ with later additions to the text covering institutional aspects such as dispute settlement and enforcement. He proposed a council overseeing the operation of the services agreement, along the lines of the GATT Council of Representatives that governs operation of the General Agreement, which could implement a services agreement as well as provide technical assistance to developing countries concerning services.⁷² The chairman's text also included provisions covering transactions when the agreement would not apply between parties, such as when one country is a signatory to the services

⁶⁵ Ibid., Annex p. 55 57 and Table 5. See also *International Trade Reporter*, "U.S. backs plan on financial services offered by Canada at GATT trade talks" and "Draft sectoral annex on financial services presented under Canadian sponsorship at General Agreement on Tariffs and Trade talks in Brussels," vol. 7, no. 48, Dec. 5, 1990, pp. 1821-1822 and 1854-1857.

⁶⁶ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

⁶⁷ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 54.

⁶⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 10. Cameroon, China, Egypt, India, Kenya, Nigeria and Tanzania.

⁶⁹ Ibid., Press Release No. 38, July 16, 1990, p. 12. The EC plan covered all services and was to apply to cross-border service exports, the movement of factors necessary to production such as essential personnel, and professional or commercial presence. It contained detailed provisions on national treatment, domestic regulation, transparency, subsidies, antidumping and countervailing regulations, restrictive business practices and monopolies. Commitments to remove market access restrictions would be lodged in national schedules and aim at achieving "effective market access" by removing restrictions inconsistent with the plan's national treatment and subsidies provisions. The plan calls for negotiation of additional liberalization commitments within 3 years of the start of a services agreement.

⁷⁰ Ibid. The Swiss plan offered rules and principles similar to the EC plan. It envisioned preserving current market access and a freeze on new measures not consonant with national treatment and subsidy provisions. Commitments would also be bound in national schedules for specific sectors, subsectors, or transaction type. Reservations under these schedules would be withdrawn as soon as possible. Multilateral commitments, such as harmonization measures, mutual recognition of national regulations, standards or qualifications, and global market access commitments, would be negotiated over time in periodic review conferences.

⁷¹ Ibid., press release No. 41, Oct. 9, 1990, p. 11.

⁷² Ibid.

agreement and the other is not.⁷³ These provisions in turn raised the issue of determining rules of origin for traded services.⁷⁴

The chairman's draft framework text provided the basis for negotiation in the fall over the central issues of scope and sectoral coverage, initial commitments to liberalize services trade, the embodiment of progressive liberalization within the agreement, most-favored-nation (MFN) treatment in services, and provisions relating to developing countries.⁷⁵ The working groups continued work during the fall of 1990 on the service sectors likely to need additional provisions or separate annexes to the agreement to interpret the framework's provisions to their particular sector.⁷⁶

Little additional progress was made at the Brussels conference⁷⁷ toward finalizing a framework agreement, known as the General Agreement on Trade in Services (GATS). Much discussion, just before and during the Brussels conference, centered on whether MFN treatment⁷⁸ was appropriate to a services agreement. Some participants seek unqualified MFN treatment for services, while others see this approach as liberalizing access to national service markets unevenly.⁷⁹ The United States argued that such unqualified MFN treatment would obligate countries with already open service markets to remain open while more closed economies would have no further incentive to liberalize.⁸⁰ At the November 21-22 meeting of the GNS immediately prior to the Brussels meeting, U.S. negotiators had proposed virtual elimination of the MFN principle from the services agreement, a complete reversal from the U.S. support at the beginning of the Round for a broad-based services agreement covering a number of service sectors.⁸¹ U.S. maritime and civil aviation industry associations in particular had voiced the opinion that current bilateral arrangements worked better than

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Department of Commerce, *Uruguay Round Update*, Sep. 1990, pp. 10-11.

⁷⁶ *Ibid.*

⁷⁷ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

⁷⁸ GATT, *Basic Instruments and Selected Documents*, vol. IV, Geneva, 1969, p. 1-78. Article I (General Most-Favoured-Nation Treatment) of the General Agreement sets forth the tenet of MFN treatment for goods: "With respect to customs duties and charges . . . in connection with importation or exportation . . . or the international transfer of payments for imports or exports, . . . any advantage, favour, privilege or immunity granted by any contracting party to any product . . . shall be accorded immediately and unconditionally to the like product . . . of all other contracting parties."

⁷⁹ USTR, "Opening Statement by United States Trade Representative Carla A. Hills," meeting of the Trade Negotiations Committee of the GATT at the ministerial level, Brussels, Belgium, Dec. 3, 1990; and *International Trade Reporter*, "U.S. backs plan on financial services offered by Canada at GATT trade talks," vol. 7, no. 48, Dec. 5, 1990, pp. 1821-1822.

⁸⁰ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

⁸¹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

the possible arrangements being developed in the group of a multilaterals GATS.⁸² To resolve this difficulty of uneven market access under the MFN principle, the United States proposed a "progressive MFN" that would link MFN treatment to firm market access commitments.⁸³ Although controversial, a number of key market access offers came forward based on this linked MFN before the Round was suspended.⁸⁴

Working Group on Maritime, Land and Air Transport Services

In 1990, this working group looked at whether a separate annex to the services agreement was necessary for the transport sector and, if so, for what issues. Application of the MFN principle was widely discussed because of the extensive bilateral and multilateral agreements existing in the transport sector, in particular the U.N. Code of Conduct for Liner Conferences (ICAO). Sea and air cabotage issues were also highlighted, with differences over whether in-land waterways were part of land or sea transport.⁸⁵ (Cabotage is trade or transport within a country in coastal waters or airspace.) The working group developed annexes for discussion at the Brussels conference on maritime, inland waterway, road, and air transport services.⁸⁶ However, other participants share concerns of the United States over application of all the rules of the services agreement to the transport sectors,⁸⁷ although opposition from European maritime associations, for example, has been more muted than that from U.S. ones.⁸⁸ Extensive bilateral aviation agreements make application of MFN treatment to this sub-sector particularly inappropriate, according to the United States.⁸⁹

⁸² *International Trade Reporter*, "U.S. insistence on dropping automatic MFN from GATT services agreement stalls talks," vol. 7, no. 47, Nov. 28, 1990, pp. 1801-1802.

⁸³ *International Trade Reporter*, "GATT delegates asking 'what went wrong?' as concluding Uruguay Round session begins," vol. 7, no. 48, Dec. 5, 1990, pp. 1851-1853.

⁸⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 55-57 and Table 5. The United States had tabled requests for specific market access commitments from 40 countries in June 1990 in an effort to begin negotiations on initial commitments. In Oct. 1990, Switzerland proposed that participants table "conditional offers" to reach these commitments, but by the time of the Brussels conference, only Japan, Switzerland, and the United States had tabled such offers. The EC and five other participants tabled market access offers during the Brussels conference, while the number had risen to 17 plus the EC by March 1991.

⁸⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 13-14.

⁸⁶ GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," *MTN.TNC/W/35/Rev.1*, Dec. 3, 1990, pp. 364-368.

⁸⁷ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 56-57.

⁸⁸ *International Trade Reporter*, "GATT delegates asking 'what went wrong?' as concluding Uruguay Round session begins," vol. 7, no. 48, Dec. 5, 1990, pp. 1851-1853. In meetings between the EC and U.S. transportation ministers in January 1991, the EC said it would consider excluding coverage of shipping from new disciplines under the GATT if reaching such an agreement that would lead to a "less liberal" regime than currently exists proved too difficult. The EC transportation commissioner said that an agreement that would further restrict world shipping "would clearly not be of interest to the EC." Reuters newswire service, "EC now prepared to exclude shipping from new GATT pact, EC official says," report ref. No. BNA EC/GATT 0397, Jan. 8, 1990.

⁸⁹ *Ibid.*

Working Group on Telecommunications

At the first working group meeting in June 1990, the United States presented its draft annex covering access to and use of telecommunications networks. The EC, Japan, and Korea also made proposals. Developing countries stressed the role of telecommunications in economic development. Other concerns raised included bilateral pacts between countries that fix international telephone accounting rates and the role national telecommunications monopolies play in supporting services to remote and rural areas. The group covered technical issues, including transparency, mode of delivery, basic infrastructural versus enhanced telecommunications services, standards-related issues, pricing, anti-competitive behavior, and supply and demand conditions of networks.⁹⁰

The United States has emphasized liberalization of enhanced telecommunications services over basic services because many other countries restrict foreign competition in such basic telecommunications services as voice telephone or telex.⁹¹ This asymmetry in market access has prompted the United States in particular to seek commitments from other countries to open their markets to U.S. telecommunications services before granting MFN treatment in the telecommunications sector.⁹²

Working Group on Labor Mobility

The Working Group on Labor Mobility examined issues in 1990 such as the distinction between temporary personnel movement versus immigration, and the relation of personnel movement to the commercial presence of a firm seeking to sell its services abroad.⁹³ Developing countries have sought to include labor mobility in a services agreement in light of an LDC comparative advantage in wage rates, thus establishing some "symmetry" to industrial country advantages in other fields of services.⁹⁴ The working group developed an annex for discussion at Brussels, after examining whether or not labor mobility issues might not be included in the overall services framework.⁹⁵

Working Group on the Audio-visual Sector

While the working group did not formally define the audiovisual sector, some participants used an informal definition of production, distribution, and diffusion of film, video, and television industries. The major issue discussed focused on an exemption from MFN

⁹⁰ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 38, July 16, 1990, p. 13.

⁹¹ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 57.

⁹² *Ibid.*

⁹³ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 12-13.

⁹⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 57.

⁹⁵ GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," *MTN.TNC/W/35/Rev.1*, Dec. 3, 1990, p. 376.

treatment in the framework agreement that would permit governments to protect cultural values. The United States and others took the position that no such exemption was in order;⁹⁶ Canada, the EC, Egypt, and India held the opposite view.⁹⁷ The United States argued that cultural identity was already obscured by the increasing multinational character of film and television productions. Countries proposing such an exemption typically have quotas and other discriminatory arrangements in place aimed at protecting domestic industries from foreign competition in this field.⁹⁸

Working Group on Financial Services

Working group participants raised a number of issues for discussion concerning the financial sector, specifically: (1) the definition and coverage of financial services; (2) prudent regulation; (3) national treatment; (4) market access; and (5) MFN treatment. Questions or concerns that corresponded with these five issues, included: (1) Should banking and insurance be treated separately? (2) What is the best way to ensure that liberalization does not undermine the existing controls of prudent regulations? (3) How can national treatment be applied across widely different regulatory regimes and levels of financial liberalization? (4) How can both the establishment of commercial presence through direct investment or acquisition and a cross-border provision of financial services be covered under the market access provisions of the agreement? (5) How can different approaches to MFN treatment be reconciled?⁹⁹

The working group also examined possible balance-of-payments (BOP) provisions for trade in financial services. Disagreement between developing and industrial country participants in the group prevented a financial services annex from being forwarded with the other annexes to the Brussels conference.¹⁰⁰ Nonetheless, a draft annex on financial services was adopted for discussion during the conference that appears to provide a basis for future negotiations.

Working Group on Construction and Engineering Services

This working group focused initially on labor mobility, government procurement, and subsidies in the construction and engineering sector. Market access issues discussed included performance bonds, bidding practices, and construction and engineering service

⁹⁶ *International Trade Reporter*, "U.S., Japan block EC Uruguay Round effort to restrict content of audiovisual services," vol. 7, no. 40, Oct. 10, 1990, p. 1548.

⁹⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 11-12.

⁹⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 57.

⁹⁹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 38, July 16, 1990, p. 13-14.

¹⁰⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 57.

packages.¹⁰¹ However, no annex has been produced to date on this sector.

Group of Negotiations on Goods

The Group of Negotiations on Goods (GNG), to which the 14 negotiating groups report, met at the end of 1989 to review the overall progress of the negotiations as well as to assess the balance being struck between the needs of industrial and developing countries. The GNG met again briefly in April 1990. Developing country needs in the negotiations was a broad theme during 1989, but was narrowed down at the 1990 meeting.¹⁰² Issues raised that affected developing countries in particular included the possible introduction of selective safeguard measures, which some felt would endanger the basic principle of non-discrimination embodied in the General Agreement,¹⁰³ the lack of progress both in re-integrating textiles into the GATT system, and in the agriculture negotiations; and the slow pace of negotiations on traditional subjects, such as tariffs and tropical products. Attempts to revise trade rules governing balance-of-payments restrictions under GATT Article XVIII (Governmental Assistance to Economic Development) were specifically contested, as these provisions are often used by developing country signatories to justify trade restrictions designed to safeguard a country's financial reserves.

Progress made in the individual negotiating groups that report to the GNG is detailed below.

Tariffs

In February 1990, the Negotiating Group on Tariffs resolved its long-standing debate over whether to reduce tariffs by a "formula" or by a "request/offer" approach by agreeing that both were acceptable.¹⁰⁴ Since the beginning of the Round, most countries have favored a formula cut to tariffs,¹⁰⁵ whereby duties in all tariff lines would be reduced by a certain percentage to achieve "a target amount for overall reductions at least as ambitious as that achieved by the formula participants in the Tokyo Round," as agreed at the Mid-Term Review.¹⁰⁶ This meant that the outcome would be at

¹⁰¹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 12.

¹⁰² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 19, 1990, p. 4-5.

¹⁰³ The principle of non-discrimination is reflected in GATT article I (General Most-Favoured-Nation Treatment) and article III (National Treatment on Internal Taxation and Regulation) where MFN treatment is granted "immediately and unconditionally" and where the same treatment is afforded to produce imported from other contracting parties as is given to like domestic products. For an analysis of the principles and rules of the GATT legal regime for international trade, see *Trade Policies for a Better Future: The 'Leutwiler Report', the GATT and the Uruguay Round*, Martinus Nijhoff Publishers, Boston, 1987, p. 96-102.

¹⁰⁴ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 33.

¹⁰⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 1-2.

¹⁰⁶ GATT, "Mid-Term Meeting," *MTN.TNC/11*, Apr. 21, 1989, p. 4. The Mid-Term Review agreements are also reprinted in GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 27, Apr. 24, 1990.

least the 33 percent reduction achieved in the Tokyo Round MTN.¹⁰⁷ However, in the past, countries often had exceeded certain products from across-the-board formula cuts, leaving "tariff peaks" or other anomalies in tariff schedules.¹⁰⁸ The United States, in contrast, sought a request/offer approach, primarily to achieve market access for products germane to U.S. industry.¹⁰⁹

Participants agreed that they would submit proposals for their own line-by-line tariff reduction, elimination, and binding by March 15, 1990. The GATT Secretariat urged intensive negotiations on substantive requests and offers, recognizing that the debate over formula versus request/offer procedures had taken up a great deal of time.¹¹⁰ In response, bilateral tariff negotiations between participants were held throughout the year. By May 1990, some 36 "offer lists" had been exchanged.¹¹¹ At the July TNC, the chairman called for improved offers on both tariff and nontariff measures. He set October 15 as the deadline for advancing specific offers on all products. He also advised joint meetings of the groups¹¹² involved in market access negotiations to reduce uncertainties over where to table offers.¹¹³ By Fall 1990, tariff proposals had reached 45 offer lists (the EC as a single offer) and 24 request lists. Several mostly Southeast Asian countries¹¹⁴ announced improved offers pending the outcome of the Round. The United States said it would table a comprehensive offer October 15 and would intensify bilateral negotiations through November 15.¹¹⁵

At the initial joint meeting in September 1990 of market access groups, the EC noted that tariff offers varied widely and that tariff bindings alone were not sufficient. It called the exclusion of whole sectors such as textiles in some offers worrisome.¹¹⁶ Some said these variations reflected different development lev-

¹⁰⁷ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 33.

¹⁰⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 2.

¹⁰⁹ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 33.

¹¹⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 3.

¹¹¹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 6.

¹¹² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 39, July 30, 1990, p. 4. The groups involved are the Negotiating Groups on Tariffs, Non-Tariff Measures, Natural Resource-Based Products and Tropical Products.

¹¹³ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 39, July 30, 1990, p. 4.

¹¹⁴ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 7. Hong Kong, Malaysia, Norway, and Thailand.

¹¹⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 7.

¹¹⁶ *Ibid.* p. 8-9.

els;¹¹⁷ others felt that the slow progress reflected uncertainty over product coverage¹¹⁸ because of the insistence on a request/offer procedure by the United States, compared with a formula-cut approach used in previous Rounds.¹¹⁹

The comprehensive U.S. offer tabled in October 1990 reflected the U.S. approach of combining tariff and nontariff measure concessions in all sectors including agriculture and textiles.¹²⁰ A major portion of the U.S. offer included a proposal originally submitted in March 1990 to eliminate all tariff and nontariff measures in certain sectors in exchange for reciprocal treatment by particular trading partners, known as "zero for zero" initiatives.¹²¹ By October, the sectors proposed by the United States for such initiatives included pharmaceuticals and certain chemicals, beer and distilled spirits, furniture, toys, wood, paper, bicycle parts, construction equipment, aluminum and certain lead, copper and zinc products, electronics including semiconductors, medical equipment, computers and computer equipment, and steel.¹²² During November discussions, U.S. negotiators determined that the sectors of greatest interest to other countries among these initiatives would be the nine sectors the United States later promoted at the Brussels ministerial conference: beer, fish, construction equipment, electronics, pharmaceuticals, paper, wood, non-ferrous metals, and steel. However, while a framework agreement on pharmaceuticals was reached among developed countries at the Brussels conference, few other countries showed much interest in other initiatives.¹²³ As of January 1991, participants were unwilling to negotiate further on market access until formal resumption of the Round.¹²⁴

Nontariff Measures

In 1990, the Negotiating Group on Non-Tariff Measures (NTMs) used the request/offer approach in the context of the overall market access negotiations to achieve reductions in nontariff barriers, plus a second approach of developing stronger multilateral rules. Initial request lists were submitted by March 15, 1990, and initial offers responding to these lists were returned by May.¹²⁵ As part of the market access negotiations combining tariff with nontariff offers, Australia and Uruguay proposed "binding" NTM concessions so that future measures would not nullify the concessions

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

¹²⁰ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 33.

¹²¹ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 4.

¹²² Ibid.

¹²³ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

¹²⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 5.

¹²⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, p. 10.

granted. The United States also proposed preventing NTM concessions from being nullified later.¹²⁶ By July, 32 NTM request lists and 5 NTM offer lists had been presented.

Negotiations on other nontariff issues during 1990 centered around drafting multilateral rules on preshipment inspection (PSI) and rules of origin. Preshipment inspection is used by certain developing countries to verify the quality, quantity, or price of goods in the exporting country before shipment.¹²⁷ During the year, the United States circulated its draft agreement aimed at preventing trade distortions caused by PSI, as did the EC text.¹²⁸ The EC suggested membership in the GATT Customs Valuation and Import Licensing Codes should accompany a PSI agreement.¹²⁹ Countries such as Zaire that use PSI argued that it may enhance trade by minimizing overinvoicing or underinvoicing and evasion of tax and customs duties. On rules of origin, the EC and Japan¹³⁰ each tabled new proposals. The EC supported speedy work to harmonize the various national regimes on rules of origin. The United States and Japan suggested two goals for the group: (1) to develop basic principles for an agreement on rules of origin and (2) to agree upon technical work to be done by the Customs Cooperation Council (CCC).

By the Brussels conference, tentative agreements had been reached on PSI and rules of origin.¹³¹ The agreement reached on PSI would impose mandatory guidelines on private firms inspecting shipments¹³² to notify exporters of all PSI requirements, thereby im-

¹²⁶ The U.S. plan would incorporate NTM concessions into national tariff schedules. Future actions affecting these concessions would be notified first to a proposed market access committee so that consultations could be undertaken with affected parties. Ibid., press release No. 41, Oct. 9, 1990, p. 7-8.

¹²⁷ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 34.

¹²⁸ The EC text suggested that to reduce possible trade distortions, PSI be foregone in cases of low-value shipments, prices determined by open tendering procedures, commodities with wide or frequent price fluctuations, shipments of larger "turn-key" contracts, and proven cases of trustworthy exporters. Trade distortions resulting from PSI fall into four categories: (1) delayed shipments and increased administrative costs, (2) protection of confidential business information, (3) price verification, and (4) lack of dispute settlement procedures or other appeal process. For further information, see Michael Casella, "Pre-Ship-ment Inspection," *Uruguay Round Update*, Sep. 1989, p. 4-7.

¹²⁹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 19, 1990, p. 15-16.

¹³⁰ Ibid., press release No. 34, Feb. 23, 1990, p. 11-12. The EC proposed as a basis for discussion the Kyoto Convention, formally entitled the 1973 International Convention on the Simplification and Harmonization of Customs Procedures. The EC plan would cover only nonpreferential trade and seek agreement only on principles, leaving actual work on different rules of origin to be done later in the Customs Cooperation Council (CCC). The plan proposed a committee on rules of origins. Japan proposed a plan with a number of points in common, suggesting that a committee on rules of origin be established and studies by the CCC be requested.

¹³¹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

¹³² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 34.

proving "transparency." The PSI agreement also aims to protect confidential business information, to avoid delays in inspection, and to prevent use of price verification as leverage to reduce contract prices. A joint dispute settlement mechanism will be run by the International Chamber of Commerce and the International Federation of Inspection Agencies (IFIA) to resolve disagreements between exporters and PSI agencies. Panel decisions will be binding. Notification, review, and consultation provisions are also contained in the agreement's dispute settlement mechanism. However, the TNC has not yet approved the final text of the agreement pending the final Uruguay Round outcome.

The final form of the agreement on rules of origin was similarly left pending the Round's conclusion.¹³³ Parts I and II of the tentative agreement contain principles and disciplines for applying all non-preferential rules of origin.¹³⁴ Part III requires publication of new rules or changes to existing rules of origin at least 60 days before they take effect and includes dispute settlement procedures with notification, review, and consultation provisions. The agreement would also create a GATT Committee and a Customs Cooperation Council (CCC) Technical Committee on rules of origin. Part IV sets out a work plan on harmonization of origin rules, to be completed within 3 years following the Uruguay Round. These results would become a binding annex to the GATT agreement on common rules of origin to be used for all nonpreferential situations. Disciplines on preferential rules are also included in an annex.

Tropical Products

During 1990, negotiations on tropical products were incorporated into the market access negotiations, although some provisional concessions to developing countries had been made as part of the Mid-Term Review.¹³⁵

Participants tabled further tropical products offers in March 1990 along the lines agreed at the Mid-Term Review:¹³⁶

- (a) elimination of duties on unprocessed products;
- (b) elimination or substantial reduction of duties on semi-processed and processed products, eliminating or reducing tariff escalation; and
- (c) elimination or reduction of all nontariff measures affecting trade in these products.¹³⁷

¹³³ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

¹³⁴ Nonpreferential rules are used to determine MFN status, and are applied in antidumping, countervailing duty, government procurement cases and the like.

¹³⁵ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 35.

¹³⁶ GATT, "Mid-Term Meeting," *MTN.TNC/III*, Apr. 21, 1989, p. 14.

¹³⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, p. 10.

The group agreed that offers to reduce tariffs would be based on rates applicable at the start of the Round. Participants would also have a period in which to ascertain that offers met the terms agreed at the Mid-Term Review. Related concessions in other market-access offers were to be fully considered.¹³⁸

Of the 48 offers made by fall 1990, most industrial country offers met the 33 percent reduction goal, whereas developing country offers were modest tariff reductions or tariff bindings.¹³⁹ Final agreement on tropical products at the Brussels conference was postponed, with results on agricultural tropical products tied to resolution of the agriculture negotiations and results on industrial tropical products tied to negotiations in the tariffs and nontariff groups.¹⁴⁰

Natural Resource-based Products

The Natural Resource-Based Products Group has complemented other groups in the market access negotiations, monitoring agreements in other groups,¹⁴¹ rather than concluding separate agreements on natural resource-based products (NRBP). The group focused on three sectors—fisheries, forestry, and non-ferrous metals and minerals—although the United States brought up energy resources¹⁴² and Australia raised the issue of coal subsidies and their impact on trade.¹⁴³ The EC singled out issues of double-pricing¹⁴⁴ and access to fishing grounds. By Fall 1990, there were 29 various submissions concerning natural-resource-based products notified under the request/offer procedures agreed in the market access group, seven requests and three offers specifically in the NRBP group and the others in the tariff or the nontariff measures groups.¹⁴⁵ Progress on natural resource products will be incorporated into the agreements concluded in the tariff and nontariff negotiations and also in the agreements covering improved GATT rules.¹⁴⁶

Textiles and Clothing

Discussions in the Negotiating Group on Textiles and Clothing accelerated during 1990. The group's stated aim is to develop a basis for integrating world textile trade—currently governed by bilateral agree-

¹³⁸ *Ibid.*, pp. 10-11.

¹³⁹ Department of Commerce, *Uruguay Round Update*, Sep. 1990, pp. 4-5.

¹⁴⁰ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

¹⁴¹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 11.

¹⁴² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 35.

¹⁴³ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 15.

¹⁴⁴ *Ibid.*, press release No. 36, June 1, 1990, p. 6. Described by the EC as local producers obtaining raw materials below world market price. Another case considered was restrictions to export of raw materials from resource-abundant countries in order to promote domestic processing.

¹⁴⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 8.

¹⁴⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 6.

ments negotiated under the Multifiber Arrangement (MFA)—into the GATT.¹⁴⁷ The MFA, agreed to in 1974 under GATT auspices, has been extended three times, currently expiring on July 31, 1991. Debate intensified in 1990 over whether to integrate textiles into the GATT over a transition period based on the MFA or whether to use an alternate approach.¹⁴⁸ The preference of most participants was for an MFA-based approach that conflicted with the U.S. global quota approach.¹⁴⁹

Proposals were presented in 1990 by Canada,¹⁵⁰ Japan,¹⁵¹ and the United States,¹⁵² with the three working closely on key issues.¹⁵³ The United States sought alternatives to the MFA-based approach, such as tariff-rate quotas and in particular global quotas.¹⁵⁴ Most other participants, however, reportedly preferred progressive liberalization of the MFA itself to the U.S. approach, which they said would lead to an initial increase in trade restrictions as textile exporting countries not presently subject to MFA limits would come under the global quota.¹⁵⁵ Developing countries further questioned whether increased competition among suppliers that was supposed to result as a consequence of global quotas would be matched by adjustments in the domestic textile industries of importing countries.¹⁵⁶ Proposals by the International Textiles and Clothing Bureau (ITCB),¹⁵⁷ ASEAN participants,¹⁵⁸ and the EC¹⁵⁹ set out a transition mechanism based on the MFA.¹⁶⁰

¹⁴⁷ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, September 20, 1986, p. 5.

¹⁴⁸ *Ibid.*, Annex p. 8.

¹⁴⁹ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 35.

¹⁵⁰ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 11. Canada proposed ending the MFA on July 31, 1991, with special safeguard measures under an amended GATT article XIX (the "escape clause") to deal with anticipated increases in textile imports. These special measures would include two derogations: an MFA based market disruption standard, rather than a serious injury standard as used for safeguard measures under GATT article XIX, and no required compensation.

¹⁵¹ *Ibid.*, press release No. 34, Feb. 23, 1990, pp. 6-7. While Japan proposed ending the MFA on its scheduled July 31, 1991, expiration date, it also proposed transitional safeguard measures beyond standard GATT safeguards, with full integration of textiles under the GATT expected by the end of 1999.

¹⁵² *Ibid.*, p. 7. The United States proposal set out a 10-year transition period beginning Jan. 1, 1992 to allow for trade and domestic industry adjustments. A global quota and tariff-quota system was proposed. The global quota would have two parts: (1) import quotas allocated specifically to countries with existing bilateral agreements, and (2) an unallocated global import quota. World textile trade would be integrated into the GATT in a non-discriminatory way by shifting one-tenth of the country allocations in each year of the transition period to the global import quota. The tariff quota would operate on the same time schedule but would permit imports beyond the global quota limit at higher tariff rates.

¹⁵³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 9.

¹⁵⁴ *Ibid.*

¹⁵⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, p. 8.

¹⁵⁶ *Ibid.*

The four central issues discussed in 1990 were (1) how to phase out MFA restrictions; (2) how to phase out other restrictions on textiles not consistent with GATT rules; (3) what kind of safeguard mechanism should be available during the transition period; and (4) how would these new commitments be monitored. The length of transition period to allow for textile trade based on the GATT was another major issue, with proposals suggested for five, eight and ten years.¹⁶¹

The chairman's report to the July 1990 TNC review was in essence a compendium of the four positions tabled during the year—the U.S., Canadian, EC, and ITCB proposals—reflecting the group's continued divergence over an MFA-based or a global quota approach.¹⁶² The chair text also included possible measures to strengthen GATT rules and disciplines in the textiles sector.¹⁶³ The TNC chairman pointed out that this split was impeding progress in the group despite the "very wide support" for the MFA-based approach.¹⁶⁴

In late November 1990, the group agreed on a text that aimed at the eventual integration of textiles into the GATT based on strengthened rules and disciplines and a transition period based on the MFA.¹⁶⁵ Although textile negotiations at the Brussels conference made some informal progress, they ended without agreement largely due to the impasse elsewhere at the Brussels meeting over agricultural reform.¹⁶⁶ ¹⁶⁷ Nonetheless, participants have agreed to focus on the substantive issues when discussions resume.¹⁶⁸ These issues in-

¹⁵⁷ *Ibid.*, press release No. 38, July 16, 1990, p. 9. The ITCB comprises 23 textile-exporting developing countries. The ITCB plan would phase out the MFA over the six years to Dec. 31, 1997. All quotas would be lifted on certain products following the expiration of the MFA on July 31, 1991. Remaining restrictions would be removed in four stages depending on a product's degree of processing.

¹⁵⁸ Indonesia, Malaysia, the Philippines, Singapore and Thailand presented a transitional arrangement closely akin to the ITCB plan, but instead with a transition through the year 2000. *Ibid.*, p. 10.

¹⁵⁹ *Ibid.* The EC plan would immediately integrate certain products into the GATT. Remaining restrictions would be progressively phased out in stages by reducing some percentage of the volume remaining under restrictions.

¹⁶⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 9.

¹⁶¹ *International Trade Reporter*, "Consensus emerging for 10-year phase out of MFA in Uruguay Round textile negotiations," vol. 7, no. 48, Dec. 5, 1990, p. 1829.

¹⁶² Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 3.

¹⁶³ *Ibid.*

¹⁶⁴ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 39, July 30, 1990, p. 4.

¹⁶⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 10. See also *International Trade Reporter*, "Plan to phase-out multi-fiber arrangement covering textiles reached, GATT sources say," vol. 7, no. 47, Nov. 28, 1990, p. 1796.

¹⁶⁶ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 12.

¹⁶⁷ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 10.

¹⁶⁸ *Ibid.*

clude duration of the transition period, growth rates for existing and new textile import quotas, product coverage, safeguard provisions during the transition, and how stronger GATT rules relate to the transition mechanism.¹⁶⁹

Agriculture

In 1986, trade ministers called attention to the "urgent need" for reform of world agricultural trade in the Punta del Este Declaration¹⁷⁰ and, by the Brussels ministerial conference in December 1990, fundamental disagreement continued over how to do so.¹⁷¹ Agricultural reform is one of the major objectives for many participants,¹⁷² such as the United States and the Cairns Group¹⁷³ of agriculture exporting nations,¹⁷⁴ and the paramount issue for some, such as Latin American countries participating in the Round.¹⁷⁵ The concerted involvement of these other countries in the agriculture negotiations underscores the importance they attach to this subject and belies the frequent characterization of the agriculture talks as simply a debate primarily between the United States and the EC.¹⁷⁶

The Negotiating Group on Agriculture spent the first half of 1990 in intense discussions over the technical features of the eight comprehensive proposals submitted to the group by the end of 1989.¹⁷⁷ The United States and the Cairns Group sought reform through specific reduction commitments in each of the three main areas under discussion: (1) domestic support programs, (2) import access barriers, and (3) export subsidies.¹⁷⁸

In contrast, the EC, Japan, and other countries,¹⁷⁹ sought to focus reduction commitments on domestic support programs through the use of a common measurement (an "aggregate measure of support" or AMS)¹⁸⁰ that would not specify policy-specific com-

mitments.¹⁸¹ This would leave these countries with greater flexibility to reduce overall support as they chose, rather than be required to reduce support under specific policies such as export subsidies or import quotas. The group also debated what internal support policies might be permitted.¹⁸²

The group chairman tabled a mid-year compromise text covering the three main issues—internal support, import access, and export competition—where fundamental disagreement was still evident.¹⁸³ The paper proposed reduction commitments in each of these three areas, employing the "tariffication" concept¹⁸⁴ originally advanced by the United States, and addressed the need for agreement on sanitary and phytosanitary (S&P) measures in agriculture.¹⁸⁵ A separate working group on S&P measures had been established in the fall of 1988 to develop strengthened GATT rules for these measures.¹⁸⁶ (See following section on Working Group on Sanitary and Phytosanitary Regulations and Barriers.) Although the EC would not accept the chairman's text as the basis for negotiation, participants in the group did agree it would serve to intensify negotiations.¹⁸⁷

Discussions in fall 1990 focused on improved rules and disciplines for agriculture.¹⁸⁸ The issue of safeguard measures for agriculture arose in discussing market access, with exporting countries generally preferring safeguards triggered by changes in import volume but importing countries preferring ones based on import price changes.¹⁸⁹

In October 1990, the United States tabled its comprehensive proposal for agriculture, calling for specific reductions over 10 years in each of the three areas.¹⁹⁰ Internal support measures would be reduced 75 percent for commodity-specific policies and 30 percent for other trade-distorting measures. Export subsidies for processed agricultural products would be cut 90 percent over 10 years, and eliminated after 6 years. Market access would be liberalized by converting quantitative import restrictions to tariffs and then lowering these

¹⁶⁹ *Ibid.*

¹⁷⁰ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986, p. 6.

¹⁷¹ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 37.

¹⁷² *Ibid.*, p. 36.

¹⁷³ *Ibid.* Members of the Cairns Group are Argentina, Australia, Brazil, Canada, Chile, Colombia, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay.

¹⁷⁴ *International Trade Reporter*, "Cairns group rejects EC's farm proposal, says it is 'unacceptable for negotiations,'" vol. 7, no. 45, Nov. 14, 1990, p. 1727.

¹⁷⁵ U.S. Delegation (Hills, Yeutter, Mosbacher, DeArment), "GATT Ministerial U.S. Briefing Transcript," No. 5, Brussels, Dec. 7, 1990, p. 2.

¹⁷⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 33.

¹⁷⁷ *Ibid.*, Annex pp. 35-37. For a discussion of agriculture proposals and submissions in 1989, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, pp. 25-27.

¹⁷⁸ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 36.

¹⁷⁹ *Ibid.*

¹⁸⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 36. An AMS is designed to measure support to agriculture.

¹⁸¹ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 4.

¹⁸² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 38, July 16, 1990, p. 11. For example, government aid for research, pest inspection and control, disaster relief, and domestic food aid could be agreed possibly as permitted support.

¹⁸³ *Ibid.*, p. 10.

¹⁸⁴ Tariffication is the conversion of all nontariff quantitative restrictions into tariff barriers to make clearer the total costs facing importers and exporters and to remove the absolute volume constraint associated with quotas.

¹⁸⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 37.

¹⁸⁶ *Ibid.*, Annex p. 41.

¹⁸⁷ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 4.

¹⁸⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 41, Oct. 9, 1990, p. 1.

¹⁸⁹ *Ibid.*, pp. 2-3.

¹⁹⁰ USTR, "United States Submits Agriculture Proposal in the Uruguay Round," press release no. 90-59, Oct. 15, 1990.

tariffs by 75 percent, not to exceed a ceiling of 50 percent *ad valorem*.¹⁹¹ This offer is not comparable to the previous EC offers that would reduce support for these categories a nominal 30 percent over 10 years from a 1986 base and make no specific commitment to reduce export subsidies or market access barriers.¹⁹²

At the Brussels conference, a compromise proposal developed to bridge the gap between the U.S. and EC positions appeared to most participants to be a starting point for negotiations.¹⁹³ It provided in essence for a 30 percent reduction in each of the three areas over 5 years based on 1990.¹⁹⁴ However, the EC, joined by Japan and Korea, rejected this compromise text as a basis for negotiation.¹⁹⁵ The agriculture talks broke down completely once this position was affirmed. The Cairns Group as well as others walked out of the agriculture negotiations,¹⁹⁶ and discussions in all other negotiating groups in the Round ground to a halt.¹⁹⁷

Working Group on Sanitary and Phytosanitary Regulations and Barriers

Regulations to protect human, animal, or plant life or health—known as sanitary and phytosanitary regulations—can significantly restrict world agricultural trade if applied in an arbitrary or discriminatory manner. To minimize these adverse effects, the Working Group on Sanitary and Phytosanitary (S&P) Regulations and Barriers was formed to develop an S&P agreement that would set out a basis for international agricultural standards. The group met in May 1990 to examine proposals concerning the objectives of an S&P agreement, possible disciplines, and harmonization of national S&P measures with those developed by relevant international organizations, as well as to discuss concepts underlying agreement on agricultural health regulation.¹⁹⁸

¹⁹¹ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 36.

¹⁹² *International Trade Reporter*, "European Community proposal on agriculture presented at Uruguay Round trade negotiations in Geneva, Nov. 8," vol. 7, no. 45, Nov. 14, 1990, pp. 1747-1761.

¹⁹³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, March 1, 1991, Annex p. 40.

¹⁹⁴ *International Trade Reporter*, "Working paper for draft agreement on agriculture trade proposed by Uruguay Round agriculture negotiating group chairman Mats Hellstrom," vol. 7, no. 49, Dec. 12, 1990, p. 1905.

¹⁹⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 40.

¹⁹⁶ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

¹⁹⁷ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 40. See also *International Trade Reporter*, "U.S., others blame EC for failure in Brussels to agree on new rules to govern world trade," vol. 7, no. 49, Dec. 12, 1990, pp. 1876-1878.

¹⁹⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 7. The concepts discussed include acceptable level of risk, principles of equivalency, national treatment and nondiscrimination, transparency, and disease-free versus infected areas.

These proposals helped the group to draw up a 14-point draft S&P agreement, which also covered inspection procedures, mutual recognition of test and inspection results, and processing and production methods (PPMs).¹⁹⁹ Technical assistance, special and differential treatment, consultations and dispute settlement, and the possible final form of the agreement were addressed in the draft.²⁰⁰

The draft agreement aims to distinguish S&P measures that protect public health and safety from those acting as hidden trade barriers.²⁰¹ The draft text would have participants agree that scientific principles and evidence would be the basis for health-related agricultural regulations.²⁰² It would urge regulatory agencies to use international standards, while permitting stricter national standards if needed.²⁰³ The draft agreement would also contain provisions to encourage recognition of national measures that are equivalent, of disease-free and pest-free zones, and would make use of GATT dispute settlement procedures agreed in the Uruguay Round.²⁰⁴

Issues not yet agreed to include whether other considerations should affect S&P regulations and approvals (exemplified by the EC "fourth criterion"²⁰⁵ of social welfare needs) and whether the right to national approval procedures for setting tolerances should be included.²⁰⁶

GATT Articles

In 1990, the Negotiating Group on GATT Articles discussed^{207 208} article II (Schedules of Concessions), article XII (Restrictions to Safeguard the Balance of Payments), article XVII (State Trading Enterprises), article XVIII (Governmental Assistance to Economic Development), article XXIV (Territorial Application-Frontier Traffic-Customs Unions and Free-Trade Areas), article XXV (Joint Action by the Contracting Parties), article XXVIII (Modification of Schedules), article XXXV (Non-Application of the Agree-

¹⁹⁹ Many of these issues are also being addressed in negotiations on the Standards Code in the Negotiating Group on MTN Agreements and Arrangements. However, issues on agricultural standards are being discussed primarily in the agriculture group.

²⁰⁰ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 7.

²⁰¹ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 42.

²⁰² *Ibid.*, Annex p. 41.

²⁰³ *Ibid.*, Annex p. 42.

²⁰⁴ *Ibid.*

²⁰⁵ U.S. and EC regulatory agencies base their product approvals and mandatory standards requirements on evaluations of evidence demonstrating the three criteria of safety, efficacy, and quality. In addition, some within the EC Commission and the European Parliament have proposed a "fourth criterion" of social and economic factors or "socio economic needs." United States Government Task Force on the EC Internal Market, "Harmonization of Health and Safety Measures," EC 1992: An Assessment of Economic Policy Issues Raised by the European Community's Single Market Program, May 1990, pp. 21-23.

²⁰⁶ *Ibid.*

²⁰⁷ Department of Commerce, *Uruguay Round Update*, Sep. 1990, pp. 5-6.

²⁰⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35-44, various dates and pages.

ement between particular Contracting Parties), and the Provisional Protocol of Application (PPA).²⁰⁹

The group announced draft decisions and provisional agreements on a number of GATT articles: articles II:1(b), XVII, XXV:5 and the PPA, XXVIII, and XXXV. However, reform of the balance-of-payments provisions under GATT articles XII and XVIII, sought by the United States and other industrial countries, has been checked by strong resistance from developing countries who make use of these provisions and remains at an impasse.²¹⁰

Article II (Schedules of Concessions)

In June 1990, negotiators announced agreement on improvements in article II concerning national tariff schedule concessions.²¹¹ This provisional agreement, pending the Uruguay Round's conclusion, requires all "other duties or charges" facing traders to be recorded in schedules of GATT concessions and bound at the level prevailing at the date of agreement of the Uruguay Round Tariff Protocol, in accordance with article II:1(b).

Article XII (Restrictions to Safeguard the Balance of Payments) and Article XVIII (Governmental Assistance to Economic Development)

In an effort to help reform GATT balance-of-payments (BOP) provisions, the EC proposed in 1990 additional criteria for resort to GATT articles XII and XVIII:B.²¹² The EC suggested that import restrictions taken to improve the balance of payments should be based on standardized prices rather than on quantitative restrictions. Price-based restrictions are generally considered less trade-distorting than the quantitative restrictions often used by developing countries under GATT BOP provisions. Price measures such as import surcharges, for example favor domestic producers who base import substitution on price competition while quantitative restrictions that simply limit import volume extend blanket protection to inefficient and efficient producers alike. The EC also proposed that the GATT Committee on Balance-of-Payments Restr-

tions actively promote trade liberalization plans. The EC plan would also promote domestic industry in developing countries by relaxing certain penalties presently under article XVIII:C.

Many developing countries took the position, however, that there was no evident abuse of article XVIII to warrant stronger disciplines.²¹³ As a consequence, no substantive negotiations have occurred on BOP reform,²¹⁴ with some developing countries, such as Brazil and India, refusing to negotiate entirely on this issue.²¹⁵ There was no text on BOP reform for negotiation at the Brussels meeting, although some countries reportedly may reconsider their opposition as part of a final Uruguay Round package.²¹⁶

Article XVII (State Trading Enterprises)

In August 1990, negotiators announced provisional agreement on stronger GATT disciplines and surveillance of state trading enterprises (STEs) to counter their possible adverse effects on trade.²¹⁷ Under the agreement,²¹⁸ a standing GATT working party would be established to which contracting parties will notify their STE activity.²¹⁹ The working party will review these notifications, as well as counter-notifications by other members, to ensure that government measures affecting imports or exports of private traders are carried out in a nondiscriminatory manner.

Article XXIV (Territorial Application-Frontier Traffic-Customs Unions and Free-Trade Areas)

Discussions on article XXIV, which govern the formation of customs unions and free-trade areas, focused initially on proposed Japanese changes to the article.²²⁰ Japan sought to ensure that these preferential trading arrangements, having actually liberalized trade, would create a mechanism to assess adverse trade effects to nonmembers.

By the time of the Brussels conference, the group had negotiated a draft decision that interprets article XXIV provisions, although not all participants have fully agreed.²²¹ These preferential trading arrangements must eliminate duties and restrictions between members on "substantially all trade" under

²⁰⁹ The Provisional Protocol of Application pertains to founding members of the GATT who agreed in 1947 to apply the General Agreement provisionally so that it could be brought into effect immediately, despite domestic legislation in these countries that conflicted with some of the agreement's provisions. GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 43, Nov. 2, 1990, p. 3. The name "grandfather clause" is often applied to these laws that predate the GATT, which are exempt from possible conflict with provisions of the General Agreement. The countries signing the Provisional Protocol of Application were Australia, Belgium, Canada, France, Luxembourg, the Netherlands, the United Kingdom, and the United States. Countries acceding to the GATT since 1947 have adopted similar accession protocols to "grandfather" their domestic legislation. For a further discussion of the PPA, see Kenneth W. Dam, *The GATT: Law and International Economic Organization*, University of Chicago, Chicago, IL, 1970, p. 341-344.

²¹⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 14.

²¹¹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 37, June 19, 1990.

²¹² *Ibid.*, press release No. 35, Apr. 11, 1990, p. 9.

²¹³ *Ibid.*, pp. 8-10.

²¹⁴ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 38.

²¹⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 14-15.

²¹⁶ *Ibid.*, Annex p. 15.

²¹⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 40, Aug. 1, 1990.

²¹⁸ *International Trade Reporter*, "Uruguay Round negotiators on GATT articles reach agreement on state trading entities," vol. 7, no. 33, Aug. 15, 1990, p. 1274.

²¹⁹ The agreement defines state trading enterprises as "Governmental and nongovernmental enterprises, including marketing boards, which have been granted exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of import or exports."

²²⁰ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 5.

²²¹ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 15-16.

article XXIV, which the draft decision would require be completed within 10 years except for unusual circumstances. The decision also clarifies the procedure according to which members forming a customs union may raise bound tariff rates. The decision would also permit parties outside these arrangements to examine these groupings in greater detail.

Article XXV:5 (Joint Action by the Contracting Parties) and the Provisional Protocol of Application

Article XXV provides for GATT contracting parties to waive an obligation under the General Agreement of a particular member in exceptional circumstances. The Provisional Protocol of Application (PPA) allows certain founding members of the GATT to maintain national legislation inconsistent with parts of the General Agreement, thus operating in a manner similar to a waiver.²²² Countries acceding to the GATT since the 1947 PPA have adopted similar so-called "grandfather clauses" in their accession protocols for legislation that predates their joining the General Agreement.

While participants in the negotiating group generally agreed on the need for stronger GATT disciplines for new waivers, there was no agreement on action to end existing, open-ended waivers. There was a strong support, however, for ending "grandfather clauses" under the PPA and other accession protocols. The group also discussed the elimination of other derogations and exceptions under accession protocols.²²³

In November 1990, the group announced a draft decision on article XXV:5, and on the Provisional Protocol of Application.²²⁴ The decision on waivers would have GATT members set out the exceptional circumstances that warrant a waiver, along with its terms, conditions, and expiration date. An annual review would take place for waivers longer than a year, at which time GATT members would decide to extend, modify, or end the waiver. The draft decision on the Provisional Protocol of Application states that this derogation from the General Agreement would expire at an agreed date. Several participants have clearly stated that the draft decisions on article XXV:5 and the PPA are contingent on results achieved in the other Uruguay Round negotiating groups.²²⁵ For example, final U.S. acceptance of this decision will be conditioned directly on the results of the agriculture negotiations, since the draft decision would eliminate the U.S. waiver for agricultural import restrictions.²²⁶

Article XXVIII (Modification of Schedules)

GATT members seeking to change their tariff schedules from previously agreed rates must enter into article XXVIII negotiations with principal supplier

²²² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 43, Nov. 2, 1990, p. 3. The PPA operates like a waiver, allowing national legislation among PPA signatories to continue in conflict with the General Agreement.

²²³ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 5.

²²⁴ *Ibid.*, press release No. 43, Nov. 2, 1990.

²²⁵ *Ibid.*, press release No. 41, Oct. 9, 1990, p. 3.

²²⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 16.

countries to determine appropriate compensation.²²⁷ Negotiators in 1990 reached a draft agreement that would expand the GATT-designated right to negotiate this compensation to include, in addition to the country with the "principal supplying interest," countries for which the product is most important in terms of the ratio of exports affected to its total exports.²²⁸ The "principal supplying right" to negotiate compensation for tariff changes is currently made on the basis of trade shares in the importing country's market.

Group discussions leading up to this decision examined a Swiss proposal that would give greater consideration to developing countries that are dependent on one or only a few exports when article XXVIII negotiations arise.²²⁹ In November 1990, negotiators announced a draft agreement along these lines, giving countries whose exports are significantly affected by article XXVIII tariff changes the right to renegotiate concessions along with the principal supplier originally determined by the GATT Contracting Parties. The impact of a changed tariff concession will be measured by the ratio of a country's exports affected to its total exports. The agreement suggests using trade projections to help determine principal supplier rights for new products when data are insufficient.²³⁰ The draft agreement also indicates how to calculate compensation in cases where tariff concessions are replaced by tariff-rate quotas.²³¹

Article XXXV (Non-Application of the Agreement Between Particular Contracting Parties)

During 1990, the United States presented a proposal designed to quicken the process of accession to the General Agreement, a move brought on by the burgeoning number of countries applying for GATT membership in recent years.

Accession to the GATT involves both multilateral negotiation of a protocol of accession in a GATT working party, and bilateral negotiations over tariffs. GATT members negotiate individual sets of bilateral tariff concessions with the applicant, and these schedules are consolidated in turn into a single GATT schedule appended to the draft accession protocol for consideration by the GATT Council.

Should any individual GATT member be dissatisfied with these initial tariff negotiations, it may retard continuation of the applicant's accession. The U.S. proposal would allow accession and bilateral tariff negotiation to continue simultaneously by invoking article XXXV, which allows a GATT member to withhold benefits under the GATT from the applicant until satisfactory tariff negotiations are completed. In November 1990, this proposal was accepted as a draft agreement by the negotiating group pending the outcome of the

²²⁷ *Ibid.*

²²⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 43, Nov. 2, 1990, p. 1.

²²⁹ *Ibid.*, press release No. 35, Apr. 11, 1990, pp. 8-9.

²³⁰ *Ibid.*

²³¹ Department of Commerce, *Uruguay Round Update*, Sep. 1990, pp. 5-6.

Uruguay Round,²³² although some countries have asked for additional time to review its effect.²³³

Safeguards

The debate in the Negotiating Group on Safeguards in 1990 centered on two issues: whether or not to permit signatories to apply safeguard measures selectively; and whether the agreement should cover so-called "grey-area" measures.²³⁴ Safeguard measures under GATT article XIX (Emergency Action on Imports of Particular Products) allow GATT members to suspend or withdraw concessions on imports when increased imports cause or threaten serious injury to domestic producers.²³⁵

Also known as the "escape clause," article XIX allows a country to protect its domestic industry from injurious increases in imports provided that the safeguards taken are applied in a nondiscriminatory manner and that any affected country may ask for compensation or retaliate in response.²³⁶ So-called "grey-area" measures that restrict trade selectively, such as voluntary restraint agreements (VRAs), have increased as a result because they are not subject to GATT oversight or rules.²³⁷

Although the issue of selective safeguards has been debated throughout the Round, the EC proposal in January 1990 was the first tabled for a GATT-sanctioned selective safeguard.²³⁸ Few supported the EC proposal; many countries argued that it would favor larger traders and leave smaller industrial or developing countries at a disadvantage because they would be unable to withdraw any concessions significant enough to act as compensation. The provision in the EC proposal that allowed for exporters subjected to selective safeguards to request inclusion of other unaffected exporters met with particular criticism.²³⁹

The TNC chairman pointed out at the July 1990 TNC review that selective safeguards was a prime point of contention.²⁴⁰ He suggested that proponents of selective safeguards should bear the burden of proof that it would strengthen the multilateral trading system. The chairman also pointed out the prevalence of safeguards in the form of "grey-area" measures and

called for consideration of using the GATT dispute settlement mechanism when a member felt disadvantaged to establish whether such measures conform to the GATT.

Negotiations progressed during 1990 on the basis of a compromise text put forward by the chairman.²⁴¹ It proposed that all safeguard actions take place on a nondiscriminatory, MFN-basis, but without requiring compensation or permitting retaliation against these safeguards during a short timespan.²⁴² Agreement on most technical issues had been reached prior to the Brussels ministerial. The draft agreement negotiated by that time included criteria for determining serious injury or threat of injury as well as criteria for linking serious injury with increased imports.²⁴³ The text details notification procedures for initiation of safeguard investigations, for injury findings, and for safeguard action taken, with a public investigation and report required. Interested GATT members have the right to consultations and to receive detailed information on the measure being considered. A safeguards committee will be created to oversee such measures.

During the Brussels meeting, negotiators debated incentives to induce governments to use GATT safeguard measures rather than circumvent them through use of VRAs.²⁴⁴ Most of the group supported a 3-year maximum duration for suspending compensation and retaliation if governments use article XIX safeguards based on MFN treatment.²⁴⁵ The EC offered to abandon its proposals for selectivity in return for certain concessions by other participants that would permit "quota modulation." Quota modulation would require applying quantitative restrictions based on MFN treatment, but allow an importing government to restrict certain suppliers more than others when allocating quota shares.²⁴⁶ However, the majority of participants continued to insist that any safeguard action be nonselective.²⁴⁷ As a result, the group remained deadlocked at Brussels over the issue of applying safeguard actions selectively.²⁴⁸ On technical issues, the text agreed at Brussels includes stronger GATT prohibitions against "grey-area" measures, and creates a schedule for phasing out current grey-area measures.²⁴⁹ However, negotiations will continue on the duration of the phaseout period.²⁵⁰

²³² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 43, Nov. 2, 1990, p. 3.

²³³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 17.

²³⁴ For example, see GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 39, July 30, 1990, p. 5.

²³⁵ GATT, *Basic Instruments and Selected Documents*, vol. IV, Geneva, 1969, pp. 1-78.

²³⁶ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 38.

²³⁷ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 17.

²³⁸ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, pp. 2-3.

²³⁹ *Ibid.*, pp. 3-4.

²⁴⁰ *Ibid.*, press release No. 39, July 30, 1990, pp. 5-6.

²⁴¹ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 8.

²⁴² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 38.

²⁴³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 17-18.

²⁴⁴ *Ibid.*, Annex p. 18.

²⁴⁵ *Ibid.*

²⁴⁶ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 12.

²⁴⁷ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 18.

²⁴⁸ *Ibid.*

²⁴⁹ *Ibid.*

²⁵⁰ *Ibid.*

MTN Agreements and Arrangements

The Negotiating Group on MTN Agreements and Arrangements has aimed to improve, clarify, or expand a number of the Codes of conduct negotiated during the Tokyo Round MTN.²⁵¹ The group has been holding discussions on five separate Codes: Antidumping, Customs Valuation, Import Licensing, Standards, and Government Procurement.

In October 1990, the negotiating group announced provisional agreements on three of these Codes—Customs Valuation, Import Licensing, and Standards—pending the conclusion of the Uruguay Round.²⁵²

However, 1990 negotiations on the other two Codes fared less well, with state, municipal, and private procurement becoming an issue once again in the Government Procurement Code,²⁵³ while negotiations remained deadlocked between industrial and developing countries over a number of issues including the issue of circumvention of antidumping duties.

Antidumping Code

The negotiating group has been attempting to revise the rules covering unfairly traded goods under the Tokyo Round Antidumping Code.²⁵⁴ Negotiations have been split between countries that want to retain the existing Code but strengthen it with provisions covering circumvention, and countries that seek to constrain the use of antidumping measures by major countries and reform antidumping procedures.²⁵⁵ This sharp division has prevented participants from developing a single text as a basis for negotiations, either for the TNC review in July 1990²⁵⁶ or in time for the Brussels conference in December 1990.²⁵⁷

The United States, with support from Australia, the EC, and New Zealand, has pressed for strengthening the current Anti-Dumping Code with provisions covering circumvention and repeat dumping, as well as provisions to improve antidumping procedures.²⁵⁸ Other countries, such as Hong Kong, Japan, Korea, the Nordic countries, and Singapore, have sought to make

changes in the Code that would curtail the use of anti-dumping remedies by the countries with strong anti-dumping legislation, such as Australia, Canada, the EC, and the United States, and reform the antidumping process generally.²⁵⁹

Discussion in early 1990 focused on technical issues, such as application of provisional or preliminary antidumping (AD) measures, definitive or final antidumping duties, repeat dumping, improved transparency, and circumvention of AD measures.²⁶⁰ The group also covered procedures for AD determinations, judicial review of AD cases, dispute settlement, and treatment of least developed countries.²⁶¹

However, participants in the group remained so divided on these issues that the chairman's text forwarded to the July TNC review contained, rather than a single negotiating text, a synopsis of all proposals submitted by group members with a note that the chairman would issue a revision²⁶² of the chair text in August 1990.²⁶³

The chairman's text contains provisions that completely redraft the Antidumping Code.²⁶⁴ It contains methodological changes on how industry standing is determined; use of product life- or business-cycle pricing to calculate dumping margins; how injury to the domestic industry is determined; how dumping margins are to be calculated; and automatic expiration of outstanding AD orders, as well as addressing repeat dumping and circumvention.^{265 266}

At the Brussels conference, the group remained deadlocked with no agreed text for further negotiations.²⁶⁷ The United States stated clearly that, while it seeks to clarify and strengthen the Code's rules and procedures, it would not agree to amendments that effectively undermine the present Code's fundamental antidumping remedy.²⁶⁸

Customs Valuation Code

Talks during 1990 on customs valuation focused on the issue of under- and over-valuation.²⁶⁹ During the

²⁵⁹ *Ibid.*

²⁶⁰ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 6.

²⁶¹ *Ibid.*, pp. 6-7.

²⁶² *International Trade Reporter*, "Uruguay Round dumping negotiators resume with new draft version of Carlisle proposals," vol. 7, no. 35, Aug. 29, 1990, p. 1358.

²⁶³ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 6.

²⁶⁴ *Ibid.*, p. 6.

²⁶⁵ *Ibid.*, p. 6.

²⁶⁶ American Bar Association, the Section of International Law and Practice, the U.S. Chamber of Commerce, and the Division for Professional Education, *Uruguay Round Trade Negotiations: Where Do We Go From Here?*, Mar. 21-22, 1991, "Draft Texts: Antidumping". Also, GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," *MTN.TNC/W/35/Rev.1*, Dec. 3, 1990, p. 43.

²⁶⁷ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 13.

²⁶⁸ *International Trade Reporter*, "U.S. has option of regional trading bloc if Uruguay Round fails, Mosbacher says," vol. 7, no. 48, Dec. 5, 1990, p. 1838.

²⁶⁹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 7.

²⁵¹ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986, p. 7.

²⁵² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 42, Oct. 24, 1990.

²⁵³ *International Trade Reporter*, "U.S. officials deny EC allegations that U.S. is blocking procurement talks," vol. 7, no. 50, Dec. 19, 1990, pp. 1921-1922.

²⁵⁴ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

²⁵⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 21.

²⁵⁶ Department of Commerce, *Uruguay Round Update*, Sep. 1990, pp. 6-7.

²⁵⁷ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

²⁵⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 21.

year, several developing countries²⁷⁰ presented proposals that aimed to shift the burden of proof from exporting to importing countries in cases where the declared value of goods entering customs was suspected of being under- or over-valued.²⁷¹

In October 1990, the negotiating group announced that additional texts had been agreed to help apply the Tokyo Round Agreement on Customs Valuation, or Customs Valuation Code.²⁷² One text allows customs officials to ask importers for additional evidence to establish proof of declared import values in cases where fraudulent or incorrect values are suspected. Another allows developing countries to keep valuations fixed officially (which would otherwise contravene the Code) during a transition period. The text also calls for the Customs Cooperation Council to help developing countries establish import valuation in cases of sole agents or distributors.²⁷³

Import Licensing Code

The negotiating group continued informal discussions²⁷⁴ on the Import Licensing Code during 1990 aimed at improving market access for both industrial and developing countries. The group announced agreement on a revision of the Code in October 1990, pending conclusion of the Uruguay Round.²⁷⁵

The revision requires signatories to publish all necessary information on import licensing requirements, as well as notify the Committee on Import Licensing of any changes to licensing procedures. It also sets limits on the time needed to process licensing applications and the number of licensing authorities needed to obtain a license, ensures that automatic licenses will be granted within 10 days, and ensures that nonautomatic licensing procedures are not extended to other products arbitrarily.²⁷⁶ The Committee on Import Licensing will also have a greater role in reviewing licensing procedures.²⁷⁷

Standards Code

In the first half of 1990, the negotiating group discussed numerous proposals put forth to help revise the Agreement on Technical Barriers to Trade, commonly known as the Standards Code.²⁷⁸ Canada proposed the clarification of the term "unnecessary obstacle to trade" by using specific language as to when technical measures were necessary to safeguard the environment,

public health and safety, or consumer interests. Other group discussions covered conformity assessment procedures, processes and production methods (PPMs),²⁷⁹ dispute settlement, transparency in standards development, and a Code of good practice for standardization bodies.^{280 281}

By the July 1990 TNC review, the group had developed a negotiating text covering (1) expanded disciplines on conformity assessment procedures,²⁸² (2) processes and production methods (PPMs), and (3) improved transparency.²⁸³

In October 1990, the group announced a comprehensive revision²⁸⁴ of the Code²⁸⁵ pending the outcome of the Uruguay Round. Disciplines on conformity assessment procedures have been extended from testing and certification to all other procedures that judge conformance to a standard or regulation, such as inspection or laboratory accreditation.²⁸⁶ Processes and production methods are covered more fully by amending the definitions of standards and technical regulations to include them. Transparency in developing standards is covered by a Code of good practice that calls for notification of standards under development by non-central government bodies and an opportunity for outside comment. The group agreed that bilateral and multilateral agreements on standards must also be notified.²⁸⁷

Disagreement remains, however, on a number of elements, some of which will depend on resolution of differences in other negotiating groups.²⁸⁸ Disciplines on agricultural standards, being developed in the Negotiating Group on Agriculture, will need to await the outcome in that group. Similarly, revisions to the Code's dispute settlement provisions will depend on conclusions reached in the Negotiating Group on Dispute Settlement.²⁸⁹ In addition, the United States is concerned that the Code of good practice under discussion will impose an undue burden on private stand-

²⁷⁹ Regulations covering processes and production methods (PPMs) specify the way a product is made, not just its final characteristics.

²⁸⁰ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 36, June 1, 1990, p. 4.

²⁸¹ *Ibid.*, press release No. 38, July 16, 1990, p. 5.

²⁸² GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," *MTN.TNC/W/35/Rev.1*, Dec. 3, 1990, p. 65. Conformity assessment procedures are those that help determine, directly or indirectly, that requirements in technical regulations and standards are fulfilled. They include sampling, testing and inspection procedures; evaluation, verification, and assurance of conformity to regulations and standards; and registration, accreditation and approval procedures.

²⁸³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 23.

²⁸⁴ *International Trade Reporter*, "Uruguay Round negotiators score victory in reforming code on technical barriers," vol. 7, no. 43, Oct. 31, 1990, p. 1646.

²⁸⁵ Commonly called the "Standards Code."

²⁸⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 23.

²⁸⁷ *Ibid.*, Annex p. 24.

²⁸⁸ *Ibid.*

²⁸⁹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 42, Oct. 24, 1990, p. 3.

²⁷⁰ India and Kenya. Kenya represented the Preferential Trade Area (PTA) consisted of Eastern and Southern African countries.

²⁷¹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 36, June 1, 1990, pp. 4-5.

²⁷² *Ibid.*, press release No. 42, Oct. 24, 1990.

²⁷³ *Ibid.*, p. 4.

²⁷⁴ *Ibid.*, press release No. 38, July 16, 1990, p. 5.

²⁷⁵ *Ibid.*, press release No. 42, Oct. 24, 1990, p. 3.

²⁷⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 26.

²⁷⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 42, Oct. 24, 1990, p. 3.

²⁷⁸ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

ards bodies.²⁹⁰ The Brussels conference also failed to resolve disagreement over the level of obligation for state and local governments developing and applying standards, technical regulations, and conformity assessment procedures.²⁹¹

Government Procurement Code

Negotiations on government procurement have been conducted separately in the Committee on Government Procurement, where talks to expand and improve the Code had begun before the Uruguay Round Negotiating Group on MTN Agreements and Arrangements was created.²⁹² Discussions taking place in the Uruguay Round negotiating group have been limited primarily to an EC proposal to help with the accession of nonmembers, such as developing countries,²⁹³ although these talks have proved inconclusive.²⁹⁴ The EC plan aimed at establishing a mechanism that was hoped would facilitate accessions to the Procurement Code by clarifying its costs and benefits.²⁹⁵ Other subjects discussed included a Korean proposal to permit developing countries to enlarge procurement offers in stages, and an Indian suggestion to allow new Code members to accede without the required consensus.²⁹⁶

Negotiations in the Committee on Government Procurement have proceeded in conjunction with the Uruguay Round,²⁹⁷ with most Code members²⁸⁹ expecting to conclude discussions by the Round's conclusion.²⁹⁹ Participants have reached substantial agreement on a number of areas, although several issues where strong disagreement remain block a final agreement.³⁰⁰ Signatories have agreed to extend the Code to cover central government procurement in additional areas, to cover significant subcentral government procurement, to extend the Code to services contracts including construction, and to set up a local bid challenge system for each signatory and a better discipline on "offset" practices.³⁰¹

²⁹⁰ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 40.

²⁹¹ *Ibid.*

²⁹² The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 26.

²⁹³ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 8.

²⁹⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 28.

²⁹⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 38, July 16, 1990, p. 5.

²⁹⁶ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 8.

²⁹⁷ *International Trade Reporter*, "Government procurement code talks proceed independently of Uruguay Round," vol. 7, no. 49, Dec. 12, 1990, p. 1895.

²⁹⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 26. Members of the Agreement on Government Procurement are Austria, Canada, the EC, Finland, Hong Kong, Israel, Japan, Norway, Singapore, Sweden, Switzerland, and the United States.

²⁹⁹ *Ibid.*

³⁰⁰ *Ibid.*

³⁰¹ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 26-27. Offset practices are instances in which bidders are

However, negotiators reached an impasse³⁰² largely between the EC and the United States over the issue of procurement by private firms as well as the contract threshold over which the Code's disciplines apply.³⁰³ The EC has insisted that expansion of the Code³⁰⁴ encompasses procurement disciplines on private firms in the telecommunications and electric utility sectors.³⁰⁵ The United States has responded that private firms are outside the scope of the Agreement on Government Procurement.³⁰⁶ The United States also seeks to lower the threshold amount for procurement contracts that are considered under the Code from its present \$172,000 to \$65,000.³⁰⁷ The EC however has offered to continue with the current threshold for most contracts and to extend the Procurement Code only to telecommunications contracts over roughly \$600,000 and to electric equipment contracts over \$450,000.³⁰⁸

At the Brussels conference, the Negotiating Group on MTN Agreements and Arrangements agreed to clarify, but not change, the present accession procedures for the Government Procurement Code.³⁰⁹ However, more time and technical discussion³¹⁰ will be required to resolve the differences between the U.S. and EC proposals for expanding Code coverage to utility sectors.³¹¹

Subsidies And Countervailing Measures

The question of how to exert greater multilateral discipline over subsidies which have an impact on trade and attempts to narrow the application of the code have been the competing poles of discussion in the Uruguay Round. The Negotiating Group on Subsidies and Countervailing Measures continued to debate proposals in 1990 in the context of the "traffic light" approach

³⁰¹—Continued

required to offer concessions that are likely to provide additional benefits to the domestic economy in the country that is tendering for procurement bids. Also, see ch. 2 of this OTAP for further information on the Government Procurement Code.

³⁰² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 40. See also *International Trade Reporter*, "U.S. officials deny EC allegations that U.S. is blocking procurement talks," vol. 7, no. 50, Dec. 19, 1990, pp. 1921-1922.

³⁰³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 27.

³⁰⁴ *International Trade Reporter*, "European Community proposes wider access for foreign bidders in public procurement," vol. 7, no. 32, Aug. 8, 1990, pp. 1227-1228.

³⁰⁵ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 40.

³⁰⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 27.

³⁰⁷ *Ibid.*

³⁰⁸ *Ibid.*

³⁰⁹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 13.

³¹⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 27.

³¹¹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 13.

agreed to at the Mid-Term Review.³¹² This approach divides subsidies into three categories: (1) prohibited subsidies (red light); (2) permitted subsidies that may be nonetheless countervailed if they are shown to distort trade (yellow light); and (3) permitted subsidies that are not actionable under the GATT or national legislation (green light).

Export subsidies are a prime example under the prohibited category. The current Subsidies Code's illustrative list of export subsidies has been incorporated into the negotiating group's text, with some modification, to continue to prohibit those export subsidies already considered detrimental to world trade under the Code.³¹³

While the group generally agreed that export subsidies fell into the "red light" or prohibited category, there was widespread dispute during the year over the possible scope of acceptable domestic subsidies. By yearend, "green light" or permitted subsidies had been narrowed down to four types of programs: regional development, research and development, structural adjustment, and environmental protection.³¹⁴ The United States continued to object to the breadth of these categories.

A significant theme during the group negotiations has been the juxtaposition of certain industrial countries, such as the United States and the EC, seeking stronger rules on subsidies and on circumvention of subsidy rules in contrast to other countries, such as Japan and Korea, that are seeking tighter rules on the use of countervailing duties under current subsidy rules. Japan and Korea have also been eager to see the group expand the list of "green light" or permitted subsidies. In early 1990, the United States proposed that the GATT Subsidies Code be updated to prevent circumvention of countervailing duties by (1) shipment of parts and components to an importing country for assembly; (2) assembly in a third country; and (3) technical product changes to circumvent a countervailing duty order. Additional group discussion covered a U.S. proposal to expand the list of prohibited subsidies,³¹⁵ a Canadian proposal to limit countervailing duties to only the so-called "net-subsidy" amount,³¹⁶ a Japanese proposal to include certain domestic subsidies on the list of nonactionable subsidies,³¹⁷ and an EC pro-

³¹² For a discussion of the group's deliberations following the Mid-Term Review, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, pp. 30-31.

³¹³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 19-20.

³¹⁴ *Ibid.*, Annex p. 20.

³¹⁵ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 8. The U.S. plan called for prohibiting subsidies to export oriented firms or to firms with more than a certain percentage of total production going to exports.

³¹⁶ *Ibid.* The Canadian net subsidy concept proposed basing countervailing duties on the difference between the subsidy granted to the import being dutied and any subsidy granted to like products made in the importing country.

³¹⁷ *Ibid.* Japan proposed again that generally available subsidies (i.e. open to all companies) and subsidies with specific social or economic policy goals (such as structural adjustment

posals to require developing countries to show greater discipline over the use of subsidies.³¹⁸

A number of proposals, primarily by developing countries,³¹⁹ focused on more restrictive rules for countervailing duty action (CVD). These proposals called for greater consideration of the public interest in injury determinations, limits on CVD duration through an automatic "sunset" clause, and a requirement that duties assessed be only what is needed to offset the injury to domestic industry.³²⁰ Korea advanced a proposal to limit the scope of actions subject to countervailing duties.³²¹

The group chairman issued a draft agreement by mid-year based on the three agreed categories and their ability to distort trade. The prohibited subsidy category included those already prohibited under the GATT Subsidies Code, plus those that require a certain level of export performance or that discriminate in favor of domestic goods over imported ones. The actionable subsidy category included government subsidies to particular firms, whether financial, income, or price support subsidies. These would be subject to countervailing duties should they injure a domestic industry producing like goods, impair GATT benefits, or seriously prejudice the interest of another GATT signatory. The chairman's text advanced quantitative criteria based on rate of subsidization and export performance to help determine whether a measure results in "serious prejudice." The permitted subsidy category in the draft text included those subsidies that are generally available, those that do not benefit a specific enterprise, or those that are specific to regional development programs. These regional programs must be notified in advance to the Subsidies Committee, be degressive in nature (i.e. decrease over time), and be limited to a certain number of years.³²² The United States suggested the inclusion of two subsidy-like practices:³²³ industrial targeting³²⁴ and two-tiered pricing.³²⁵

³¹⁷—Continued

measures, research and development, and regional assistance) should be exempt from antitrust action.

³¹⁸ *Ibid.* The EC argued that advanced developing countries should subscribe fully to obligations under any revised GATT Subsidies Code, as should other developing countries for sectors in which they are competitive in world markets.

³¹⁹ *Ibid.*, press release No. 36, June 1, 1990, p. 3. These proposals were advanced by Canada, Hong Kong, Egypt, India, Singapore, and Korea.

³²⁰ *Ibid.*

³²¹ *Ibid.*, press release No. 35, Apr. 11, 1990, p. 7. Korea believed that domestic subsidies should not be included under prohibited "red light" subsidies. For "yellow light" subsidies, Korea felt that three determinations must be made before taking CVD action, namely, (i) financial contribution by the government; (ii) how sector specific a subsidy is; and (iii) the subsidy's adverse effect on trade. Korea said government subsidies for socioeconomic objectives should not be countervailable, including structural adjustment aid, environmental pollution prevention, and subsidies that confer no special advantage on specific industries or firms.

³²² *Ibid.*, press release No. 38, July 16, 1990, pp. 5-6.

³²³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 19.

³²⁴ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 38, July 16, 1990, pp. 6-7. Industrial targeting is a practice according to which governments follow policies consistently aimed at benefiting certain industries or firms.

At the July TNC review, the TNC chairman pointed out that the draft agreement being worked out would need stronger rules and disciplines on both subsidies and on countervailing duties.³²⁶ By the fall, the group had revised the draft agreement to include notification and surveillance procedures for subsidies and a proposal for a new Committee on Subsidies and Countervailing measures.³²⁷ Areas not yet included in the agreement were special and differential treatment for LDCs, dispute settlement procedures, and the form of a final agreement.³²⁸

At Brussels, the United States continued to push for the enlargement of the prohibited subsidy category and of the actionable subsidy category.³²⁹ Other participants stressed the need for the expansion of the permitted subsidy category to certain kinds of assistance.³³⁰ By the final session, negotiators remained split over fundamental issues on how to improve subsidy disciplines and dispute settlement procedures, particularly for domestic subsidies; on whether domestic subsidies in specific cases should be permitted; and on how to apply these disciplines to developing countries.³³¹

Dispute Settlement

The Negotiating Group on Dispute Settlement reached agreement on interim changes to the GATT dispute settlement process at the Mid-Term Review.³³² These changes, to be reviewed upon conclusion of the Round, have speeded up dispute procedures so that the time from initial consultations over a panel request until consideration of the panel report by the GATT Council is a maximum of 15 months.³³³

Since these changes were agreed, the group has focused on the delays in the dispute settlement process that result from the ability of a GATT member under the current rules to block the requisite consensus needed to advance from one stage in the process to the

³²⁵ *Ibid.*, p. 7. Two-tiered pricing is a term applied when domestic producers and processors can buy resource products and inputs at below world market prices.

³²⁶ *Ibid.*, press release No. 39, July 30, 1990, p. 6.

³²⁷ *Ibid.*, press release No. 41, Oct. 9, 1990, p. 10.

³²⁸ *Ibid.* The negotiating text discussed at Brussels did contain several appendices that touched on dispute settlement procedures in relation to commitments to be undertaken by developing countries. See The President of the United States, *Report to Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 20-21; and GATT, "Draft Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations," *MTN.TNC/W/35/Rev.1*, December 3, 1990, pp. 129-130 and 133-134.

³²⁹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 12.

³³⁰ *Ibid.* Also see *International Trade Reporter*, "U.S. has option of regional trading bloc if Uruguay Round fails, Mosbacher says," vol. 7, no. 48, Dec. 5, 1990, p. 1838.

³³¹ *Ibid.*

³³² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 38.

³³³ GATT, "Mid-Term Meeting," *MTN.TNC/11*, Apr. 21, 1989, pp. 24-31.

next.³³⁴ Presently, a single member may block the consensus needed to request a panel, to adopt a panel's findings, and to authorize retaliation for not complying with a panel report or its recommendations.³³⁵ For all practical purposes, this procedure allows the party ruled against to prevent adoption of the report and recommendations against it. This shortcoming has resulted in parties to disputes taking unilateral retaliation when multilateral recourse is frustrated.

In 1990, the United States and the EC both pursued aspects of the dispute settlement process that dealt with creating a standing list of trade experts from whom panels could be formed, expediting the review process for panel reports, speedier adoption of final panel reports, and compensation or retaliation when panel reports were not adopted or implemented in a timely fashion.³³⁶ The EC suggested the need for an appeals body, composed of trade experts and the GATT Secretariat, to review panel reports when one party felt the findings were incomplete or erroneous.³³⁷

The central issues under discussion in the group were (1) panel report adoption, with possible appeal procedures; (2) panel report recommendations and implementation; (3) compensation and retaliation; and (4) the linkage between strengthened multilateral dispute settlement rules and commitments by signatories to refrain from unilateral dispute settlement measures.³³⁸

Regarding the review process for panel reports, a number of participants expressed interest in the panel circulating an interim report for disputants only prior to general circulation to GATT members.³³⁹ Disputants could then comment on the panel's initial conclusions, whereas now disputants receive only the report's factual portion and arguments of the parties prior to general circulation.³⁴⁰

The group also discussed the EC's proposal for a GATT appellate body and appeals procedure for contested panel findings. The group felt that once recourse to the appeals body had been taken, the resulting decision could be adopted with less than full consensus.³⁴¹ The group considered a drawback to the appeals procedure was the danger of automatic appeals which could slow down the report adoption and the overall dispute settlement process.³⁴²

The United States supported several provisions put forward by Canada that seek a more automatic dispute settlement process.³⁴³ The draft agreement discussed in

³³⁴ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

³³⁵ *Ibid.*

³³⁶ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 17.

³³⁷ *Ibid.*

³³⁸ *Ibid.*, press release No. 38, July 16, 1990, p. 8.

³³⁹ *Ibid.*

³⁴⁰ *Ibid.*

³⁴¹ *Ibid.*

³⁴² *Ibid.*

³⁴³ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

Brussels includes procedures that could result in automatic report adoption, with appeal, and automatic right to compensation or retaliation should the losing party not comply with a panel report within a set time limit.³⁴⁴

The issue regarding unilateral dispute settlement measures involves concerns by other participants over the use of section 301 authority by the United States under the Trade Act of 1974.³⁴⁵ Other countries seek a U.S. commitment to use the GATT dispute settlement process rather than U.S. section 301 provisions to determine whether a violation of a GATT agreement exists.³⁴⁶ A number of participants including the EC and Japan³⁴⁷ also seek a U.S. commitment to exhaust GATT dispute settlement options before using section 301 for practices that involve violation of the GATT.³⁴⁸ The United States has responded that a more effective GATT dispute mechanism and strengthened GATT rules will mean less need to resort to section 301 actions.³⁴⁹ However, the United States asserted that a commitment to refrain from unilateral action would only be possible if clear rules eliminate the possibility of blockage or delay in the process.³⁵⁰

At Brussels, informal discussions took place over outstanding issues.³⁵¹ Discussions continued on "non-violation" disputes, that is, disputes where benefits under the GATT are impaired but without any violation of the articles of the General Agreement.³⁵² Final agreement on stronger dispute settlement procedures is possible if group participants can allow various stages in the dispute settlement process to proceed without delays typically instigated by the defending signatory. However, final agreement is conditioned on dispute settlement procedures being developed in other negotiating groups.³⁵³

Trade-Related Aspects of Intellectual Property Rights Including Trade in Counterfeit Goods

At the outset of the Uruguay Round, the Negotiating Group on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods, focused on the appropriate scope for discussions.³⁵⁴

³⁴⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 29.

³⁴⁵ *Ibid.*, Annex p. 30.

³⁴⁶ *Ibid.*

³⁴⁷ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 10.

³⁴⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 30.

³⁴⁹ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 10.

³⁵⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 30.

³⁵¹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 12.

³⁵² *Ibid.*

³⁵³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 30.

³⁵⁴ *Ibid.*, Annex p. 46.

Participants from the developing countries in particular felt that talks on trade-related intellectual property (TRIPs) rights should be properly restricted to border measures to enforce laws against counterfeit trademarked goods and copyright piracy.³⁵⁵

However, because the United States sought strong minimum protection standards and effective enforcement provisions that would lead to internal as well as border enforcement of intellectual property rights, TNC revised the group's negotiating mandate during the Mid-Term Review.³⁵⁶ In 1989, proposals were put forward on issues such as minimum intellectual property standards and possible dispute settlement procedures.³⁵⁷

Although many developing countries insisted that only such narrowly defined subjects as counterfeiting and piracy were valid for discussion,³⁵⁸ some developing countries advanced proposals aimed at balancing intellectual property protection with LDC concerns over national development, for instance the proposal advanced by Mexico and tabled in 1990.³⁵⁹ Chile proposed a World Intellectual Property Organization (WIPO) dispute mechanism that would decide whether internationally agreed standards on intellectual property had been applied. If not, injured parties could request GATT dispute settlement to remedy possible trade-related effects.³⁶⁰

A number of draft legal texts³⁶¹ were also tabled in 1990 by the EC, Japan, Switzerland, and the United States, as well as a group of 14 developing countries.³⁶² The EC text³⁶³ provided an overall approach

³⁵⁵ *Ibid.*

³⁵⁶ *Ibid.*, Annex p. 45.

³⁵⁷ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 33, Jan. 11, 1990, p. 14.

³⁵⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 46.

³⁵⁹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, pp. 5-6. The plan was predicated on the strong dispute settlement mechanism procedure and trade secret protection likely to foster a legally secure environment for business and to encourage technology transfer to LDCs. Nonetheless, Mexico believed developing countries should receive special and more favorable treatment regarding intellectual property issues. This included shorter patent duration, a longer transition to apply a TRIPs agreement, and technical and financial assistance.

³⁶⁰ *Ibid.*, p. 6.

³⁶¹ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 46.

³⁶² GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 36, June 1, 1990, p. 7-10. The text by 14 developing countries—Argentina, Brazil, Chile, China, Colombia, Cuba, Egypt, India, Nigeria, Pakistan, Peru, Tanzania, Uruguay, and Zimbabwe—seeks full consideration of national development objectives in any intellectual property agreement. It proposes the recognition of sovereign right over intellectual property issues, particularly in areas of public concern such as health, nutrition, agriculture, and national security. The agreement would be implemented by the relevant international organization, for example, WIPO, as suggested by Chile, because these issues are not trade related.

³⁶³ *Ibid.*, Press Release No. 35, Apr. 11, 1990, pp. 12-14. The EC proposed adding GATT article IX *bis* stating that: (i) contracting parties will provide effective and adequate protection of intellectual property rights to reduce trade distortions and barriers; (ii) protection of intellectual property rights will not create new

for drafts presented later. The United States, Switzerland, and Japan tabled draft agreements that were similar in approach.³⁶⁴ The United States proposed to incorporate a TRIPs agreement into the General Agreement, and based its provisions concerning enforcement of intellectual property rights, institutional matters, and dispute settlement largely on the EC text.³⁶⁵ The U.S. draft did not seek to fully harmonize intellectual property rights among participants, but rather sought only agreed obligations that would lead closer to harmonization through changes in national laws.³⁶⁶ The U.S. proposal would use the economic rights provisions of the Paris and the Berne Conventions, administered by the WIPO, as a basis for such obligations.³⁶⁷ The U.S. differed from the EC text about specific minimum standards of protection, for example, on appellations of origin.³⁶⁸ The Swiss proposal suggested amending the General Agreement to include a TRIPs agreement, which contains a detailed obligation for MFN treatment, a phase-out of actions inconsistent with this MFN provision, and an exception for more favorable treatment of members in regional trading arrangements.³⁶⁹ Japan proposed minimum standards of protection similar to those under the EC, U.S., and Swiss texts, with the exception of trade secrets.³⁷⁰

In the second half of 1990, the group chairman developed a common text, incorporating major elements contained in the proposals outlined.³⁷¹ The text includes provisions for nondiscriminatory treatment and national treatment for intellectual property and provides protection for copyrights, geographic indications, industrial designs, integrated circuits, patents, trademarks, and trade secrets, although key differences re

main concerning a number of these areas.³⁷² The internal and border enforcement provisions in the text are largely agreed.³⁷³

Although many technical issues were cleared up in forging this text, important issues remained unresolved at the time of the Brussels conference and require political-level attention.³⁷⁴ These outstanding issues deal with the protection of intellectual property rights concerning: copyright protection for computer software and patent protection for pharmaceuticals; trademark protection; geographic indications, such as wine appellations of origin; industrial design protection according to U.S. or European standards; protection for trade secrets under a TRIPs agreement and possible enforcement measures.³⁷⁵

Trade-related Investment Measures

The aim of the Negotiating Group on Trade-Related Investment Measures (TRIMs) is to examine GATT articles related to the trade-restrictive and trade-distorting effects of investment measures and to elaborate measures as needed to prevent adverse trade effects not covered under current GATT rules.³⁷⁶ Two approaches by group members resulted from this mandate: one approach from industrial countries was to draft rules that would prohibit investment measures that ran counter to either the letter or spirit of the General Agreement and the other approach from developing countries³⁷⁷ was to argue that only the trade-distorting effects of investment measures should be prohibited rather than the actual measures.³⁷⁸

Trade-distorting TRIMs identified by the group include local-content requirements; trade balancing requirements; foreign exchange limitations; domestic sales requirements; and export performance requirements.³⁷⁹ Industrial countries seeking to prohibit trade-distorting TRIMs include Canada, the EC, Japan, New Zealand, the Nordic countries, Switzerland, and the United States.³⁸⁰ The developing countries who oppose prohibition of the investment measures outright are led by Brazil, Egypt, India, and the Philippines.³⁸¹

³⁶³—Continued

barriers; and (iii) domestic national laws will provide this protection as set out in an annex to the General Agreement.

The EC annex would have GATT members agree to the major provisions of the Paris Convention (for protection of intellectual property) and of the Berne Convention (for protection of literary and artistic works) as well as of the proposed GATT agreement on TRIPs. The EC annex would exempt customs unions and free trade areas from GATT principles of national and MFN treatment. It sets out minimum standards for copyright and related rights, including computer programs; patents and trademarks; geographical placenames, including appellations of origin; industrial designs and models; lay out designs of integrated circuits; and protection of undisclosed business information and other acts contrary to honest commercial practice. The EC annex sets out certain enforcement procedures and standard remedies to be made available.

Disputes would be handled by regular GATT dispute settlement procedures. The EC proposal commits signatories to avoid taking unilateral action on TRIPs matters, and to alter domestic law if need be to ensure this. Developing countries would receive assistance and longer transition periods to implement the agreement.

³⁶⁴ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 36, June 1, 1990, p. 8-9.

³⁶⁵ *Ibid.*, p. 8.

³⁶⁶ *Ibid.*, p. 8.

³⁶⁷ *Ibid.*, p. 8.

³⁶⁸ *Ibid.*, p. 8.

³⁶⁹ *Ibid.*, p. 8.

³⁷⁰ *Ibid.*, p. 8-9.

³⁷¹ Department of Commerce, *Uruguay Round Update*, Sep. 1990, p. 9.

³⁷² The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 47.

³⁷³ *Ibid.*

³⁷⁴ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

³⁷⁵ *Ibid.*, Annex pp. 47-48.

³⁷⁶ GATT, "Ministerial Declaration on the Uruguay Round," *MINDEC*, Sep. 20, 1986, p. 8.

³⁷⁷ *International Trade Reporter*, "Egypt and India continue to oppose TRIMs agreement supported by developed countries," vol. 7, no. 45, Nov. 14, 1990, p. 1737.

³⁷⁸ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 49-50.

³⁷⁹ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

³⁸⁰ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 49.

³⁸¹ *Ibid.* Annex p. 50.

In January 1990, the United States presented the first draft text agreement.³⁸² The U.S. proposal would prohibit most trade-distorting investment measures, and pledge countries to apply investment measures on a nondiscriminatory basis.³⁸³ The United States proposal would establish a test to discipline the nonprohibited TRIMs,³⁸⁴ which would lead to prohibition of these investment measures were they shown to be trade-distorting.³⁸⁵ The U.S. proposed prohibiting TRIMs that required a firm to use local goods (i.e. local content regulations); produce, sell, or export certain goods; transfer or license technology; or to export as a prerequisite for access to foreign exchange or imports.³⁸⁶ Other prohibited measures would be restrictions on producing certain goods or on using a given technology.³⁸⁷ The proposal would allow LDCs to take longer to end prohibited TRIMs³⁸⁸ and would establish a standing TRIMs committee.³⁸⁹

In June 1990, a group of 12 developing countries³⁹⁰ offered an alternative text that stressed the national development aims for which many of these investment measures are used. The declaration stated that TRIMs are legitimate governmental instruments to promote national development, that TRIMs should be allowed to offset trade-restrictive business practices, and that the GATT's existing dispute settlement mechanism is sufficient to address adverse effects caused by TRIMs.³⁹¹

At the July 1990 TNC review, the TNC chairman pointed out the absence of a single negotiating text, setting out three issues that needed to be resolved: (1) what are the current GATT obligations in the investment measures area, (2) what new disciplines need to be enumerated that are not already in the General Agreement, and (3) how to account for development considerations.³⁹²

Subsequently, the negotiating group chairman attempted an informal draft with fewer prohibitions, a longer transition period, as well as infant industry and balance-of-payments exceptions for developing countries.³⁹³ By October 1990, the text contained a defini-

tion of TRIMs, a confirmation of TRIMs prohibitions already contained under GATT articles, a new prohibition of export performance requirements, an effects test to discipline other investment measures, new exceptions for LDCs from disciplines already under the General Agreement, transparency provisions, and a proposed TRIMs committee in the GATT to oversee the TRIMs agreement.³⁹⁴ However, the developing countries continue to reject the concept of prohibiting investment measures outright.³⁹⁵

As the developing countries were able to prevent a chairman's draft text from being submitted to the Brussels conference so were the industrial countries able to block a vastly simplified version.³⁹⁶ Nonetheless, informal discussions at Brussels indicated that a basis for a TRIMs agreement was likely to emerge had the conference continued.³⁹⁷ Because developing countries appear increasingly interested in attracting investment, the LDCs appear willing to consider prohibiting investment measures that are clearly inconsistent with the GATT.³⁹⁸ Further negotiations on a TRIMs agreement are reportedly likely once developing countries can see benefits linked to concessions in other areas, such as agriculture.³⁹⁹

Functioning Of The GATT System

The Negotiating Group on Functioning of the GATT System (FOGS) had reached agreement by the Mid-Term Review on several group aims.⁴⁰⁰ In addition to inaugurating the Trade Policy Review Mechanism (TPRM), participants agreed to hold meetings at the ministerial level at least every two years.⁴⁰¹ The TPRM provides a system of national trade policy surveillance under GATT auspices. The Secretariat conducts regular reviews of the overall policy stance of each GATT member to permit a collective evaluation of the impact of these policies on the world trade system.⁴⁰² Since the Mid-Term Review, the countries reviewed under the TPRM have been Australia, Canada, Colombia, Hong Kong, Japan, Morocco, New Zealand, Sweden, and the United States.⁴⁰³

³⁸² USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

³⁸³ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 34, Feb. 23, 1990, pp. 1-3.

³⁸⁴ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

³⁸⁵ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex pp. 49-50.

³⁸⁶ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," Press Release No. 34, Feb. 23, 1990, pp. 1-3.

³⁸⁷ *Ibid.*

³⁸⁸ *Ibid.*

³⁸⁹ *Ibid.*

³⁹⁰ *Ibid.*, press release No. 38, July 16, 1990, p. 10. Bangladesh, Brazil, Colombia, Cuba, Egypt, India, Kenya, Nigeria, Pakistan, Peru, Tanzania, Zimbabwe, with support from China.

³⁹¹ *Ibid.*, pp. 10-11.

³⁹² *Ibid.*, press release No. 39, July 30, 1990, p. 6.

³⁹³ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

³⁹⁴ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 50.

³⁹⁵ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 41.

³⁹⁶ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 50.

³⁹⁷ *Ibid.*

³⁹⁸ *Ibid.*

³⁹⁹ Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 14.

⁴⁰⁰ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

⁴⁰¹ GATT, "Mid-Term Meeting," *MTN.TNC/11*, Apr. 21, 1989, pp. 33-36.

⁴⁰² GATT, *GATT Activities 1988*, Geneva, June 1989, p. 54.

⁴⁰³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 31.

During 1990, the group considered proposals by the EC and Switzerland to encourage greater coherence in economic policies⁴⁰⁴ and proposals by the United States for a small ministerial group to help guide the GATT's activities.⁴⁰⁵ The EC paper suggested a joint declaration by the three Bretton Woods institutions—the GATT, IMF, and World Bank—on the need for greater coherence in trade, monetary, and financial policies made at the international level and for formalized cooperation among them.⁴⁰⁶ The Swiss proposed developing an independent capability within the GATT to evaluate trade policies as another contribution toward this aim.⁴⁰⁷ The U.S. proposal for a small ministerial group would create a board of ministers that would act as a steering committee for the GATT similar to the executive boards overseeing operations of the IMF and World Bank.⁴⁰⁸ The group also continued discussions of a joint proposal⁴⁰⁹ presented in 1989 to encourage the “transparency” of government policy-making affecting trade. The group also developed requirements for reviewing trade policies in least developed countries under the TPRM.⁴¹⁰

At Brussels, little attention was paid to the remaining issues in the FOGS negotiating group because of the agreements already reached at the Mid-Term Review as well as of the attention required to other groups.⁴¹¹ The outstanding issues in the group are largely dependent on the outcome of the Uruguay Round in that they will need to be negotiated and implemented as part of putting the other agreements into effect.⁴¹² These issues essentially would define the GATT's future role and determine whether and how to set up a GATT steering committee,⁴¹³ to increase institutional cooperation and coherence between the three Bretton Woods institutions, and lastly, to initiate possible negotiations leading toward a new world trade organization (WTO).⁴¹⁴

⁴⁰⁴ GATT, “News of the Uruguay Round of Multilateral Trade Negotiations,” press release No. 35, Apr. 11, 1990, p. 5.

⁴⁰⁵ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

⁴⁰⁶ GATT, “News of the Uruguay Round of Multilateral Trade Negotiations,” press release No. 35, Apr. 11, 1990, p. 5.

⁴⁰⁷ *Ibid.*, press release No. 38, July 16, 1990, p. 4.

⁴⁰⁸ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 39.

⁴⁰⁹ GATT, “News of the Uruguay Round of Multilateral Trade Negotiations,” press release No. 33, Jan. 11, 1990, p. 17. Australia, Canada, Hong Kong and New Zealand.

⁴¹⁰ *Ibid.*, press release No. 35, Apr. 11, 1990, p. 6.

⁴¹¹ Louis J. Murphy, “Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions,” *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 13.

⁴¹² *Ibid.*

⁴¹³ The President of the United States, *Report to the Congress on the Extension of Fast Track Procedures*, Mar. 1, 1991, Annex p. 31.

⁴¹⁴ Louis J. Murphy, “Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions,” *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 13. Negotiation of a world trade organization (WTO) would resume discussions following World War II about the General Agreement on Tariffs and Trade, which was intended to provide the commer-

U.S. Western Hemisphere Trade Initiatives

In addition to the Uruguay Round, the United States pursued three regional trade initiatives in 1990 to support Latin America's economic reforms and to promote increased trade within the western hemisphere:⁴¹⁵ (1) the United States and Mexico took initial steps toward opening talks on a bilateral free-trade agreement (FTA);⁴¹⁶ (2) President Bush proposed a nonreciprocal trade preference initiative for the Andean countries of South America; and (3) President Bush proposed a broader program known as the Enterprise for the Americas Initiative for free trade, investment promotion, and debt reduction for all of Latin America.

This section begins with an overview of economic conditions in Latin America⁴¹⁷ during the 1980s and a summary of the key forces for change in the region. A discussion follows on Latin America's trade with the United States and the key trade-related policy reforms, including renewed interest in regional economic integration, announced or enacted in 1990. This section concludes with a discussion of the three U.S. trade initiatives that were advanced during 1990 to support Latin America's economic reforms.

Many Latin American countries made significant progress toward implementing market-oriented economic reforms in 1990. A fundamental motivation for this change was the failure of the policies most Latin American countries pursued during the 1980s to promote growth and economic development. These policies discouraged foreign trade, gave government an extensive role in the economy, and failed to provide adequate incentives for production. Chile, Colombia, and Mexico, which initiated economic reforms in the mid-1980s, were the furthest along in overall economic and trade liberalization by the end of 1990. For other countries, the implementation of market-oriented reforms became possible only after the election of democratic leaders committed to encouraging foreign trade and reducing government management of the economy.

⁴¹⁴—Continued

cial policy provisions of the charter for the International Trade Organization (ITO). The ITO was to be one of the three international bodies helping to govern world economic affairs, along with the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD) or World Bank but unlike the IMF and IBRD, the ITO was never agreed to by the U.S. Congress. The General Agreement came into effect nonetheless as an agreement separate from the larger institution because its provisions had already been signed in anticipation of ratification of the ITO.

⁴¹⁵ For a more detailed discussion of the role of Latin America's economic reforms in U.S. 1990 trade policy initiatives, see *Economic Report of the President* (Washington, DC: Government Printing Office, 1991).

⁴¹⁶ The United States signed an FTA agreement with Canada in 1988. During 1990, the United States, Mexico, and Canada consulted on the possibility of a trilateral FTA agreement. For additional information on the U.S.-Canadian FTA, see the discussion of Canada in chapter 4.

⁴¹⁷ The discussion which follows focuses primarily on the six largest Latin American economies: Argentina, Brazil, Chile, Colombia, Mexico, and Venezuela. Many of the observations are applicable to other countries of Central America, South America, and the Caribbean. The countries of the Caribbean Basin are discussed separately in ch. 5.

Overview: Latin America in the 1980s

The 1980s, sometimes referred to as Latin America's "lost decade,"⁴¹⁸ were a decade of economic crisis. Collectively, Latin American countries confronted their most severe economic crisis since the 1930s.⁴¹⁹ As a whole, the region faced the problems of stagnant economic growth, rising debt service burdens, adverse turns in global commodity prices, and net setbacks in terms of indicators including per capita GDP and the incidence of poverty.⁴²⁰

Economic growth slowed significantly (table 1). Latin America's six largest economies expanded by an average of only 1.4 percent annually during the 1980s compared with 5 percent growth during the 1970s and 5.9 percent growth during the 1960s.⁴²¹ Slower growth in the industrialized countries⁴²² dampened demand for Latin America's commodity exports⁴²³ and led to reduced levels of overseas investment in Latin America. High world interest rates in the 1980s⁴²⁴ increased Latin America's debt service payments.⁴²⁵ Latin America's foreign debt service problems reached crisis proportions. Many Latin countries followed the path of Brazil, the third world's largest debtor, and borrowed abroad following the oil price increases of 1973-74 and 1979-80.⁴²⁷ However, the loans were of-

⁴¹⁸ See for example John Williamson, *The Progress of Policy Reform in Latin America* (Washington, DC: Institute for International Economics, 1990), p. 1.

⁴¹⁹ IMF, "Policy Reforms Improve Economic Prospects for Latin America, According to IDB Report," *IMF Survey*, Nov. 12, 1990, p. 342.

⁴²⁰ For a more detailed analysis of the rise in poverty in Latin America during the 1980s, see International Bank for Reconstruction and Development (World Bank), *World Development Report 1990* (New York: Oxford University Press, 1990).

⁴²¹ As growth in the formal or legal economy slowed, growth and employment in Latin America's underground economies mushroomed. This is documented in Hernando de Soto, *The Other Path: The Invisible Revolution in the Third World* (New York: Harper & Row, 1989) and "Black Economies in Latin America: Safe as Houses," *The Economist*, Nov. 12, 1988, p. 12.

⁴²² Real economic growth among the OECD nations slowed from an average annual rate of 3.6 percent in the 1970s to an average annual rate of 2.8 percent in the 1980s. The average annual economic growth rate in the United States declined from 2.8 percent in the 1970s to 2.6 percent in the 1980s. OECD, *Economic Outlook*, 48, December 1990, p. 175, table R1.

⁴²³ For additional information on the adverse impact on Latin America of shifting demand for commodities in industrialized countries, see discussion on commodities in chapter 3.

⁴²⁴ Long term interest rates in the seven largest industrialized countries, whose financial markets largely determine world interest rates, averaged almost 10 percent during the first half of the 1980s, declining somewhat only after 1985. IMF, *World Economic Outlook*, May 1990, p. 138, table A15.

⁴²⁵ According to World Bank estimates, higher world interest rates added an additional \$8 billion annually to Latin America's combined debt service requirements during the 1980s. World Bank, *World Development Report 1990*, p. 15.

⁴²⁶ For more information on the impact of growth and interest rates in industrialized countries on Latin America's economic performance, see Inter American Development Bank (IADB), *Economic and Social Progress in Latin America, 1989 Report: Savings, Investment and Growth*, Washington, DC, 1989, p. 5. For information on the OECD's analysis of the impact of growth and interest rates in industrialized countries on developing countries, see discussion on the OECD Ministerial declaration in chapter 3.

⁴²⁷ Gene Koretz, "Why Asian Countries Blossomed While Latin America Wilted," *Business Week*, Aug. 28, 1989, p. 16.

ten used to support overvalued currencies, maintain high levels of consumption, finance private purchases of foreign assets, and finance unproductive investments.⁴²⁸ Beginning in 1982, net capital outflows (profit remittances and interest payments) from Latin America exceeded net capital inflows.⁴²⁹ By 1986, Latin America's total disbursed external debt exceeded \$400 billion.⁴³⁰ Mexico's debt crisis was the earliest, in 1982.⁴³¹ By 1989, most of the large Latin debtors and several smaller ones had been forced to reschedule their foreign commercial bank debt on concessionary terms (some more than once). Several debtors, including Argentina, Brazil, Colombia, and Venezuela, temporarily stopped servicing their debt until rescheduling agreements could be arranged.⁴³² During the late 1980s, the accumulation of arrears became the main reason for the growth in the total indebtedness of Argentina and Brazil.⁴³³ Recognition of the intractability of Latin America's debt servicing problems⁴³⁴ led to the U.S.-proposed Brady plan debt initiative.⁴³⁵

⁴²⁸ For a more detailed treatment of Latin America's use of debt capital during the 1980s, see USITC, "The Effect of Developing Country Debt Service Problems on U.S. Trade," investigation No. 332 234, USITC publication No. 1950, March 1987.

⁴²⁹ United Nations, Comision Economica para America Latina y el Caribe (CEPAL), *Preliminary Overview of the Economy of Latin America and the Caribbean, 1990*, December 1990, p. 33, table 16.

⁴³⁰ IADB, *Economic and Social Progress, 1989 Report*, p. 503, table E1.

⁴³¹ For a more detailed discussion of Mexico's foreign debt, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States Mexican Relations*, investigation No. 332 282, USITC publication No. 2275, April 1990, pp. 1 2 through 1 3.

⁴³² For information on Argentina's suspension of debt service payments, see U.S. Department of State Telegram, Nov. 13, 1990, Buenos Aires, Message No. 11632. For Brazil, see The Economist Intelligence Unit, *Brazil: Country Report*, No. 4, 1989, p. 8. For Colombia, see IADB, *Economic and Social Progress, 1989 Report*, p. 303. For Venezuela, see "Venezuela: Rioting All the Way to the Bank," *The Economist*, March 11, 1989, p. 43.

⁴³³ CEPAL, "Preliminary Overview of the Economy of Latin America and the Caribbean, 1990," p. 16.

⁴³⁴ In 1989, after the government sharply raised prices on key products and services, Venezuela experienced unprecedented civil unrest. The Venezuelan Government attributed this unrest to the financial burden of servicing the country's foreign debt. See "Venezuela: Rioting All the Way to the Bank," *The Economist*, March 11, 1989, p. 43.

⁴³⁵ Partially in response to the increasingly violent backlash to austerity measures in many formerly stable Latin countries, the Bush administration adopted a more lenient policy toward developing country debt. Under the "Brady plan," named after the architect of the policy U.S. Treasury Secretary Nicholas Brady, the U.S. Government advocates reductions in principal as well as reductions in interest and the granting of new loans for developing countries that limit public sector spending, encourage foreign investment and the repatriation of capital, and minimize subsidies to domestic industries and other interference with free market economic forces. The Brady plan replaced the "Baker plan," named after former Secretary of the Treasury and now Secretary of State James Baker, that called for new loans and rescheduling of payments, but not reductions in principal. On July 23, 1989, Mexico became the first country to reach a tentative new debt agreement with its commercial bank creditors under the Brady plan. Venezuela initiated negotiations for a Brady plan program in 1990. USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States Mexican Relations*, investigation No. 332-282-282, USITC publication No. 2275, April 1990, pp. 1-2 through 1-3.

Table 1
Leading economic indicators for six largest Latin American countries¹

Country	Gross Domestic Product (GDP)				Inflation ² (percent) 1990	Foreign Debt ³ (\$ billions) 1990	Population Growth (percent)	Actual ⁴ (millions)
	Actual 1989	Average Annual Growth (percent)						
		1960-69	1970-79	1980-89				
Argentina	59.2	4.0	2.7	-0.9	1,343	59.9	1.4	32.5
Brazil	482.0	9.2	7.9	2.4	1,795	114.7	2.2	147.0
Chile	25.2	4.7	2.2	3.2	27	18.9	1.7	12.8
Colombia	39.4	5.0	5.8	3.4	32	17.0	2.2	31.7
Mexico	195.1	7.2	6.5	1.9	20	97.4	2.4	85.0
Venezuela	40.7	5.6	5.2	-1.6	36	33.0	2.8	18.8

¹ The Economist Intelligence Unit (EIU), *Argentina: Country Report*, No. 4, 1990; EIU, *Brazil: Country Report*, No. 1, 1991; Inter-American Development Bank (IADB), *Economic and Social Progress in Latin America, 1989 Report* (Washington, DC: IADB, 1989); *Latin America Economy and Business*, January 1991, p. 14; *Latin American Weekly Report*, Nov. 20, 1990, p. 3; Eugene Robinson and Dan Balz, "Latin Debt Forgotten, but not Gone," *Washington Post*, Dec. 6, 1990, p. B1; The World Bank, *World Development Report 1990*, (New York: Oxford University Press, 1990), pp. 178-179, table 1.

² Consumer price inflation.

³ As of January 1, 1990.

⁴ Population data is for mid-1988 for Chile, Colombia, and Venezuela, and for yearend 1989 for Argentina, Brazil, and Mexico.

Commodity price trends worked against Latin America during most of the 1980s.⁴³⁶ Few countries diversified their economies, having left dependent on exports of one or two primary commodities. Prices of many of Latin America's most important primary commodity exports, including beef, coffee, cocoa, cotton, and iron ore, declined during the 1980s.⁴³⁷ Oil-importers were hurt by high oil prices early in the decade, while the oil-exporters, including Colombia, Ecuador, Mexico, and Venezuela, were hit hard as oil prices declined later on.⁴³⁸

Other factors contributing to Latin America's dismal economic performance in the 1980s included the following: (1) capital flight, cumulatively estimated at \$300 billion from Argentina, Brazil, Mexico, and Venezuela alone;⁴³⁹ (2) low levels of domestic savings and investment resulting from declining government revenues, inflation's erosion of earning power, and economic slowdown;⁴⁴⁰ (3) increasing trade in contraband and illicit drugs, which in some countries grew to exceed officially registered trade;⁴⁴¹ (4) disruptions caused by insurgent attacks against the economic infrastructure, particularly oil pipelines, mining facilities,

⁴³⁶ For detailed discussions of declining commodity prices during the 1980s, see Bernhard Fischer, "From Commodity Dependency to Development," *The OECD Observer*, April-May 1991, pp. 24-27 and Enzo R. Grilli and Maw Cheng Yang, "Primary Commodity Prices, Manufactured Goods, Prices, and the Terms of Trade of Developing Countries: What the Long Run Shows," *The World Bank Economic Review*, vol. 2, no. 1, pp. 1-47.

⁴³⁷ Between 1980 and 1989, sugar declined by 22.1 percent, cocoa by 2.7 percent, coffee by 1.6 percent, hides and skins by 2.2 percent, and tropical timber by 1.7 percent. See Fischer, "From Commodity Dependency to Development," p. 27 and UNCTAD, *Monthly Commodity Price Bulletin, 1970-1989 Supplement*, November 1990, pp. 2-6.

⁴³⁸ The official OPEC oil price declined from \$30.5/bbl in first quarter 1983 to \$17.1/bbl in fourth quarter 1988. IADB, p. 514, table 1F-1.

⁴³⁹ Derived from research by Morgan Guaranty Trust Co., this data is cited in numerous sources, including: "Down and Out in Latin America," *Business Week*, July 10, 1989, p. 44; "Distressed by Debt," *The Economist*, Sept. 23, 1989, Survey supplement, p. 52; and "Brave New World," *Far Eastern Economic Review*, Sept. 13, 1990, p. 49.

⁴⁴⁰ The average rate of national savings (national savings as a percentage of GNP) for Argentina, Brazil, Chile, Colombia, Mexico, Peru, and Venezuela declined from 21.8 percent in 1980 to 15.1 percent in 1987. The savings rate declined most precipitously in Argentina, Mexico, and Venezuela, whereas it declined moderately but recovered by the end of the period in Brazil and Colombia. In Chile, savings declined to zero in 1982 during that country's economic crisis, but by 1987 returned to the level of 15 percent. IADB, *Economic and Social Progress in Latin America, 1989 Report*, pp. 90-104.

⁴⁴¹ For the region's top coca growing and cocaine-producing countries, Bolivia, Peru, and Colombia, "coca and cocaine are among their leading exports.... [and] there is little doubt that coca dollars have helped all three countries cope with balance-of-payments problems." However, "the influx of cocaine money has led to economic distortions," such as higher levels of inflation and the diversion of resources into this illegal sector. See "The Cocaine Economies: Latin America's Killing Fields," *The Economist*, Oct. 8, 1988, pp. 21-24. There are no official statistics for exports of illicit products. Most estimates of the value of coca and cocaine exports are calculated based on the approximate number of hectares of coca under cultivation and the estimated value added during processing and refining. For more information on this methodology, see "The Kickback from Cocaine," *The Economist*, July 21, 1990, p. 40.

and agricultural production in Colombia⁴⁴² and, to a lesser extent, Peru; (5) unequal income distribution;⁴⁴³ and (6) the fear that much-needed austerity measures would provoke civil unrest.⁴⁴⁴

Forces for Change

The economic policies most Latin American governments pursued during the 1980s failed to promote sustainable economic growth. The authoritarian regimes and populist leaders that dominated in the region exacerbated economic conditions by interfering with the operation of free markets through policies that nationalized key industries, erected protectionist trade barriers, and tightly regulated investment. Populist economic policies of the 1980s⁴⁴⁵ focused only on short-term improvements,⁴⁴⁶ encouraged wasteful spending,⁴⁴⁷ caused fiscal deficits to grow,⁴⁴⁸ and led to pressures for excessive money creation.⁴⁴⁹ Tax revenues remained low or declined⁴⁵⁰ because of weak tax

⁴⁴² The impact of insurgent attacks against Colombia's economic infrastructure is discussed in "Colombia: Peace Plan Shot to Bits," *The Economist*, Oct. 22, 1988, p. 50.

⁴⁴³ A study by Jeffrey D. Sachs found that relatively more equal income distribution was a key factor accounting for the success of the newly industrializing countries of East Asia (Korea, Taiwan, Hong Kong, and Singapore) during the 1980s versus the unequal income distribution and lack of growth in Latin America. The Sachs study is cited in "Why Asian Countries Blossomed While Latin America Wilted," *Business Week*, Aug. 28, 1989, p. 16 and "A Web of Troubles," *The Economist*, Sept. 23, 1989, p. 15. While relatively more equitable distribution of income in East Asian countries allowed their governments "the freedom to pursue economic policies that promote efficiency and growth even when such policies involve short term sacrifices," Latin America's extreme income inequality "produce[d] intense political pressure to stave off unrest... particularly when external shocks threaten[ed] the economy." Koretz, "Why Asian Countries Blossomed," p. 16.

⁴⁴⁴ For detailed discussions of how the fear of civil unrest prevented some Latin governments from implementing needed economic reforms, see "How Much Austerity Can Latin Americans Take?" *The Economist*, July 16, 1983, p. 37; "Venezuela: Rioting All the Way to the Bank," *The Economist*, March 11, 1989, pp. 43-44; "A Web of Troubles," *The Economist*, Sept. 23, 1989, Survey supplement p. 10; John Barham, "Menem's Deepest Cut of All," *Financial Times*, Sept. 18, 1990; and Koretz, "Why Asian Countries Blossomed," p. 16.

⁴⁴⁵ For more a more detailed discussion of the adverse impact of populist economic policies in Latin America, see "A Web of Troubles," *The Economist*, Sept. 23, 1989, Survey supplement, pp. 15-16.

⁴⁴⁶ The shift to more disciplined economic policies focused on longrun issues in Latin America during the late 1980s is discussed in greater detail in Williamson, *The Progress of Policy Reform in Latin America*.

⁴⁴⁷ Studies on the impact of subsidized food and education indicate that this type of spending primarily benefits the urban middle-class elite. See "A Platform for Growth," *The Economist*, Sept. 23, 1989, Survey supplement p. 16.

⁴⁴⁸ For data on fiscal deficits, see IADB, *Economic and Social Progress in Latin America, 1989 Report*, pp. 19-21.

⁴⁴⁹ For a discussion of monetization of fiscal deficits and inflation in developing countries, see International Monetary Fund (IMF), *World Economic Outlook: A Survey by the Staff of the International Monetary Fund*, May 1990, pp. 57-60.

⁴⁵⁰ For Latin America and the Caribbean as a whole, taxes on income, profits, and capital gains as a percentage of total current revenue declined from 25.5 percent in 1972 to 24.4 percent in 1988. In Brazil, taxes declined from 20 percent to 11.5 percent of revenue during the same time period, while in Mexico, taxes declined from 37.3 percent to 26.8 percent of revenue. World Bank, *World Development Report 1990*, p. 201, table 12.

law administration⁴⁵¹ and because economic stagnation caused tax bases to collapse.⁴⁵² Wage indexation⁴⁵³ contributed to persistently high inflation and inflationary expectations.⁴⁵⁴ High barriers to imports and restrictions on foreign investment led many of Latin America's state-run enterprises to grow inefficient.⁴⁵⁵ Overvalued exchange rates,⁴⁵⁶ which prevailed throughout the region in the first half of the 1980s,⁴⁵⁷ discouraged exports.⁴⁵⁸ The failure to enforce adequate protection of property rights limited incentives for entrepreneurs.⁴⁵⁹

During the 1980s, most Latin American countries continued to follow inward-looking and interventionist economic development schemes developed during the

⁴⁵¹ Williamson, *The Progress of Policy Reform in Latin America*, pp. 16-18.

⁴⁵² In Argentina, central government current revenues declined from 12.7 percent of GDP in 1980 to 3.9 percent of GDP in 1988. In Peru, revenues declined from 17.1 percent in 1980 to 9 percent in 1988. IADB, *Economic and Social Progress in Latin America, 1989 Report*, p. 474, table C-1.

⁴⁵³ Indexation is a government-administered system linking wages and some prices to the rate of inflation. Under an indexation scheme, current month's wages and prices are automatically increased by the amount of the prior month's inflation rate. Many Latin American governments turned to indexation during the 1980s to compensate workers and local producers for inflation. The origin of indexation in Peru is examined in "A Web of Troubles," *The Economist*, Sept. 23, 1989, Special supplement p. 10. The popularity of indexation, despite its inherent inflationary impact, is documented in Thomas Kamm, "Brazil's Efforts to Curb Inflation Face Hurdle: A Lot of People Like It," *Wall Street Journal*, March 29, 1991, p. 1.

⁴⁵⁴ For more detailed discussions of inflation in Latin America, see "Hyperinflation: Taming the Beast," *The Economist*, Nov. 15, 1986, pp. 55-64; "Eliana A. Cardoso, 'Hyperinflation in Latin America,' *Challenge*, January-February 1989, pp. 11-19; "Latin America's New Start," *The Economist*, June 9, 1990, pp. 11-12; and "Latin America's Hope," *The Economist*, Dec. 9, 1990, pp. 14-15.

⁴⁵⁵ For a more detailed discussion of the impact of tariffs, quotas, and other barriers to imports on industrial competitiveness in Argentina and Brazil, see "Latin America's New Start," *The Economist*, June 9, 1990, p. 11.

⁴⁵⁶ The use of overvaluation as a substitute for credible anti-inflationary measures (such as public spending cuts and other measures to reduce demand) in Latin America is documented in "A Web of Troubles," *The Economist*, Sept. 23, 1989, Special supplement p. 10. One source reports that exchange rates in Latin America became "grossly overvalued" in comparison with the competitive exchange rates maintained by the industrializing Asian countries. Moreover, "for every 10 percent by which an exchange rate is overvalued, total export growth is, on average, reduced by 1.8 percentage points a year and GDP growth by 0.8 percentage points. This helps explain why Asia's exports have grown twice as fast as Latin America's during the past decade." See "Bidding to Compete," *The Economist*, Nov. 11, 1986, p. 65.

⁴⁵⁷ IMF, *World Economic Outlook*, p. 22.

⁴⁵⁸ This situation occurred most recently in Argentina during 1990. "Exports are the sole survival option for many companies, but the overvalued austral makes exports unprofitable." John Barham, "Menem's Deepest Cut of All," *Financial Times*, Sept. 18, 1990. See also "Argentina: A Speculator's Paradise as the Real Economy Goes Down the Drain," *Latin American Economy and Business*, December 1990, p. 6.

⁴⁵⁹ This is documented in the case of Peru in Hernando De Soto, *The Other Path: The Invisible Revolution in the Third World*, translated by June Abbott (New York: Harper & Row, 1989), pp. 158-163. In addition to property rights, De Soto also cites the lack of enforcement of legal provisions governing contracts.

postwar era.⁴⁶⁰ The goal was industrialization through import substitution rather than export promotion.⁴⁶¹ This strategy was based on the theory advanced by Raul Prebisch⁴⁶² that, over time, world demand for Latin America's primary goods would decline relative to the Latin America's demand for manufactured goods. In order to prevent impoverishment from declining terms of trade,⁴⁶³ many Latin countries followed Prebisch's advice⁴⁶⁴ of restricting imports to encourage domestic production of manufactured goods. These countries imposed formidable tariffs and nontariff barriers on imports. At the same time, to reduce the country's reliance on imports, they subsidized manufacturing industries and provided other incentives for domestic suppliers to produce for local markets.⁴⁶⁵ ⁴⁶⁶ According to one report, "over-reliance on import substitution meant that . . . [Latin America] missed valuable export opportunities in the 1970s and 1980s—opportunities which Asia seized."⁴⁶⁷

Major Country Performance

Latin America's disastrous economic performance during the 1980s appears paradoxical against the backdrop of the region's wealth of natural, human, and physical assets. Many Latin countries, including Argentina, Brazil, Colombia, and Mexico, are major agricultural producers. Latin America's energy resources include petroleum, coal, and hydroelectric power-generating potential. Unlike either sub-Saharan Africa or Eastern Europe, Latin America has its own large indigenous capital base,⁴⁶⁸ a developed banking and financial infrastructure, and a large industrial infrastruc-

⁴⁶⁰ *Economic and Social Progress in Latin America, 1989 Report*, pp. 1-4 and Williams, *The Progress of Policy Reform in Latin America*, pp. 24-26.

⁴⁶¹ The major alternative to import substitution as a development strategy is to encourage growth in industries in which the country is competitive in world markets, leading to greater exports and greater imports.

⁴⁶² See Raul Prebisch, *The Economic Development of Latin America and its Principal Problems* (New York: Economic Commission for Latin America, U.N. Department of Economic Affairs, 1950). See also his later work, "Commercial Policies in the Underdeveloped Countries," *American Economic Review*, papers and proceedings, May 1959, pp. 251-273. Prebisch was one of the first advocates for Latin America taking charge of its own economic destiny.

⁴⁶³ The terms of trade is defined as the average price of exports divided by the average price of imports.

⁴⁶⁴ See Prebisch, "Commercial Policies in the Underdeveloped Countries."

⁴⁶⁵ Brazil was a notable exception to the strategy of de-emphasizing the export sector. Brazil's military rulers, unlike their Argentine counterparts, developed the country's export industries in the 1970s. For further discussion, see Stephen Baker, et. al, "Down and Out in Latin America," *Business Week*, July 10, 1989.

⁴⁶⁶ For a more detailed discussion of these policies in the case of Mexico, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States—Mexican Relations*, investigation No. 332-282, USITC publication 2275, April 1990, pp. 1-1 through 1-2.

⁴⁶⁷ Susumu Awanohara, "Brave New World," *Far Eastern Economic Review*, Sept. 13, 1990, p. 48.

⁴⁶⁸ Capital flight remains a significant problem. See discussion above on the problem of capital flight.

ture⁴⁶⁹ already in place. The region's human resources include a skilled workforce comprising natural scientists, social scientists, engineers, technicians, entrepreneurs, and a large and increasingly better educated population⁴⁷⁰ who is capable of providing labor for future industrial growth. With a total population of over 400 million, Latin America represents a potentially lucrative consumer market.

The following section highlights key events and problems encountered by the six largest Latin American economies during the 1980s.

Argentina

Once among the richest countries in the world, Argentina squandered much of its wealth during years of military dictatorships. Military rule culminated with the costly 1982 war against the United Kingdom in the Falkland Islands. Argentina returned to democratic rule in 1983. Poorly implemented economic policies,⁴⁷¹ combined with years of government deficit spending, rampant corruption and tax evasion,⁴⁷² a rising foreign debt service burden, capital flight, and lack of public confidence in government policies,⁴⁷³ gave Argentina one of the worst economic performance records in Latin America during the 1980s. During the 1980s, Argentina made no long-term progress in reducing inflationary pressures—caused primarily by unbalanced public accounts and the financing of the public debt.⁴⁷⁴

The largest sectors in Argentina's economy are manufacturing and agriculture (including forestry and fishing). Argentina's natural resources include fertile land for agriculture, minerals (copper, gold, molybdenum, and silver), and petroleum reserves. Agricultural production includes corn, wheat, soybeans, beef, and vegetable oils. Argentina's primary exports are corn, wheat, meat (beef and veal), hides and skins, and wool.

⁴⁶⁹ Deterioration of the industrial infrastructure has become a significant problem in recent years. "What was simply neglect in the first half of the 1980s has become a massive deterioration of the area's infrastructure. The overall cost is incalculable." "Down and Out in Latin America," *Business Week*, July 10, 1989, p. 44.

⁴⁷⁰ The Inter-American Development Bank reported that "over the last two decades the countries of the region have seen an overall improvement in the educational level of the population at large and increasingly equitable representation of women in the student population." The report further indicates, however, that illiteracy remains a significant problem in some countries, particularly in rural areas, and that educational quality and maintaining adequate levels of funding for education remain a problem. See IADB, *Economic and Social Progress, 1989*, pp. 57-61.

⁴⁷¹ Efforts to stabilize the economy by Argentina post 1983 civilian governments include (1) the 1985 Austral Plan; (2) a 1987 adjustment program backed with funds from the IMF and creditor banks (the IMF suspended disbursements on loans to support this program in 1988 because of Argentina's failure to comply with the plan's goals); and (3) the 1988 Primavera (Spring) Plan backed with funds from the United States and the World Bank.

⁴⁷² See "Menem Acts to Reign in 'Cancer' of Corruption," *Washington Post*, Jan. 26, 1991.

⁴⁷³ See Nathaniel C. Nash, "Plan by New Argentine Economy Chief Raises Cautious Hope for Recovery," *New York Times*, April 28, 1991, p. 3.

⁴⁷⁴ IADB, *Economic and Social Progress in Latin America, 1989 Report*, p. 255.

Manufactured exports include aluminum and aluminum alloys, iron and steel plates, and machinery and transport equipment.

Argentina registered a record \$7.6 billion trade surplus in 1990⁴⁷⁵ because of increased exports⁴⁷⁶ and reduced imports caused by the depressed economy. The United States is Argentina's largest trading partner, while Argentina ranked 39th as a market for U.S. exports and 38th as a source of imports in 1990. The United States has recorded a \$400 million trade deficit with Argentina each year since 1988. Manufactured goods constituted nearly 87 percent of U.S. exports to Argentina in 1990. Principal U.S. imports from Argentina in 1990 were manufactured goods (45 percent), food (29 percent), and fuels and raw materials (25 percent).⁴⁷⁷

U.S. trade concerns with Argentina⁴⁷⁸ include (1) Argentina's denial of product patent protection for U.S. pharmaceuticals and discriminatory product registration practices;⁴⁷⁹ and (2) the Argentine practice of charging differential export taxes on soybeans and soybean products.⁴⁸⁰ U.S. antidumping orders imposed against imports from Argentina are listed in table A-20.

Brazil⁴⁸¹

As Latin America's largest industrial power and largest exporter, Brazil returned to democratic rule in 1985. A highly protectionist and export-oriented devel-

⁴⁷⁵ Randolph Mye, "Deregulation is Transforming the Argentine Economy," *Business America*, Feb. 11, 1991, p. 26.

⁴⁷⁶ Notwithstanding the overvalued exchange rate prevailing between the Argentine austral and the U.S. dollar, exports were aided by the depreciation of the U.S. dollar during 1990 and the strength of Argentina's trade relations with countries outside of the influence of dollar exchange rates. Over ten percent of Argentina's exports (primarily grains) are sold to the U.S.S.R., and thus are not influenced by austral-dollar exchange rates. Another ten percent of Argentine trade is with Germany, and Argentine exports were able to benefit from an undervalued austral exchange rate with the strong West German mark. EIU, *Argentina: Country Report*, No. 4, 1990, p. 5. For data on Argentine-Soviet trade, see "Mixed Results from Menem's Soviet Trip," *Latin American Weekly Report*, Nov. 22, 1990.

⁴⁷⁷ Data on Argentina compiled from multiple sources, including: CEPAL, "Preliminary Overview"; EIU, *Argentina: Country Report*, No. 4, 1990; IADB, *Economic and Social Progress in Latin America, 1989 Report*; IMF, *World Economic Outlook*; U.S. Embassy, Argentina, *Foreign Economic Trends and Their Implications for the United States*, September 1989, p. 2; USITC, *Chartbook: Composition of U.S. Merchandise Trade, 1986-90*, March 1991; and World Bank, *World Development Report, 1990*.

⁴⁷⁸ For information on investigations of other unfair Argentine trading practices, see the discussion of inactive cases in 1990 in ch. 5.

⁴⁷⁹ For more detailed information on the petition filed by the Pharmaceutical Manufacturers Association in August 1988, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, July 1989, pp. 146-147. For further information on U.S.-Argentine consultations held pursuant to this petition, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, pp. 137.

⁴⁸⁰ For a more detailed discussion of Argentina's differential export taxes on soybeans and soybean products and the related section 301 case, see the discussion of Argentina in ch. 5.

⁴⁸¹ For more detailed information on Brazil's economic situation in 1990, see the discussion of Brazil in ch. 4.

opment strategy emphasizing industrialization and the acquisition of state-of-the-art technology allowed Brazil's economy to expand by an annual average of over 9 percent during the 1960s and nearly 8 percent in the 1970s. Economic growth slowed to an average annual rate of 2.4 percent during the 1980s, however, as financial mismanagement, rising debt service payments, and adverse commodity prices worked against Brazil's economy. None of the economic stabilization plans introduced in Brazil during the 1980s⁴⁸² were successful in reducing the country's fiscal deficit and in controlling inflation.

Brazil's ferrous and nonferrous mineral resources include gold, iron ore, and tin. Brazil is a leading agricultural producer with crops of coffee, orange juice, soybeans, and sugar. Brazil has developed extensive nuclear and hydroelectric power generation programs as well as the world's largest alcohol fuels program for motor vehicles.

The United States recorded a \$2.9 billion trade deficit with Brazil in 1990, versus a \$3.8 billion deficit in 1989 and a \$5.0 billion deficit in 1988. Brazil ranked 16th as a market for U.S. exports, and 15th as a source of imports in 1990. Manufactured goods constituted almost 85 percent of U.S. exports to Brazil in 1990. Principal U.S. imports from Brazil include manufactured goods (65 percent), food (21 percent), and fuels and raw materials (13 percent).⁴⁸³

U.S. trade concerns with Brazil include (1) the lack of accordance of patent protection for U.S. pharmaceuticals;⁴⁸⁴ (2) Brazil's import licensing policies;⁴⁸⁵ and (3) Brazil's policies on computer and digital equipment and components.⁴⁸⁶ U.S. antidumping orders imposed against imports from Brazil are listed in table A-20.

Chile

A military dictatorship until 1990, Chile has emerged as one of Latin America's most promising industrializing new democracies. Unlike the experience

of other Latin American countries under authoritarian rule, Chile's dictators pursued market-oriented reform and trade liberalization since 1973.⁴⁸⁷ Following a severe economic downturn in 1982, precipitated by declining copper prices and a rapidly rising debt service burden, the military junta returned to higher tariff and nontariff barriers.⁴⁸⁸ In 1985, following a succession of unpopular finance ministers and with few signs of economic improvement, the military junta again turned to free-market reforms and an export-oriented growth strategy.⁴⁸⁹ Liberalization and foreign competition forced many sectors of the economy, including textiles, clothing, plastic goods, household electronics, and some capital goods, to cut costs and improve quality to remain competitive.⁴⁹⁰ Chile's new democratically-elected government remains strongly committed to a free-market economy with a minimum of state intervention.⁴⁹¹

Despite the country's high level of industrialization, minerals—primarily copper—still account for more than one-half of Chile's total export earnings. In addition to copper, Chile's main exports include iron ore, fruits and vegetables, forestry products, and seafood. The United States is Chile's largest trading partner. Chile ranked 35th as a market for U.S. exports and 43rd as a source of imports in 1990. Principal U.S. exports to Chile are mining machinery, fertilizers, and computer equipment.⁴⁹² Principal exports to the United States are copper, gold, and fresh fruits.

U.S. trade concerns focus on Chile's inadequate product patent protection for pharmaceuticals.⁴⁹³ Chilean exporters continue to pursue the issue of the U.S. Food and Drug Administration's (FDA) 5-day 1989 suspension of fruit imports from Chile following the discovery of two cyanide-laced grapes among a Chilean shipment.⁴⁹⁴ U.S. antidumping orders imposed against Chile and still in effect as of December 31, 1990, are listed in table A-20.

⁴⁸⁷ The military junta that ruled Chile after 1973 privatized or removed from government control more than 200 companies that the government of former President Salvador Allende had taken over. The junta also abolished wage and price controls and cut tariffs from a 1973 average of 100 percent to a flat rate of 10 percent by 1979. "Chile's Economy: Pinochet Sends the Chicago Boys Back to School," *The Economist*, Aug. 10, 1985, p. 60.

⁴⁸⁸ *Ibid.*

⁴⁸⁹ *Ibid.*

⁴⁹⁰ Awanohara, "Resurgent Rivals," p. 51.

⁴⁹¹ *Economic Report of the President*, February 1991, p. 225.

⁴⁹² Data on Chile compiled from multiple sources, including: CEPAL, "Preliminary Overview"; Corporacion de Fomento de la Produccion (CORFO), *Chile Economic Report*, January 1991; IADB, *Economic and Social Progress in Latin America, 1989 Report*; IMF, *World Economic Outlook*; U.S. Embassy, Santiago, *Foreign Economic Trends and Their Implications for the United States*, July 1989, p. 2; USITC, *Charbook: Composition of U.S. Merchandise Trade, 1986-90*, March 1991; and World Bank, *World Development Report, 1990*.

⁴⁹³ "Chile: New Patent Law 'Inadequate' Says U.S. Drug Industry Association," *Washington Report on Latin America & the Caribbean*, Feb 12, 1991, p. 17.

⁴⁹⁴ The Chilean exporters maintain that the grapes were contaminated in the U.S., possibly while in the FDA's control. Thomas Kamm, "Chile Seeks Closer U.S. Trade Ties," *The Wall Street Journal*, Jan. 8, 1991, p. A10

⁴⁸² These plans are discussed in ch. 4.

⁴⁸³ Data on Brazil compiled from multiple sources, including: CEPAL, "Preliminary Overview"; EIU, *Brazil: Country Report*, No. 1, 1991; IADB, *Economic and Social Progress in Latin America, 1989 Report*; IMF, *World Economic Outlook*; U.S. Embassy, Brasilia, *Foreign Economic Trends and Their Implications for the United States*, July 1989, p. 2; USITC, *Charbook: Composition of U.S. Merchandise Trade, 1986-90*, March 1991; and World Bank, *World Development Report, 1990*.

⁴⁸⁴ For additional information on Brazil's lack of patent protection for pharmaceutical products, see the discussion of Brazil's pharmaceuticals policy in ch. 4 and the discussion of the super 301 investigation of Brazil's pharmaceuticals patent laws in ch. 5.

⁴⁸⁵ For a more detailed discussion of Brazil's import licensing policies, see the discussions of U.S. Brazil-bilateral trade issues in ch. 4 and the discussion of the termination of the super 301 investigation of Brazil's import restrictions in ch. 5.

⁴⁸⁶ For more detailed information on the USTR-initiated investigation into Brazil's informatics policies, see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC publication 1995, July 1987, pp. 5-13 and USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, Sept. 1990, p. 122. See also discussion of Brazil's informatics policies in ch. 4.

Colombia

Despite significantly slower growth than in prior decades, Colombia's economy on the whole still outperformed all other Latin American economies during the 1980s. Colombia achieved its economic success due largely to the government's free-market, export-oriented economic policies, and sound macroeconomic management. Colombia maintained strong economic growth despite the increasing toll on the economic infrastructure from narcotics-related violence and insurgent attacks in the late 1980s⁴⁹⁵ requiring increased government spending on internal security.⁴⁹⁶

Services, including communications, banking and insurance, trade, and transportation, account for about 51 percent of Colombia's GDP. Agriculture and manufacturing account for 22 percent and 21 percent of GDP respectively, while mining accounts for 4.5 percent of GDP.⁴⁹⁷

Although Colombia continues to rely heavily on exports of coffee and petroleum, Bogota has successfully promoted nontraditional exports, including coal, textiles, bananas, fresh flowers, nickel, sugar, emeralds, fish and shrimp, PVC and polystyrene resins, and cotton.⁴⁹⁸ Colombia also serves as a base for a thriving trade in contraband goods including emeralds⁴⁹⁹ and cocaine products. Illicit cocaine exports are estimated to earn more foreign exchange for Colombians than any of the country's other exports.⁵⁰⁰ The United States is Colombia's largest trading partner while Colombia ranked 31st as a market for U.S. exports and 29th as a source of imports in 1990. The United States recorded a \$1.2 billion trade deficit with Colombia in 1990, versus a \$700 million deficit in 1989 and a \$400 million deficit in 1988. Manufactured goods constituted almost 87 percent of U.S. exports to Colombia in 1990. Principal U.S. imports from Colombia included fuels and raw materials, primarily petroleum (61 percent), food (20 percent), and manufactured goods (16 percent). U.S. antidumping orders imposed against Chile and still in effect as of December 31, 1990, are listed in table A-20.

Mexico⁵⁰¹

Economic expansion slowed significantly during the 1980s because of Mexico's rising debt service burden, declining export prices, and the government's increasingly ineffective interventionist economic poli-

⁴⁹⁵ See "Colombia: Peace Plan Shot to Bits," *The Economist*, Oct. 22, 1988, p. 50.

⁴⁹⁶ IADB, *Economic and Social Progress in Latin America*, 1989 Report, p. 302.

⁴⁹⁷ Data is for 1989. Colombian Information Service, Colombia Center, *Colombia Today*, vol. 25, no. 6, p. 6.

⁴⁹⁸ *Ibid.*

⁴⁹⁹ "Colombia: Gem Wars," *The Economist*, July 21, 1990, p. 40.

⁵⁰⁰ "The Kickback from Cocaine," *The Economist*, July 21, 1990, p. 40; "Colombia: The Drug Economy," *The Economist*, April 2, 1988, and "The Cocaine Economies: Latin America's Killing Fields," *The Economist*, Oct. 8, 1988, pp. 21-24.

⁵⁰¹ For more detailed information on Mexico's economic situation in 1990, see the discussion of Mexico in ch. 4.

cies. Not until late in the decade, when economic performance began to improve and after a generous debt relief package was negotiated, did many observers express cautious optimism about Mexico's future.⁵⁰²

The largest sectors in Mexico's economy are commerce, which includes domestic wholesale and retail services and international trading services, and manufacturing. Petroleum and refined petroleum products are Mexico's largest single industry and greatest foreign exchange earners. In-bond plants, known as "maquiladoras,"⁵⁰³ are Mexico's second-largest earner of foreign exchange.

The United States is Mexico's largest trading partner, while Mexico is the 3rd largest single-country U.S. trading partner. Mexico is the single largest U.S. trading partner in Latin America. In 1990, U.S. exports to Mexico valued at \$27.5 billion exceeded U.S. exports to all the rest of Latin America, valued under \$25 billion. Mexico accounted for 47 percent of all U.S. imports from Latin America in 1990. The United States recorded a \$2.0 billion trade deficit with Mexico in 1990, versus a \$2.4 billion deficit in 1989 and a \$2.8 billion deficit in 1988. Nearly 80 percent of U.S. exports to Mexico in 1990 were manufactured goods. Principal U.S. imports from Mexico included manufactured goods (66 percent), fuel and raw materials (20 percent), and food (10 percent).⁵⁰⁴ U.S. trade concerns include Mexico's failure to provide adequate protection of intellectual property rights⁵⁰⁵ and Mexico's barriers to direct foreign investment.⁵⁰⁶ U.S. antidumping orders imposed against Mexican imports are listed in table A-20.

Venezuela

This OPEC⁵⁰⁷ country's failure to reduce its reliance on oil export earnings held Venezuela's economy hostage to fluctuations in global oil prices. Petroleum exports account for about 20 percent of Venezuela's

⁵⁰² See "Economic Confidence High," *Financial Times*, Nov. 26, 1990, p. 30.

⁵⁰³ Maquiladoras are discussed in more detail in the section on Mexico in ch. 4.

⁵⁰⁴ Data on Mexico compiled from multiple sources, including: CEPAL, "Preliminary Overview"; EIU, *Mexico: Country Report*, No. 1, 1990; IADB, *Economic and Social Progress in Latin America, 1989 Report*; IMF, *World Economic Outlook*; U.S. Embassy, Mexico City, *Foreign Economic Trends and Their Implications for the United States*, February 1989, p. 2; USITC, *Chartbook: Composition of U.S. Merchandise Trade, 1986-90*, March 1991; and World Bank, *World Development Report, 1990*.

⁵⁰⁵ For a more detailed discussion of U.S. concerns that Mexico accelerate the phase-in of expanded product patent protection, particularly as applied to pharmaceuticals, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, July 1989, p. 118. For a discussion of the United States's naming of Mexico as one of seven countries on a "Priority Watch List" under the "special 301 provision" of the Omnibus Trade and Competitiveness Act of 1988 as a country with inadequate legislation for intellectual property rights, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, p. 113.

⁵⁰⁶ For an analysis of U.S. concerns, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, p. 115.

⁵⁰⁷ Venezuela was a founding member of the Oil-Producing and Exporting Countries (OPEC) cartel, which was created in 1961.

GDP, over 50 percent of government revenues, and about 80 percent of export earnings.⁵⁰⁸ A lame-duck government failed to cut government spending after world oil prices started declining in the late 1980s and government revenue began shrinking.⁵⁰⁹ By 1988, Venezuela had entered a severe recession punctuated with an unprecedented civil unrest.⁵¹⁰

In 1988, Venezuela registered its first trade deficit in over ten years.⁵¹¹ Venezuela ranked 23rd as a market for U.S. exports and 14th as a source of imports in 1990. The United States recorded a \$6.1 billion trade deficit with Venezuela in 1990, versus a \$3.6 billion deficit in 1989 and a \$600 million deficit in 1988. Manufactured goods constituted over 75 percent of U.S. exports to Venezuela in 1990, while fuels and raw materials, primarily petroleum, constituted over 91 percent of U.S. imports.⁵¹² U.S. trade concerns focus on Venezuela's inadequate intellectual property rights protection and enforcement.⁵¹³ U.S. antidumping orders imposed against Venezuelan imports are listed in table A-20.

Production and Trade

Latin America's trade with the world

For Latin America as a whole, services (commerce, finance, public administration, transport, and communications) accounted for over 50 percent of the region's GDP in the 1980s, while industry and agriculture accounted for 34 percent and over 12 percent, respectively.⁵¹⁴ On a cumulative basis, Latin America's agricultural sector expanded by nearly 2 percent during the 1980s, making it the region's fastest-growing sector, followed by the services sector, which expanded by 1.4 percent, and the industrial sector, which expanded by only 0.4 percent.⁵¹⁵

Accounting for 22.3 percent of regional GDP, manufacturing was the largest single sector in Latin America in the 1980s.⁵¹⁶ However, the manufacturing sector grew by only 0.5 percent in the 1980s compared with over 6 percent growth in the 1960s and in the

⁵⁰⁸ United States Embassy Caracas, *Foreign Economic Trends and Their Implications for the United States*, June 1989.

⁵⁰⁹ IADB, *Economic and Social Progress in Latin America, 1989 Report* p. 446.

⁵¹⁰ "Venezuela: Rioting All the Way to the Bank," *The Economist*, March 11, 1989, p. 43.

⁵¹¹ IADB, *Economic and Social Progress in Latin America, 1989 Report*, p. 487, table D-2.

⁵¹² Data on Venezuela compiled from multiple sources, including: CEPAL, "Preliminary Overview"; IADB, *Economic and Social Progress in Latin America, 1989 Report*; IMF, *World Economic Outlook*; U.S. Embassy, Caracas, *Foreign Economic Trends and Their Implications for the United States*, June 1989, p. 2; USITC, *Charitbook: Composition of U.S. Merchandise Trade, 1986-90*, March 1991; and World Bank, *World Development Report, 1990*.

⁵¹³ Kurt Wrobel, "Secretary Mosbacher Leads Mission to Venezuela; Emphasis on Private Sector and Market Reforms Points to Promising Business Opportunities," *Business America*, Feb. 25, 1991, p. 33.

⁵¹⁴ IADB, *Economic and Social Progress in Latin America, 1989 Report*, p. 11, table II-4.

⁵¹⁵ *Ibid.*

⁵¹⁶ *Ibid.*

1970s.⁵¹⁷ Brazil and Mexico are by far the region's largest manufacturers, accounting for 42.5 percent and 22 percent, respectively, of total value added by manufacturing in all of Latin America. Argentina, Venezuela, and Colombia are Latin America's next largest manufacturers.⁵¹⁸

Primary commodities (excluding minerals and metals), while accounting for only 11.2 percent of regional GDP,⁵¹⁹ are Latin America's largest foreign exchange earners.⁵²⁰ Overall regional agricultural output is strongly influenced by Brazil and Mexico—the two largest agricultural exporters. Brazil accounts for 34.5 percent of Latin America's total value added by agriculture, while Mexico accounts for 16.5 percent.⁵²¹ Argentina and Colombia are Latin America's next largest agricultural producers, accounting for 11.5 percent and 10.2 percent of value added by agriculture, respectively.⁵²²

Commerce, including wholesale and retail trade, accounted for over 17 percent of Latin America's overall GDP in the 1980s.⁵²³ Mexico accounted for 35 percent of Latin America's total value added by commerce, while Brazil accounted for 30 percent.⁵²⁴ Financial services accounted for over 12 percent of Latin America's GDP in the 1980s.⁵²⁵ Brazil accounted for over 48 percent of total value added by financial services, and Mexico accounted for nearly 17 percent.⁵²⁶

Trade with the United States

In 1990, Latin America's importance to U.S. trade remained relatively minor. The region's standing as a U.S. trading partner changed little during the past decade. The entire Latin American region ranked 5th as a source of U.S. imports in 1990,⁵²⁷ and 4th as a market for U.S. exports.⁵²⁸

Manufactured goods form the largest portion of U.S. imports from all of Latin America; however, when data on Mexico are excluded, fuel and raw materials are the largest single category of U.S. imports from the region.⁵²⁹ Mexico is by far Latin America's largest exporter of food to the United States, with exports in this group valued at \$2.8 billion, or 9.6 percent of all Mexican exports to the United States, in 1990. Brazil is the region's second largest food-exporter to the United States with food exports valued at \$1.6 billion, or 20.8

⁵¹⁷ *Ibid.*, p. 30, table IV-2.

⁵¹⁸ Data is for 1988. *Ibid.*, p. 468, table B-9.

⁵¹⁹ *Ibid.*, p. 11, table II-4.

⁵²⁰ World Bank, *World Development Report 1990*, p. 209, table 16.

⁵²¹ Data is for 1988. *Ibid.*, p. 467, table B-7.

⁵²² *Ibid.*

⁵²³ *Ibid.*, p. 11, table II-4.

⁵²⁴ Data is for 1988. *Ibid.*, p. 469, table B-12.

⁵²⁵ *Ibid.*, p. 11, table II-4.

⁵²⁶ *Ibid.*, p. 470, table B-14.

⁵²⁷ Latin America ranked behind the Pacific Rim countries, Canada, the EC, and Japan.

⁵²⁸ Latin America ranked behind the EC, Canada, and the Pacific Rim countries.

⁵²⁹ Excluding the Mexico data underscores the significance of the large volume of U.S. imports of finished and semifinished goods produced by Mexico's maquiladoras.

Table 2
U.S. trade with the World and with Latin America (all countries), 1986-90

(Billions of dollars)

	1986	1987	1988	1989	1990
<i>Exports</i>					
World	216.6	243.9	310.3	349.4	374.5
Latin America	29.9	33.7	42.2	47.5	52.3
Latin America as a % of world trade	13.8	13.8	13.6	13.6	14.0
<i>Imports</i>					
World	368.7	402.1	437.1	468.0	490.5
Latin America	41.5	45.6	49.8	56.3	62.4
Latin America as a % of world trade	11.2	11.3	11.4	12.0	12.7
<i>Balance</i>					
World	-152.1	-158.2	-126.8	-118.6	-116.0
Latin America	-11.6	-11.9	-7.5	-8.8	-10.1

Source: U.S. Department of Commerce, International Trade Administration.

Table 3
U.S. trade with Latin America (all countries), 1986-90

(Billions of dollars)

	1986	1987	1988	1989	1990
<i>Exports</i>	29.9	33.7	42.2	47.5	52.3
including:					
Manufactured goods	22.6	25.5	32.3	35.9	40.3
Fuel and raw materials	3.1	3.8	4.0	4.4	4.5
Food	3.1	2.9	4.0	4.6	4.6
<i>Imports</i>	41.5	45.6	49.8	56.3	62.4
including:					
Manufactured goods	17.6	21.3	26.9	29.6	30.9
Fuel and raw materials	12.7	13.8	12.5	15.9	20.1
Food	9.5	8.8	8.5	8.7	9.2

Source: U.S. Department of Commerce, International Trade Administration.

percent of its exports to the United States in 1990. Venezuela is by far Latin America's largest exporter of fuel and raw materials (primarily petroleum) to the United States, with exports valued over \$8.3 billion, nearly 92 percent of all of Venezuela's U.S. exports, in 1990. Mexico is the region's second largest fuel and raw materials exporter to the United States with exports in this category valued at \$6.0 billion, over 20 percent of that country's total U.S. exports, in 1990. Colombia, Latin America's third largest fuel and raw materials exporter to the United States, had exports in this category valued at \$1.9 billion, almost 61 percent of total U.S. exports, in 1990. Despite slower economic growth in the United States and in most Latin American countries in 1990, U.S.-Latin trade increased as more Latin American countries initiated trade liberalizing reforms.⁵³⁰

⁵³⁰ See discussion below on trade liberalization in Latin America.

Trade Reforms in Latin America

By 1990, after a decade of economic reversals, Latin America's six largest economies had installed democratically elected and reform-minded governments. Colombia⁵³¹ and Chile⁵³² made significant progress toward building open, market-oriented economies during the 1980s and continued to improve upon their free-market policies in 1990. Mexico's Salinas government accelerated reforms that were begun by the prior

⁵³¹ Colombia is the only large Latin American country that consistently maintained a free-market, export-oriented economy throughout the 1980s. Williamson, *The Progress of Policy Reform in Latin America*, p. 47.

⁵³² After overthrowing the government of Salvador Allende in 1973, Chile's ruling military junta attempted to enact an economic restructuring program in favor of private enterprise and free market principals during 1973-81. Reforms implemented during this period included: abolition of pervasive wage and price controls, privatization of more than 200 companies taken over by Allende, and reduction of tariffs from 1973 average of 100

administration dating to the mid-1980s.⁵³³ Argentina and Venezuela announced economic and trade liberalization measures in 1989, while Brazil's sweeping economic reform program was announced in 1990.

Trade-related reforms to open their economies to international market forces included the following: (1) privatization⁵³⁴ of state-run enterprises with accompanying deregulation and liberalization to encourage foreign investment; (2) tariff reductions; (3) progress toward enacting legislation protecting international property rights; and (4) exchange rate reforms. The following section discusses these measures with respect to Argentina, Chile, Colombia, and Venezuela. For a more detailed analysis of the economic reforms and trade liberalization measures in Brazil and Mexico, see the discussions on these two countries in chapter 4.

Argentina

The government of Carlos Menem, which assumed office in July 1989, met numerous setbacks in reducing inflation, igniting growth, and implementing economic reforms during its first year in office. Nevertheless, Buenos Aires implemented several economic and trade policy reforms, which, by late 1990, appeared to be helping to stabilize the economy. Following protracted negotiations and bureaucratic miscues due to the lack of a regulatory framework,⁵³⁵ Argentina successfully transferred ownership of the state-run airline Aerolineas Argentinas⁵³⁶ and the state-owned telephone company Entel,⁵³⁷ as well as of several other smaller state-run enterprises, to private owners in 1990.⁵³⁸ Buenos Aires plans to transfer the Buenos Aires electricity company, the Buenos Aires port facilities, the national gas company, the national water and sewage authority, and the state steel company to private owners

⁵³²—Continued

percent to a flat rate of 10 percent by 1979. By 1982, however, Chile's economy was in a deep recession due to declining global copper prices (Chile's chief export earner) and a rising foreign debt service burden. The junta increased tariffs from 10 percent in 1983 to 35 percent by 1984. After 1985, as the economy began to stabilize, Chile returned to free-market policies by reducing tariffs, encouraging exports, and promoting foreign investment.

⁵³³ For a discussion of Mexico's trade and investment liberalization in the 1980s, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations*, investigation No. 332 282, USITC publication 2275, April 1990.

⁵³⁴ Privatization refers to efforts to reduce the Federal or "parastatal" sector and shift to a more market-oriented economy. The primary goals of privatization are to encourage industries to become more efficient and competitive while reducing the financial burden on the government to support these enterprises.

⁵³⁵ See "How Menem Messed Up Privatization," *Latin American Economy and Business*, January 1990, p. 1.

⁵³⁶ Buenos Aires sold 85 percent of the airline to the Spanish carrier Iberia and to the local Cielos del Sur group for \$260 million in cash, \$1.6 billion worth of Argentine debt paper, and \$400 million in outstanding interest due on that debt. EIU, *Argentina: Country Report*, No. 4, 1990, p. 11.

⁵³⁷ Argentina divided Entel into two separate companies to avoid creating a monopoly. A consortium led by the U.S. Bell Atlantic company took over Entel Norte, and a consortium led by Telefonica of Spain received Entel Sur. EIU, *Argentina: Country Report*, No. 4, 1990, pp. 10-11.

⁵³⁸ Randolph Mye, "Deregulation is Transforming the Argentine Economy," *Business America*, Feb. 11, 1991, p. 27.

during 1991. The Menem administration began liberalizing Argentina's foreign investment regime in September 1989 by eliminating performance requirements and prior governmental approval in all sectors except for banking and insurance, streamlining registration procedures for foreign investors, and, in December 1989, eliminating controls on current and capital transactions in the foreign exchange market.⁵³⁹ By late 1990, Buenos Aires was considering new regulations to provide foreign pharmaceutical companies with patent protection.⁵⁴⁰

Argentina also took steps to reduce or eliminate barriers to trade. Buenos Aires suspended duties on agricultural, livestock, and food imports for 180 days beginning February 1990,⁵⁴¹ permanently reduced duties on a variety of imported food products from 13 to 24 percent to 5 percent in August 1990,⁵⁴² reduced specific duties on many electronics beginning December 1990,⁵⁴³ and committed itself to review the specific duties every 180 days with a view toward eliminating or significantly reducing them.⁵⁴⁴ In April 1991, Buenos Aires removed tariffs from raw material imports and reduced tariffs on intermediate goods and finished products, which had ranged from 1 to 100 percent to 11 and 22 percent, respectively.⁵⁴⁵ Overall tariffs were reduced from 28 percent in late 1989 to about 18 percent in 1990.⁵⁴⁶ Buenos Aires announced that export taxes on wheat, rye, barley, and oats would be reduced to encourage increased sowing during the planting season beginning in November. Export taxes on soybeans, sunflowers, corn, and sorghum, ranging from 10 to 27 percent, were reduced by one-half in August 1990 to encourage farmers to increase sowing during the planting season beginning in September. Similar reductions in export taxes were made for wheat, rye, barley, and oats.⁵⁴⁷

Chile

Chile's economy has been open to foreign investment and trade since economic liberalization measures were reintroduced in 1985. Chile's 15 percent across-the-board tariffs are among the lowest in Latin America.⁵⁴⁸ Chile's implementation of free-market economic policies and successful transition to democratic government in 1990 merited a visit by President Bush during his five-nation Latin American trip in December 1990 and prompted some observers to conclude that the

⁵³⁹ Ibid.

⁵⁴⁰ EIU, *Argentina: Country Report*, No. 4, 1990, p. 21.

⁵⁴¹ "Limited Window of Opportunity Opens in Argentina for U.S. Foods," *AgExporter*, May 1990, p. 16.

⁵⁴² EIU, *Argentina: Country Report*, No. 4, 1990, p. 10.

⁵⁴³ Randolph Mye, "Deregulation is Transforming the Argentine Economy," *Business America*, Feb. 11, 1991, p. 26. John Barham, "Argentina to Extend Free Trade Policies Through Tariff Reforms," *Financial Times*, March 5, 1991.

⁵⁴⁴ Ibid.

⁵⁴⁵ "Argentina Cuts Tariffs; Changes Current Policy," *Journal of Commerce*, Apr. 2, 1991, p. 5A.

⁵⁴⁶ The World Bank, *Trends in Developing Economies 1990* (Washington, DC: World Bank, 1990), p. 19.

⁵⁴⁷ EIU, *Argentina: Country Report*, No. 4, 1990, pp. 17-18.

⁵⁴⁸ "U.S. Farmers Could Gain Most From Chile Free Trade Pact," *Journal of Commerce*, Jan. 4, 1991.

United States now "puts Chile on the same (privileged) footing as Mexico."⁵⁴⁹

Chile received \$1.5 billion in new foreign investment in 1990.⁵⁵⁰ In October 1990, the U.S. Overseas Private Investment Corporation (OPIC) resumed extending political risk insurance coverage for new investments in Chile.⁵⁵¹ In recognition of Chile's democratically elected government's demonstration that it was not abusing labor rights, the United States reinstated Chile to the U.S. GSP program in February 1991.⁵⁵² In January 1991, in a move to address U.S. concerns about protection of intellectual property rights, Chile enacted a law granting 15 years patent protection for most intellectual property.⁵⁵³

Colombia

Colombia's economy remained export-oriented and open to foreign investors throughout the 1980s. Since December 1990, Bogota has taken several steps to reduce tariff and nontariff barriers to further open the economy to foreign investment and to streamline the administrative procedures related to trade and foreign investment.

In December 1990, Bogota eliminated "virtually all" restrictions on imports and removed export restraints such as prior licensing.⁵⁵⁴ The International Development Bank earmarked \$2.5 billion in loans for Colombia through 1993 in compensation for economic dislocations stemming from the elimination of import duties.⁵⁵⁵ During 1990, Bogota reduced Colombia's tariffs from an average of 32 percent to 22 percent.⁵⁵⁶ In December 1990, Colombia initiated a phased tariff-reduction scheme in which average tariffs will be reduced to 15 percent by 1994.⁵⁵⁷ Bogota created a For-

⁵⁴⁹ "Aylwin Secures His Own U.S. Trade Deal," *Latin American Weekly Report*, Dec. 20, 1990, p. 2.

⁵⁵⁰ Canada, the United Kingdom, and the United States were top investors with \$490 million, \$226 million, and \$220 million of new funds respectively invested into Chile during the year. Corporacion de Fomento de la Produccion (CORFO), "Foreign Investments Post Record in 1990," *Chile Economic Report*, January 1991, p. 4.

⁵⁵¹ Chile was suspended from U.S. OPIC programs in 1988 because of U.S. concerns over worker rights. "New Policies Make Chile Top Spot for Foreign Investment," *Washington Report on Latin America & the Caribbean*, Oct. 9, 1990, p. 1. See also "Statement By Press Secretary Fitzwater on President Bush's Meeting With President Patricio Aylwin Azocar of Chile," *Weekly Compilation of Presidential Documents*, Oct. 2, 1990, p. 1508.

⁵⁵² Presidential Proclamations 6244 and 6245, Feb. 4, 1991, published in 56 F.R. 121, Feb. 11, 1991. Chile had been removed from the list of GSP beneficiaries in February 1988. See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, July 1989, p. 154. For additional information on Chile's readmission to the U.S. GSP program, see discussion of the GSP in chapter 5.

⁵⁵³ "Chile: New Patent Law 'Inadequate' Says U.S. Drug Industry Association," *Washington Report on Latin America and the Caribbean*, Feb. 12, 1991, p. 17.

⁵⁵⁴ Colombian Information Service, Colombian Center, "New Economic Measures Implemented," *Colombia Today*, vol. 25, no. 6, 1990-91, p. 5.

⁵⁵⁵ See "Colombia: The Government Goes the Whole Hog," *Latin American Economy and Business*, December 1990, p. 8.

⁵⁵⁶ *Ibid.*

⁵⁵⁷ *Ibid.*

eign Trade ministry in January 1991 to coordinate the functions of existing foreign trade bodies as well as a newly created Export-Import Bank.⁵⁵⁸ In October 1990, Colombia initiated legislation to grant nondiscriminatory tax treatment to foreign investors.⁵⁵⁹ This legislation was approved in December 1990, as were changes in financial laws permitting investors to repatriate profits of up to 100 percent of their invested capital annually.⁵⁶⁰

Venezuela

Since Venezuelan President Carlos Andres Perez took office in February 1989, Venezuela has eliminated most quantitative restrictions on manufactured imports and has begun a similar liberalization on agricultural goods. Venezuela also is implementing a phased reduction of the top tariff rate to 20 percent by 1993.⁵⁶¹ Venezuela announced its intention to privatize 70 state-owned enterprises in June 1990,⁵⁶² including plans to sell the telephone company, the ports, two airlines, several state-owned hotels and banks, and a number of state-controlled industries including a steel plant, cement companies, and dairy firms.⁵⁶³

Since February 1989, Venezuela has permitted foreigners to hold 100 percent equity in companies in most sectors of the economy, eliminated restrictions on the remittance of earnings and capital abroad through the free foreign exchange market; and eliminated most requirements for prior approval for foreign investment.⁵⁶⁴ Although Venezuela continues to restrict foreign investment in the oil and gas, financial, and services sectors, the need for new capital, however, may force Venezuela to open these sectors to foreign investment.⁵⁶⁵ During 1991, the Venezuelan Congress is scheduled to consider legislation to allow the first foreign investment in the oil and gas sector since foreign oil companies were nationalized in 1976 (Venezuela's oil and gas sector development plans call for investments of nearly \$21 billion over the 1990-95 period).⁵⁶⁶ Caracas continues to limit foreign banks and insurance companies to less than 20 percent equity participation in the financial sector as well as in other professional services.⁵⁶⁷ Foreign investors in Venezuela still face a 60 percent corporate income and dividends remittance tax, with even higher rates set for investors in the mining and oil and gas sectors.⁵⁶⁸

⁵⁵⁸ *Ibid.*

⁵⁵⁹ "Colombia President Pushes New Foreign Investment Incentives," *Washington Report on Latin America and the Caribbean*, Nov. 9, 1990, p. 3.

⁵⁶⁰ Colombian, "New Economic Measures Implemented."

⁵⁶¹ Kurt Wrobel, "Secretary Mosbacher Leads Mission to Venezuela: Emphasis on Private Sector and Market Reforms Points to Promising Business Opportunities," *Business America*, Feb. 25, 1991, p. 32.

⁵⁶² See Wrobel, "Secretary Mosbacher Leads Mission to Venezuela," p. 33.

⁵⁶³ "Venezuela: Tomorrow They Will Agree," *The Economist*, June 23, 1990.

⁵⁶⁴ For a more detailed discussion of Venezuela's foreign investment related reforms, see Wrobel, "Secretary Mosbacher Leads Mission to Venezuela," p. 32.

⁵⁶⁵ *Ibid.*

⁵⁶⁶ *Ibid.*

⁵⁶⁷ *Ibid.*

⁵⁶⁸ *Ibid.*

Regional Economic Integration

Related to the trade reforms individual countries pursued, most Latin American countries showed renewed interest in opening up their economies to foreign trade and in pursuing regional approaches to their common economic problems in 1990. Motivated perhaps by the approaching deadline for the implementation of a single market in Western Europe under the EC's 1992 program, the delayed conclusion of the GATT Uruguay Round,⁵⁶⁹ and the U.S.-proposed trade initiatives with the region,⁵⁷⁰ most Latin American countries engaged in some level of planning for or implementing a regional trade liberalization. Three of these schemes, the Argentina-Brazil economic integration plan, the southern cone common market, and the Andean Group's common market plan, are discussed below.

On July 6, 1990, the Presidents of Argentina and Brazil signed the "Act of Buenos Aires,"⁵⁷¹ an agreement to accelerate economic integration between the two countries.⁵⁷² They advanced the date for the establishment of a bilateral common market to the end of 1994 and created a bilateral working group to coordinate macroeconomic policy until then.⁵⁷³ Paraguay and Uruguay, whose small economies are closely linked to the economies of their larger neighbors, sought formal inclusion into the Argentina-Brazil bilateral agreement in late 1990.⁵⁷⁴ On March 26, 1991, the four countries signed an agreement to jointly establish a southern cone common market⁵⁷⁵ by the end of 1994.⁵⁷⁶

The Andean Group⁵⁷⁷ already had freed some 3,000 items from tariffs for intraregional trade. While a common external tariff, one of the group's primary goals, has not been implemented, nearly 75 percent⁵⁷⁸ of officially registered intraregional trade is duty free.⁵⁷⁹ At the Andean Group's November 1990 sum-

⁵⁶⁹ See discussion of the GATT earlier in this chapter.

⁵⁷⁰ See discussion of the U.S.-proposed trade initiatives for Latin America below.

⁵⁷¹ U.S. Department of State Telegram, June 22, 1990, Brasilia, Message No. 06878.

⁵⁷² Argentina and Brazil signed their first bilateral economic integration agreement in 1986. This agreement entailed the signature of protocols covering trade in specific items, such as food crops, capital goods, and automobiles, and promised to lead to the establishment of a binational common market by 1999.

⁵⁷³ EIU, *Argentina Country Report*, No. 4, 1990, p. 19.

⁵⁷⁴ "Four Southern Cone Countries Set Out on the Road Towards a Common Market," *Latin American Weekly Report*, Nov. 22, 1990, p. 1.

⁵⁷⁵ Known by the acronyms MERCOSUR in Spanish, and MERCOSUL in Portuguese.

⁵⁷⁶ "Latin American Integration: Getting Together," *The Economist*, Mar. 30, 1991, p. 41.

⁵⁷⁷ The Andean Group's original members were Bolivia, Colombia, Chile, Ecuador, and Peru. Discussions about an Andean common market date to 1967, although the agreement creating the group was not signed until 1969. Venezuela joined the group in 1973. Chile withdrew in 1977 to pursue an independent course in its economic policies.

⁵⁷⁸ "Andean Group: Two Speed March to Common Market," *Latin American Weekly Report*, Dec. 13, 1990, p. 2.

⁵⁷⁹ Intraregional trade, however, is a small proportion of member's total trade. Furthermore, the problem of a relatively small internal market is exacerbated by the region's large volume of trade in contraband.

mit, members agreed⁵⁸⁰ to accelerate targeted deadline for the establishment of a regional FTA, with free trade to begin by 1992⁵⁸¹ and a common external tariff to be implemented by the end of 1993.⁵⁸²

U.S. Economic Initiatives in Latin America

The primary thrust of U.S. trade policy is in the use of multilateral discussions and fora such as GATT, the Organization for Economic Cooperation and Development,⁵⁸³ and the United Nations Conference on Trade and Development⁵⁸⁴ to promote free, rules-based trade. The United States also has pursued trade promotion and international economic cooperation through regional and bilateral trade initiatives. In 1990, against the background of economic liberalization in Latin America, the United States proposed three new U.S.-Latin American economic initiatives: a proposed FTA with Mexico,⁵⁸⁵ the Enterprise for the Americas Initiative, and the Andean Trade Preference Act of 1990.

U.S.-Mexico Free-Trade Area⁵⁸⁶

U.S. authorities and academicians have been speculating about the possibility of a free-trade agreement with Mexico since the early 1980s. Despite longstanding Mexican opposition to an FTA with the United States,⁵⁸⁷ in June 1990 the Presidents of Mexico and of the United States strongly endorsed the goal of a comprehensive free-trade agreement between the United States and Mexico.⁵⁸⁸ On September 25, 1990, President Bush formally requested Congress to allow the use

⁵⁸⁰ "Andean Group: Two-Speed March."

⁵⁸¹ Ecuador, pleading that its industries will not be able to compete by the time of these revised deadlines, will abide by the original dates set in 1989.

⁵⁸² Bolivia is to adopt the common external tariff in 1995.

⁵⁸³ See discussion of the OECD in chapter 3.

⁵⁸⁴ See discussion of UNCTAD in chapter 3.

⁵⁸⁵ For additional information on Canada's participation in a proposed North American FTA, see the discussion of U.S.-Mexico FTA developments in ch. 4.

⁵⁸⁶ The U.S.-Mexico Free Trade Area negotiations are discussed in greater detail in ch. 5.

⁵⁸⁷ Mexico's resistance had been largely based on the argument that the developing Mexican economy needed protection against the direct competition for goods and capital from its highly industrialized neighbor. Mexico's historic rigidly protectionist stance and import substitution development strategy have changed dramatically since 1985. That year, the Mexican Government started negotiations to join the GATT, and the following year Mexico became a contracting party to the GATT. The apparent softening of the Mexican attitude toward an FTA with the United States is widely attributed to the dramatic developments that have taken place in the Soviet Union and Eastern Europe. The Salinas government now believes that, to achieve economic growth, Mexico needs large inflows of foreign capital and technology from the United States. Salinas also reportedly was concerned that the dismantling of communism in Europe might deflect U.S. trade and investment interests away from its southern neighbors. Magda Komis, "Mexico Ponders Its International Trade Strategy," *USITC International Economic Review*, June July 1990, p. 5.

⁵⁸⁸ "Mexico-United States Joint Statement on Negotiation of a Free Trade Agreement," June 11, 1990, *Presidential Documents*, 1990, p. 933.

of the fast-track procedure for negotiating an FTA with Mexico and to explore the possibilities of Canada⁵⁸⁹ joining an agreement.

Exploration of a U.S.-Mexican FTA was made possible by the significant steps toward trade liberalization and the reduction of trade barriers the Mexican Government already has undertaken. Mexico has lowered its tariffs from an average of almost 30 percent in 1985 to about 11 percent in 1989, versus the 4 percent average tariff that the United States has on imports from Mexico.⁵⁹⁰ An FTA would eventually bring both numbers to zero on U.S.-Mexican trade and would eliminate many nontariff measures.⁵⁹¹

Enterprise for the Americas Initiative

On June 27, 1990, President Bush formally announced the Enterprise for the Americas Initiative (EAI)⁵⁹² in response to the needs for economic assistance expressed by the presidents of Bolivia, Colombia, and Peru during their February 1990 meeting with President Bush in Cartagena, Colombia.⁵⁹³ The three key objectives of the EAI, are (1) expanded trade among countries in the hemisphere, with the long-term objective of "a hemispheric free trade zone from Alaska to Argentina"; (2) investment promotion and support for economic reforms that encourage private investment; and (3) debt relief for Latin American and Caribbean countries.⁵⁹⁴

As a first step in the direction of realizing the objectives of the EAI, the United States stated its intention to sign bilateral framework agreements⁵⁹⁵ with any interested country or group of countries in the region.⁵⁹⁶ The United States signed bilateral EAI framework agreements with Bolivia, Chile, Colombia, Costa Rica, Ecuador, and Honduras in 1990.^{597 598} The United States also began negotiations bilaterally with Venezuela, Nicaragua, and Peru, and, multilaterally, with Argentina, Brazil, Uruguay, and Paraguay.^{599 600}

⁵⁸⁹ For more information on the FTA between the United States and Canada, which entered into effect in 1989, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, pp. 99-103. See also discussion of Canada in ch. 4.

⁵⁹⁰ USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations*, investigation No. 332 282, USITC publication 2275, April 1990, pp. 4 3 through 4 4.

⁵⁹¹ *Economic Report of the President*, February 1991, p. 253.

⁵⁹² "Remarks Announcing the Enterprise for the Americas Initiative," June 27, 1990, *Weekly Compilation of Presidential Documents*, 1990, pp. 1009-1013.

⁵⁹³ "Declaration of Cartagena," Feb. 15, 1990, *Presidential Documents*, 1990, pp. 248-254.

⁵⁹⁴ "Remarks on Transmitting the Enterprise for the Americas Initiative Act of 1990," *Presidential Documents*, Sept. 14, 1990, pp. 1370-1371.

⁵⁹⁵ Congressional action was not required for the framework agreements. "Bush Proposed Free Trade for the Americas," *Caribbean Action*, November 1990, p. 3.

⁵⁹⁶ *Economic Report of the President*, February 1991, p. 255.

⁵⁹⁷ *Ibid.*

⁵⁹⁸ The United States signed a framework agreement on trade and investment with Mexico in 1987. See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, 1989, p. 118.

⁵⁹⁹ *Economic Report of the President*, February 1991, p. 255.

El Salvador, Guatemala, Panama, Jamaica, and several other Caribbean countries are among the candidates for future agreements.⁶⁰¹ "The next step is the negotiation of free-trade agreements with individual countries and groups of countries."⁶⁰² Chile has expressed a strong interest in pursuing a free-trade agreement with the United States.⁶⁰³

On September 14, 1990, President Bush sent a legislative proposal to Congress to implement the investment and debt portions of the initiative. Specific provisions in this proposed legislation included the following: (1) U.S. contributions of \$100 million annually over 5 years to a multilateral fund, managed by the Inter-American Development Bank (IDB), to provide grant aid to support economic reforms; (2) establishment of an IDB investment sector lending program to support investment reforms; (3) creation of the Enterprise for the Americas Facility (EAF) within the U.S. Treasury Department to manage debt reduction operations for eligible countries;⁶⁰⁴ (4) reduction of U.S. Agency for International Development and P.L. 480 (the U.S. Food for Peace program) debt obligations;⁶⁰⁵ (5) sale, reduction, or cancellation of U.S. Export-Import Bank loans⁶⁰⁶ and of assets acquired under the Credit Corporation Charter Act (CCC) for eligible countries pursuing debt-for-equity⁶⁰⁷ or debt-for-nature⁶⁰⁸ swaps; and (6) allowing eligible countries to

⁶⁰⁰ Argentina, Brazil, Paraguay, and Uruguay decided to negotiate an EAI framework agreement multilaterally with the United States as part of their plans to form a South American southern cone regional common market by 1995. See U.S. Department of State Telegram, Nov. 15, 1990, Montevideo, Message No. 05741.

⁶⁰¹ *Economic Report of the President*, February 1991, p. 255.

⁶⁰² *Ibid.*

⁶⁰³ *Ibid.*

⁶⁰⁴ To be eligible for debt reduction, Latin American and Caribbean countries must (1) have an IMF/World Bank economic reform program in effect; (2) have in place major investment reforms or otherwise be implementing an open investment regime; and (3) have negotiated a satisfactory financing program with commercial banks, including debt and debt service reduction, if appropriate. "White House Fact Sheet on the Enterprise for the Americas Initiative Act of 1990," *Presidential Documents*, Sept. 14, 1990, p. 1375.

⁶⁰⁵ Decisions on the extent of debt reduction on these obligations are to be made through an interagency process chaired by the Secretary of the Treasury.

⁶⁰⁶ Loans granted under the Export Import Bank Act of 1945, as amended.

⁶⁰⁷ Debt for equity swaps are arrangements in which a creditor converts part or all of a country's foreign debt (or sells the debt to a third party who converts the debt) into an equity investment in the capital assets of the debtor country. These arrangements allow creditors to exchange value impaired or nonperforming loans for equity investments while allowing debtor nations to stop debt-service on the loan, which then becomes a long-term investment.

⁶⁰⁸ Debt-for-nature swaps are arrangements in which an indebted country establishes a local-currency fund to finance an environmental conservation program in exchange for the cancellation of a portion of the country's foreign debt. Private donors or bilateral aid agencies provide all or a portion of the funds needed to acquire the debt, at less than its face value, from existing creditors. Donors may further reduce debt's outstanding principal. Funds that the country would have used to service the debt are used to finance new environmental conservation efforts. These swaps allow creditors to receive an immediate, but less than face-value, return on their value-impaired or nonperforming loans.

make interest payments on new obligations resulting from debt reduction in local currencies, with the payments to be used to support environmental programs in the debtor countries.⁶⁰⁹

On October 22, 1990, the United States House of Representatives passed a bill⁶¹⁰ incorporating the proposed EAI's provisions for tariff cuts, multilateral aid programs and debt forgiveness of certain U.S. government loans but without the trade provisions and provisions for the establishment of an IADB-managed multilateral investment fund.⁶¹¹ Because the Senate failed to approve similar legislation during the 1990 congressional session, the EAI legislation was not enacted. On November 20, 1990, President Bush signed into legislation a Senate bill⁶¹² containing some of the provisions of the EAI. This bill authorized the EAI's provisions for the establishment and operation of the EAF and the reduction of P.L. 480 loans to eligible Latin American countries. On February 26, 1991, President Bush submitted to Congress new EAI implementation legislation.⁶¹³

Andean Regional Trade Initiative

On November 1, 1989, President Bush announced the results of an interagency effort aimed at developing a package of trade initiatives designed to contribute to the U.S. administration's war on illicit drugs.⁶¹⁴ One element of the proposed trade package included an offer to the governments of Andean countries—Bolivia, Colombia, Ecuador, and Peru—to submit new petitions to request the addition of products to the U.S. Generalized System of Preferences (GSP).⁶¹⁵ President

⁶⁰⁸—Continued

Debtors benefit in several respects: (1) the debt is shifted from commercial bank creditors to more concession-minded creditors; (2) the principal due on the debt is reduced; (3) debt service is made in local currency; and (4) debt service is used for environmental conservation in the debtor country.

⁶⁰⁹ "Remarks on Transmitting the Enterprise for the Americas Initiative Act of 1990," *Presidential Documents*, Sept. 14, 1990, pp. 1370-1371. More detailed information is provided in "White House Fact Sheet on the Enterprise for the Americas Initiative Act of 1990," *Presidential Documents*, Sept. 14, 1990, pp. 1372-1376.

⁶¹⁰ H.R. 5855 contained the legislation for the Enterprise for the Americas Initiative. The House later passed a single bill (H.R. 5892) combining the provisions for the EAI and the provisions for the Caribbean Regional Development Act. *Congressional Record*, vol. 136, no. 145, Part III, p. 11481.

⁶¹¹ *Congressional Record*, vol. 136, no. 145, Part III, pp. 11475-11479.

⁶¹² The Food, Agriculture, Conservation, and Trade Act of 1990, S 2830, which became Public Law 101-624.

⁶¹³ "Message to the Congress Transmitting the Enterprise for the Americas Initiative Act of 1991," *Presidential Documents*, Feb. 26, 1991, pp. 217-219.

⁶¹⁴ "Statement on Andean Region Trade," *Presidential Documents*, Nov. 1, 1989, pp. 1659-1660.

⁶¹⁵ Following a review by the U.S. Trade Policy Staff Committee, which administers the U.S. GSP program, President Bush granted preferential trade treatment to 67 products from the

Bush met with the presidents of Bolivia, Colombia, and Peru in Cartagena, Colombia on February 15, 1990. In a jointly issued declaration following the meeting, the United States promised to cooperate with the Andean countries "in a wide range of initiatives for development, trade and investment" and to facilitate private investment in the region.⁶¹⁶ On July 23, 1990, President Bush announced⁶¹⁷ that he would seek legislation for limited-duration one-way trade preferences, based on the Caribbean Basin Initiative legislation,⁶¹⁸ for Bolivia, Colombia, Ecuador, and Peru. Legislation for the proposed Andean Trade Preference Act of 1990 was submitted to Congress on October 5, 1990.⁶¹⁹ This legislation did not reach congressional committee discussion before the yearend recess of the 101st Congress.⁶²⁰ Similar legislation, the Andean Trade Initiative Act (ATIA), was reintroduced to the Congress⁶²¹ on January 29, 1991.⁶²² Key provisions of the proposed 1991 ATIA legislation include the following: (1) a ten-year⁶²³ tariff preference regime for certain articles from designated beneficiary countries; (2) provisions for eligible articles, including reductions in rates of duty on leather apparel, work gloves, and flat goods, consistent with 1990 Caribbean Basin Economic Recovery Act legislation (CBERA)⁶²⁴; (3) a provision that, to be eligible for duty-free treatment, at least 35 percent of the cost or value of an article produced in an ATIA beneficiary country must be attributable to direct costs or processing in one or more countries qualifying for ATIA or CBERA benefits; and (4) rules of origin, and provisions for revised rules of origin, consistent with 1990 CBERA legislation.

⁶¹⁵—Continued

Andean countries. For a more detailed discussion of this preferential U.S. GSP treatment for Andean products, see discussion of the U.S. GSP in ch. 5 below.

⁶¹⁶ "Declaration of Cartagena," *Presidential Documents*, Feb. 15, 1990, pp. 248-254.

⁶¹⁷ "Remarks Following Discussions with President Rodrigo Borja Cevallos of Ecuador," *Presidential Documents*, July 23, 1990, pp. 1140-1143.

⁶¹⁸ In section 243 of the Caribbean Basin Economic Recovery Expansion Act of 1990, Congress urged the President to "review the merits of extending the benefits of the Caribbean Basin Economic Recovery Act to the Andean region." See discussion of the Caribbean Basin Economic Recovery Expansion Act of 1990 in ch. 5 below.

⁶¹⁹ "Remarks on Transmitting the Andean Trade Preference Act of 1990," *Presidential Documents*, Oct. 5, 1990, p. 1529.

⁶²⁰ "Andean Trade Initiative," *Latin American Caribbean Business Bulletin*, January-February 1991, pp. 6-7.

⁶²¹ Introduced as H.R. 661 and S 275.

⁶²² "Dole Introduces Andean Initiative Bill With Caribbean Twist," *Washington Report on Latin America and the Caribbean*, Feb. 12, 1991, p. 17.

⁶²³ This is a significant difference from the Caribbean Basin Economic Recovery Act (CBERA). Although the CBERA was originally a 12-year program scheduled to expire in 1995, this was extended indefinitely by the Caribbean Basin Economic Expansion Act. See discussion of the expanded CBERA in chapter 5.

⁶²⁴ See discussion of CBERA in ch. 5.

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

Regular GATT Activities and Work of Committees

Standing committees and bodies carried out a regular schedule of GATT activities outside the Uruguay Round during the first half of 1990 but slowed this pace in the latter half of the year as more energy was devoted to concluding the Round.¹ Members began fewer new dispute-settlement issues than in other years, although cases under way continued. Negotiations with new applicants for membership were important so that new members might participate in the conclusion of the Round. Individual tariff changes continued to be negotiated under article XXVIII, outside the events in the Uruguay Round. Additional signatories were reviewed under the Trade Policy Review Mechanism (TPRM), begun as part of the Mid-Term Review Agreements of the Uruguay Round. Figure 2 presents the organizational structure of the GATT.

GATT Ministerial

The 46th session of the Contracting Parties to the GATT met in Geneva December 12-13, 1990. The session took place just following the suspension of the ministerial conference of the Uruguay Round in Brussels the week before.² The yearend session was devoted to the customary review of GATT standing bodies. These included the Council of Representatives, the Committee on Trade and Development, and the various committees that oversee the Tokyo Round Agreements. In some cases, subjects addressed by standing committees have been taken up in Uruguay Round negotiating groups, such as agriculture or tariffs.³ Similarly, the Consultative Group of 18 (CG-18),⁴ which operates like a steering committee

¹ Office of the United States Trade Representative, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 42.

² GATT, *GATT Focus*, No. 77, December 1990, pp. 1, 5.

³ As a result, the Committee on Trade in Agriculture has not met since 1987 when the Negotiating Group on Agriculture took up its area of negotiation. U.S. International Trade Commission, *Operation of the Trade Agreements Program (OTAP), 41st Report, 1989*, USITC publication 2317, September 1990, p. 38. The Committee on Tariff Concessions met only once in 1990, due to the heavy demands placed on it in the Uruguay Round negotiations. GATT, *GATT Focus*, No. 76, November 1990, p. 6.

⁴ The CG-18 comprises high-level officials responsible for their country's trade policies. Its membership consists of both industrial and developing country members to reflect the varied economic and commercial interests of GATT signatories. The composition of this membership rotates annually as well, with the GATT Director-General as chairman. The CG-18 was formed in 1975, and made permanent in 1979, to provide for

for the GATT, has not met since 1988, because its function is supplanted for the moment by the Uruguay Round negotiations.⁵

While expressing members' sense of "collective frustration and lost opportunity" over the outcome of the Brussels conference, the chairman of the contracting parties session called for new efforts to successfully conclude the Uruguay Round.⁶ He highlighted three areas of GATT work in 1990, independent of the Round, that reflected members' determination to support the multilateral trading system that the GATT represents.

- The four GATT accessions in 1990, and the working parties examining yet additional accessions, as well as many countries, such as in Eastern Europe, moving toward economic reforms compatible with the GATT multilateral system.
- The continued use of the GATT dispute-settlement procedures, indicating members' support for resolving issues through the multilateral process.
- The provisional Trade Policy Review Mechanism that clearly shows members' desire to improve the multilateral functioning of the GATT system.⁷

Council of Representatives

The chairman of the Council of Representatives noted that the work of the Council had continued unabated during 1990 despite the acceleration of negotiations in the Uruguay Round. He pointed out several issues for the Council to consider in 1991:

- How to prevent waivers from becoming quasi-automatic while still allowing for circumstances where genuine policy needs require them;
- How to improve the biennial reporting of developments in regional agreements, such as customs unions and free-trade areas, which have not been followed regularly;
- How to improve derestriction of GATT documents with the increased interest in GATT activities among press, business, and the general public.⁸

4—Continued

frank and specific discussion among policymakers of formative trade policy issues. GATT, *GATT Activities 1985*, Geneva, June 1986, p. 61.

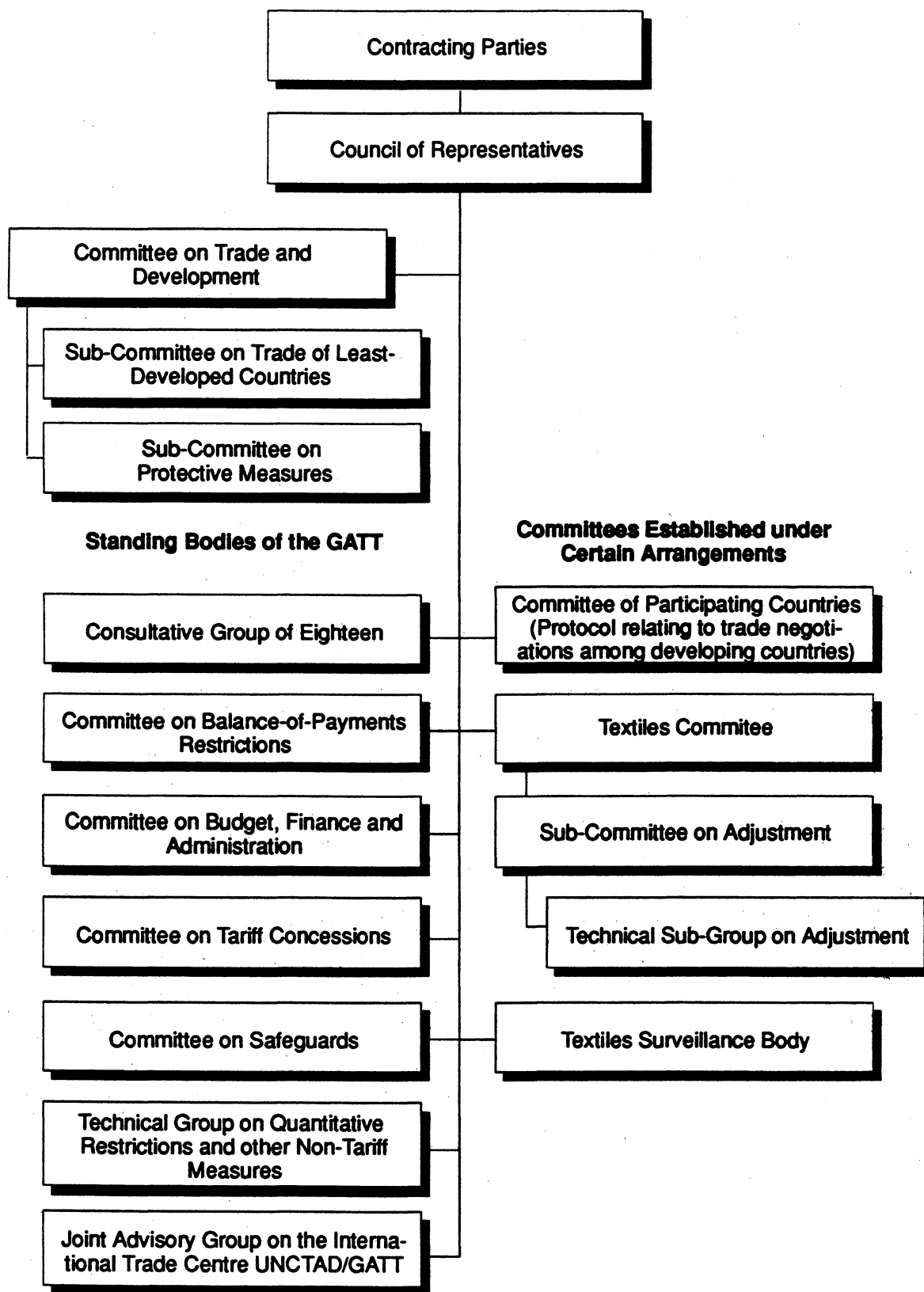
⁵ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 38.

⁶ GATT, *GATT Focus*, No. 77, December 1990, pp. 1, 5.

⁷ GATT, "Forty-Sixth Session of the Contracting Parties," press release No. 1498, Dec. 14, 1990.

⁸ GATT, *GATT Focus*, No. 77, December 1990, p. 5.

Figure 2
Organizational structure of the GATT



Source: The GATT.

Committee on Tariff Concessions

The Committee on Tariff Concessions met only once in 1990, in October, due to the pressing demands of the Uruguay Round.⁹ However, a major Committee role was foreseen once the Round's negotiations conclude, much as occurred following the Tokyo Round.¹⁰ At the meeting, the Committee focused on implementing the new tariff nomenclature, the Harmonized System (HS).¹¹ In 1990, several countries requested waivers¹² from their article II (Schedules of Concessions) tariff obligations in order to put the HS into effect immediately, with negotiations under article XXVIII (Modification of Schedules) to be conducted later, under supervision of the Committee. The Committee also helps establish the new HS schedules needed for annexation to tariff protocols.

The Committee noted at the meeting that several countries had implemented the HS without following established procedures and requested that they submit the necessary documentation soon. Finally, the Committee reported that 64 of 99 GATT members had adopted the system by 1990, including the United States. This amount represented over 95 percent of the total trade among the contracting parties.¹³

Committee on Trade and Development

The Committee on Trade and Development (CTD) is responsible for examining issues of interest to developing-country signatories. Under its mandate, the Committee monitors developments in international trade and reports on the effects of these developments on developing-country economies. The Committee also oversees implementation of part IV of the General Agreement, which pertains to trade and development, and monitors the operation of the "enabling clause," encourages industrial countries to provide special and differential treatment to developing countries.¹⁴

⁹ GATT, *GATT Focus*, No. 76, November 1990, p. 6.

¹⁰ The committee was established in January 1980 for three primary purposes: (1) to keep GATT tariff schedules up to date, (2) to supervise the staging of tariff reductions of the Tokyo Round Agreements, and (3) to provide a forum for discussing tariff-related questions. The committee spent 1980-87 carrying out the staging requirements of the Tokyo Round negotiations. GATT, *GATT Activities 1983*, Geneva, June 1984, p. 14.

¹¹ Formally known as the Harmonized Commodity Description and Coding System, the HS was developed by the Customs Cooperation Council (CCC) in Brussels to unify and standardize the nomenclature used in the classification of traded goods or duty and statistical purposes. The activities of the CCC are discussed in ch. 3 of this report.

¹² In 1990, the GATT Council granted or extended waivers concerning the time limit for completion of HS negotiations for Bangladesh, Brazil, Hungary, Indonesia, Israel, Malaysia, Mexico, Pakistan, Philippines, Sri Lanka, and Turkey. GATT, *Council of Representatives, Report on Work Since the Forty-fifth Session*, doc. No. L/6766, Nov. 22, 1990.

¹³ GATT, *GATT Focus*, No. 76, November 1990, p. 6.

¹⁴ Part IV of the General Agreement, added in 1965, and the enabling clause," negotiated as part of the Tokyo Round agreements, provide for industrial country members to give special consideration to reducing existing barriers and refrain from erecting new ones to trade with developing countries.

In June 1990, the Committee reviewed recent developments in the trading system, as well as in the Uruguay Round, from the perspective of part IV of the GATT and the enabling clause.¹⁵ In October, the Committee continued this review and carried out a comprehensive review of technical assistance provided by the GATT to developing countries since the start of the Uruguay Round.¹⁶ The committee also took up the work of the Sub-Committee on the Trade of Least-Developed Countries¹⁷ and the annual report of the Committee of Participating Countries in connection with the Protocol Relating to Trade Negotiations Among Developing Countries.¹⁸ The Technical Cooperation Programme of the GATT was considered very successful in providing many developing countries with both technical and financial assistance to participate in the Uruguay Round. A number of countries expressed the hope that this aid would continue after the Round to help them analyze, assess, and implement the results of the Round.¹⁹

Committee on Balance-of-Payments Restrictions

Although generally prohibited under the General Agreement, temporary import restrictions may be justified under certain articles in order to conserve foreign exchange when facing balance-of-payments difficulties. Countries using these exemptions, under article XII²⁰ and XVIII:B,²¹ must consult with the

¹⁴—Continued

GATT, *GATT Activities 1982*, Geneva, April 1983, p. 42. The "enabling clause" permits developed country members of GATT to give more favorable treatment only to developing countries, and special treatment to the least developed countries, despite the most favored nation provisions of GATT article I. GATT, *GATT Activities 1979*, Geneva, April 1980, p. 16. The "enabling clause" can be found in GATT, "Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, Decision of 28 November 1979 (L/4903)," *Basic Instruments and Selected Documents*, supp. 26, Geneva, March 1980, pp. 203-205.

¹⁵ GATT, *Report of the Committee on Trade and Development to the Contracting Parties*, doc. No. L/6744, Oct. 22, 1990.

¹⁶ GATT, *GATT Focus*, No. 77, December 1990, p. 5.

¹⁷ The Subcommittee's terms of reference require it "to give special attention to the particular situation and trade problems of the least-developed among the developing countries . . . and to keep under review the special treatment which could be accorded these countries in the context of any general or specific measures taken in favour of developing countries." GATT, *GATT Activities 1981*, Geneva, June 1982, p. 18.

¹⁸ The Protocol entered into force in 1973. Its goal is to encourage the exchange of mutually advantageous trade concessions by identifying complementary features in the structure of trade and production of the developing-country participants, whether or not GATT signatories. The protocol has been ratified by Bangladesh, Brazil, Chile, Egypt, India, Israel, Korea, Mexico, Pakistan, Peru, Romania, Tunisia, Turkey, Uruguay and Yugoslavia. Paraguay and the Philippines have signed the protocol, pending national ratification. GATT, *GATT Activities 1989*, Geneva, June 1990, p. 135. The Committee of Participating Countries represents signatories of the protocol. GATT, *GATT Activities 1979*, Geneva, April 1980, p. 48.

¹⁹ GATT, *GATT Focus*, No. 77, December 1990, p. 5.

²⁰ Art. XII (Restrictions to Safeguard the Balance of Payments) provides for the implementation of import restrictions by contracting parties in order to safeguard the balance-of-payments positions.

²¹ Art. XVIII (Governmental Assistance to Economic Development) provides for the terms under which developing

GATT contracting parties while the measures are in effect²² through the Committee on Balance-of-Payments Restrictions. The Committee monitors the restrictions and a country's progress in moving toward liberalization.²³

Signatories typically consult every year under article XII. Developing countries, however, may consult every 2 years under article XVIII:B. "Full" consultations allow all countries whose trade may be affected to assess the scope and justification of these restrictions and to examine any practical problem that may arise. These consultations also give the consulting country the opportunity to draw attention to external factors, such as other country measures, that affect export performance and thus the consulting country's reserves and capacity to finance imports. A basic assessment of the financial situation of the country is provided by the International Monetary Fund (IMF) for each consultation.²⁴ Since December 1972, developing countries may follow simplified procedures for consultations²⁵ unless full consultations are deemed necessary. Consultations are notified to the GATT Council, which then adopts them if the balance-of-payments restrictions in effect are deemed in conformity with the General Agreement.²⁶ In 1990, full consultations were held with Bangladesh. Full consultations were proposed for Egypt later in 1991.²⁷

GATT Integrated Data Base

In November 1987, the GATT Council authorized the Secretariat to begin work on the Integrated Data Base (IDB).²⁸ 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.²⁹ Thirty-six countries³⁰ in-

21—Continued

countries may take these and other measures for the purposes of development in exception to normal obligations under the General Agreement.

²² GATT, "Declaration on Trade Measures Taken for Balance-of-Payments Purposes," *Basic Instruments and Selected Documents*, supp. 26, Geneva, March 1980, pp. 205-209.

²³ A number of countries have notified such restrictions, engaging in regular consultations over their use. Since 1979, consultations have been held 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. USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 40.

²⁴ GATT, *GATT Activities 1983*, Geneva, June 1984, p. 55.

²⁵ Sometimes referred to as "miniconsultations" under which the consultations are based upon a written statement by the country under review. GATT, *GATT Activities 1979*, Geneva, April 1980, p. 70.

²⁶ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 107.

²⁷ GATT, Council of Representatives, *Report on Work Since the Forty-Fifth Session*, doc. No. L/6766, Nov. 22, 1990.

²⁸ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, pp. 40-41.

²⁹ The database will play a key part in the tariff and nontariff measure negotiations in and following the Uruguay Round.

³⁰ Argentina, Australia, Brazil, Canada, Chile, Colombia, Czechoslovakia, the EC (12 countries), Finland, Hong Kong,

dedicated in 1989 their intention to participate in the system.³¹ IDB coverage of world trade, as a result, would reach 94 percent. The United States, the EC, and Japan have already made submissions to the IDB.

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

At the Punta del Este ministerial meeting inaugurating the Uruguay Round, several countries requested that the issue of exports of domestically prohibited goods should be included in the Uruguay Round. Others believed that the issue would be better addressed in regular GATT activities.³² The matter was again brought up, primarily on the initiative of several African delegations, at the December 1988 Montreal Mid-Term Review.³³

In July 1989, the Council decided to establish the Working Group on the Export of Domestically-Prohibited Goods and Other Hazardous Substances. The group is considering the need for new disciplines to regulate the export of goods that are prohibited from sale domestically because they are dangerous to human health or safety. Pharmaceuticals at the experimental stage or with possible serious side effects are one example. Another example is certain chemicals, pesticides, and insecticides deemed unsafe under domestic laws but still exported. Disposal of industrial, toxic, and other wastes is a third consideration of the group, because some countries with bans or limits on the disposal of these materials still export them to other countries. The group is also examining the discipline that could apply to exports that are severely restricted or controlled in their domestic markets.³⁴

The group held three meetings in 1989 and five in 1990.³⁵ In 1989, Nigeria³⁶ presented its ideas for an agreement within GATT that emphasized that (1) world trade of these products must be regulated, (2) reexported products must also be controlled, and (3) both importer and exporter must equally share the decision as to whether to import a product.³⁷ In 1990, the group chairman reported that he had circulated a paper containing a Draft Decision on Products Banned or Severely Restricted in the Domestic Market. This decision would place all trade in domestically prohibited goods under the auspices of at least one international organization.

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Hungary, Iceland, India, Jamaica, Japan, Korea, Mexico, New Zealand, Norway, Poland, Sweden, Switzerland, Turkey, the United States, and Uruguay.

³¹ U.S. Department of State Telegram, Geneva, May 12, 1989, message reference No. 04048.

³² USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 41.

³³ GATT, *GATT Focus*, No. 75, October 1990, p. 12.

³⁴ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 101.

³⁵ GATT, *GATT Focus*, No. 75, October 1990, p. 12.

³⁶ Based on a joint submission to the November 1988 GNG meeting from Cameroon, Cote d'Ivoire, Nigeria, Sri Lanka, and Zaire.

³⁷ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 107

The group was originally scheduled to complete its work by September 30, 1990. However, the chairman requested that this deadline be extended to December 31, 1990, to allow for further intensive talks. The Council agreed to extend the group's deadline through March 31, 1991.³⁸

Textiles Committee and Arrangement

The Arrangement Regarding International Trade in Textiles, known as the Multi-fibre Arrangement (MFA), was negotiated in 1973 and entered into force January 1, 1974.³⁹ The MFA has been extended three times,⁴⁰ most recently by the 1986 Protocol of Extension through July 31, 1991.⁴¹ The MFA aims to ensure orderly expansion of textile trade while avoiding disruption of individual markets or product lines in either exporting or importing countries.⁴² There are 40 participants (the EC counted as a single signatory) that have accepted the MFA as extended by the 1986 Protocol.⁴³

The MFA established the Textiles Committee to handle the overall management of the arrangement, with the Director-General of the GATT as chairman. The Committee established the Textiles Surveillance Body (TSB) to supervise the detailed implementation of the MFA and bilateral agreements negotiated as part of the MFA. The TSB consists of an independent chairman and 10 members of the MFA, chosen to represent a balance of the MFA membership.⁴⁴ The TSB reviews all new restrictions, to determine their consistency with the provisions of the arrangement, and to function as a forum for dispute settlement.⁴⁵

In 1990, the primary focus for negotiations on textile issues took place in the Uruguay Round, notably the Negotiating Group on Textiles and Clothing. The Textiles Committee held two meetings, primarily to discuss procedural arrangements related to the MFA. At the July meeting, the Committee met to

³⁸ GATT, *GATT Focus*, No. 78, January-February 1991, p. 5.

³⁹ GATT, *GATT Activities 1983*, Geneva, June 1984, p. 34. For a discussion of the MFA, see USITC, *OTAP, 38th Report, 1986*, USITC publication 1995, July 1987, pp. 1-7 to 1-12.

⁴⁰ The Arrangement Regarding International Trade in Textiles took effect Jan. 1, 1974, for a period of 4 years. It was extended once from Jan. 1, 1978, through Dec. 31, 1981. It was extended again from Jan. 1, 1982, through July 31, 1986. The third extension runs from Aug. 1, 1986, through July 31, 1991. GATT, *GATT Activities 1982*, Geneva, April 1983, p. 49; and GATT, *GATT Activities 1986*, Geneva, June 1987, p. 86.

⁴¹ GATT, *GATT Activities 1986*, Geneva, June 1987, p. 86; and GATT, *GATT Focus*, No. 62, June 1989, p. 10.

⁴² For a discussion of U.S. agreements negotiated under the auspices of the MFA, see ch. 3.

⁴³ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 113; and GATT, "Unilateral trade liberalization undertaken by 45 countries, reports the director-general of GATT," press release No. 1509, Apr. 18, 1991, p. 11.

⁴⁴ In 1990, the TSB was expanded from 8 to 10 members. GATT, *GATT Focus*, No. 62, June 1989, p. 10. The enlarged TSB came into effect Jan. 1, 1990, and is composed of Brazil, Canada, China, the EC, Indonesia, Japan, Hong Kong, Pakistan, Sweden, and the United States. GATT, *GATT Activities 1989*, Geneva, June 1990, p. 114.

⁴⁵ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 114.

discuss the future of the MFA and to consider a report from the Sub-Committee on Adjustment,⁴⁶ in addition to a report prepared by the GATT Secretariat on the economic consequences of liberalizing world textile and clothing trade. At the December meeting, the Committee held its annual review of the operation of the arrangement, decided on TSB membership for 1991,⁴⁷ and continued their discussion of the future of the MFA.

Provisions of the MFA require the Committee to consider a year before it expires whether the arrangement should be continued, changed, or ended. The Committee began this discussion in July 1990 and continued it in December. The Committee agreed to defer continued discussion of this issue until the situation became clearer regarding the hiatus in the Uruguay Round negotiations.⁴⁸

Actions Under Articles of the General Agreement

Emergency Actions on Imports (Art. XIX)

Article XIX of the General Agreement permits signatories to escape temporarily from their GATT obligations in order to impose emergency trade restrictions when a domestic industry is threatened with serious injury by an unforeseen surge in imports as a result of these obligations.⁴⁹ A country invoking article XIX must notify the GATT and consult with affected exporting countries to arrange compensation. Countries have an incentive to limit their safeguard actions or to negotiate with the affected countries, rather than simply invoking escape-clause measures, because affected countries have the right to suspend unilaterally "substantially equivalent concessions or other obligations." In 1990, only one safeguard measure was taken under Article XIX. Austria notified an import quota on prepared fowls, effective March through December 1990, which was later extended through June 1991. Table 4 shows Article XIX actions still in effect as of September 30, 1990.⁵⁰

⁴⁶ The Sub-Committee on Adjustment was set up to review periodically production and trade in textiles, as well as developments in countries' adjustment policies and measures and other adjustment processes. It held its first meeting in July 1982. GATT, *GATT Activities 1982*, Geneva, April 1983, p. 51.

⁴⁷ For 1991, the TSB members will be Canada, the EC, Finland, Hungary, Japan, Korea, Peru, Thailand, Turkey, and the United States. After 6 months, Hungary will be succeeded by a different member of the International Textiles and Clothing Bureau (ITCB). The ITCB represents 23 textile-exporting developing countries. GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 35, Apr. 11, 1990, p. 11.

⁴⁸ GATT, *GATT Focus*, No. 78, January-February 1991, pp. 4-5.

⁴⁹ These actions are also known as "safeguard actions" and art. XIX as the "escape clause." Safeguard action is temporary following the wording of art. XIX, which 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.

⁵⁰ GATT, "Measures notified under Article XIX which are still in force (Situation as at 30 September 1990)," special compilation, furnished by Office of the United States Trade Representative.

Dispute Settlement (Art. XXII, XXIII)

Consultations and Panels Requested by the United States and Followups

U.S. Complaint on EC subsidies to processors and producers of oilseeds—The GATT Council established a panel in June 1988, upon U.S. request, to examine EC payments and subsidies paid to processors and producers of oilseeds and related animal-feed proteins.⁵¹ 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.⁵² The EC contended that payment of subsidies exclusively to domestic producers did not violate article III provisions for national treatment, that disciplines on subsidies were set out entirely in article XVI and were not overridden by article III.⁵³

The panel report was presented to the Council and adopted on January 25, 1990.⁵⁴ The panel concluded that EC payments to oilseed processors were inconsistent with article III:4 and that the EC should bring its regulations into conformity with the GATT, that the subsidy schemes had impaired EC tariff concessions granted on oilseeds and the impairment should be eliminated, and that the contracting parties should take no further action under article XXIII:2 until the EC had reasonable time to adjust its regulations including elimination of the impairment of the tariff concession.^{55 56}

⁵¹ GATT, *GATT Focus*, No. 55, June-July 1988, p. 3.

⁵² GATT, *GATT Focus*, No. 68, February 1990, pp. 2-3.

⁵³ *Ibid.*, p. 3.

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*, pp. 2-3.

⁵⁶ For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

U.S. Complaint on Thailand's restrictions on importation of and internal taxes on cigarettes—The Council established a panel in April 1990, on request from the United States, to examine Thailand's restrictions on the importation of, and its internal taxes on, cigarettes.⁵⁷ The United States maintained that the Thai import restrictions prohibiting cigarette imports were inconsistent with GATT article XI:4 concerning quantitative import restrictions because the restrictions were not covered by any of the article's exceptions nor by Thailand's Protocol of Accession. Moreover, Thailand's higher ceilings on excise taxes for imported cigarettes and the exemption of domestic cigarettes from business and municipal taxes contravened article III national treatment provisions.⁵⁸ Thailand argued that cigarettes were an agricultural product, and as such, import restrictions were justified under GATT article XI:2(c)(i) exceptions. Thailand argued further that GATT article XX(b) provisions concerning restrictions "necessary to protect human . . . life or health," as well as provisions of its Protocol of Accession, permitted its import measures. Thailand considered that its taxes on cigarettes were consistent with national treatment provisions arguing that Thailand's efforts to control smoking would be hindered by an increase in total cigarette sales that would result from competition between domestic and imported cigarettes if the latter were allowed to be imported. Thailand further argued that the restrictions were justified because its Tobacco Act of 1966 predated its 1982 accession to the GATT.⁵⁹ The EC made third-party submissions to the panel as a major cigarette manufacturer and exporter, advancing arguments that supported the U.S. position.⁶⁰

⁵⁷ GATT, *GATT Focus*, No. 70, April 1990, p. 3.

⁵⁸ GATT, *GATT Focus*, No. 76, November 1990, p. 7.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

Table 4
Article XIX actions in effect as of Sep. 30, 1990

Implementing country	Type of Product	Date Notified ¹
Austria	Broken rice	Mar. 1987
Austria	Prepared fowls	Mar. 1990
Australia	Filament lamps	July 1983
Canada	Non-leather footwear	Dec. 1981
Canada	Leather footwear	July 1982
EC	Dried grapes	Oct. 1982
EC	Quartz watches	Apr. 1984
EC	Morello cherries	June 1985
EC	Preserved raspberries	Jan. 1986
EC	Sweet potatoes	Apr. 1986
EC	Steel products	Mar. 1987
EC	Frozen squid	Dec. 1987
EC	Refrigerators, freezers	May 1988
EC	Processed cherries	July 1989
Germany	Hard coal	Sep. 1958
Italy	Raw silk	May 1969
Nigeria	Cement	Dec. 1961
South Africa	Footwear	Nov. 1984
South Africa	Malic acid	Aug. 1985
South Africa	Acids, flasks, steel wire	June 1986
Spain	Synthetic rubber	Feb. 1967
United States (terminated 9/30/90)	Specialty steel	July 1983

¹ Date of distribution of notification.

Source: The GATT.

The panel report was presented to and adopted by the Council on November 7, 1990.⁶¹ The panel concluded in favor of the United States, noting that Thailand's failure to grant cigarette import licenses over the past 10 years was inconsistent with article XI:1, that cigarettes were processed products not entitled to the exceptions under article XI:2(c)(i), that discrimination against imported cigarettes while allowing domestic cigarettes to be sold was not consistent with article XX(b) provisions that permit measures "necessary to protect human . . . life" to take priority over trade liberalization, that Thailand's Tobacco Act does not exempt it from GATT obligations because Thailand's Protocol of Accession explicitly gives Thai executive authorities the power to grant import licenses, and that Thailand had exhibited elsewhere measures consistent with national treatment by introducing a single excise tax and eliminating business and municipal taxes for all cigarettes. The panel recommended that Thailand bring its application of the Tobacco Act into conformity with its obligations under the General Agreement.⁶²

U.S. Complaint on EC restrictions on exports of copper scrap—The panel, established at U.S. request in July 1989 to examine EC restrictions on exports of copper scrap, reported on February 20, 1990, that after an initial panel meeting, bilateral consultations between the two parties had resolved the dispute.⁶³

Followup on U.S. complaint on Canadian restrictions on imports of ice cream and yogurt—The United States repeated its requests several times during 1990 for implementation of the panel report adopted in December 1989 which concluded that the Canadian restriction on imports of ice cream and yogurt were inconsistent with GATT provisions. Canada maintained that differing interpretations of existing GATT rules concerning agriculture made it reasonable to await the outcome of Uruguay Round negotiations before deciding on implementation of the report.⁶⁴ The United States reported that it had drawn up a preliminary list of products which formed a basis for retaliatory withdrawal of concessions, stating it could not wait indefinitely while U.S. producers suffered economic harm.⁶⁵

U.S. retaliation request on Canadian nonimplementation of panel report on import, distribution, and sale of alcoholic drinks by Canadian Provincial Marketing Agencies—In October and again in November 1990, the United States requested from the GATT Council the authority to suspend concessions for the nonimplementation of the panel report, requested originally by the EC and adopted in March 1988, concerning the import, distribution, and sale of alcoholic drinks by Canadian Provincial marketing boards. The United States claimed Canada continued

to maintain discriminatory measures against U.S. beer exports while Canada responded that the listing practices of its Provinces did not discriminate against imported beer. The EC confirmed that its consultations continue with Canada with little hope of concluding soon. In February 1991, the Council agreed to establish a new panel to address the U.S. complaint. The United States and Canada agreed on the same panelists as in the 1988 case, to the extent possible. The EC, Japan, New Zealand, and Switzerland reserved the right to make submissions to the panel.⁶⁶

Panels and followups examining U.S. measures

Followup on EC complaint on U.S. restrictions on imports of sugar—The panel established June 1989 at EC request to examine U.S. restrictions on the importation of sugar and sugar-containing products applied under its 1955 waiver, reported its finding February 20, 1990. The EC argued that the U.S. measures were inconsistent with GATT articles II and XI, concerned with tariff concessions and elimination of quantitative restrictions, respectively. The EC contended further that the U.S. measures were no longer consistent with the conditions and assurances, attached to the waiver, that make these restrictions consistent with GATT obligations. The United States maintained that the measures were consistent with the waiver, arguing further that the EC had not proven it was actually affected by these measures as required under article XXIII because the EC was a high-cost producer of sugar.

The panel concluded that the U.S. fees imposed on refined sugar do not entail duties in excess of those effective under the U.S. Schedule of Concession; that while the restrictions on imports of sugar-containing products are inconsistent with article XI:1, they conform nonetheless to the terms granted in the 1955 waiver; that U.S. assurances given when the waiver was granted, though not part of the conditions of the waiver, may be relevant to a decision by the contracting parties to modify or withdraw the waiver; and finally, that the EC had not provided the detailed justification needed under article XXIII:1(b) for an examination of its complaint, although the EC is not precluded from furnishing this information at a later date to support such an examination.⁶⁷ Although adoption of the report was blocked a number of times by the EC because of concerns about the panel conclusions, the report was finally adopted on November 7, 1990.⁶⁸

Followup on Australian complaint on U.S. restrictions on imports of sugar—The United States informed the Council in October 1990 that it had taken steps to implement the panel report adopted in June

⁶¹ *Ibid.*, p. 1.

⁶² *Ibid.*, pp. 1, 4, 5, 7.

⁶³ GATT, *GATT Focus*, No. 69, March 1990, p. 3.

⁶⁴ GATT, *GATT Focus*, No. 72, July 1990, p. 10.

⁶⁵ GATT, *GATT Focus*, No. 78, January-February 1991, p. 4.

⁶⁶ GATT, *GATT Focus*, No. 75, October 1990, p. 5; GATT, *GATT Focus*, No. 76, November 1990, p. 6; GATT, *GATT Focus*, No. 77, December 1990, p. 7; and GATT, *GATT Focus*, No. 78, January-February 1991, p. 2.

⁶⁷ GATT, *GATT Focus*, No. 69, March 1990, pp. 2-3.

⁶⁸ GATT, *GATT Focus*, No. 76, November 1990, p. 5.

1989 concerning an Australian complaint about U.S. restrictions on imports of sugar. On September 14, 1990, the United States issued a Presidential Proclamation that established on October 1, 1990, a tariff-quota system for sugar imports. The United States noted that the new system would be in conformity with its obligations under the GATT because sugar was not bound in the U.S. tariff schedule in the GATT. Australia voiced concern that the new system would effectively maintain the same restrictiveness of sugar imports as the previous regime.⁶⁹

Canadian complaint on U.S. countervailing duties on imports of pork products—The GATT Council established a panel in November 1989, upon request from Canada, to examine a U.S. decision to impose countervailing duties (CVD) on imports of Canadian pork products. Canada claimed that the U.S. measure violated article VI:3 of the General Agreement.⁷⁰ Canada argued that U.S. duties on pork products violated strict GATT rules on the use of countervailing measures because the duties did not aim at offsetting subsidies given to Canadian pork processors, but rather at subsidies given to Canadian pig farmers.⁷¹ By levying a countervailing duty on pork in excess of the amount of subsidy on the production of pork, Canada claimed the United States failed to meet the conditions set out in GATT article VI:3, which reads "No countervailing duty shall be levied on any product . . . in excess of an amount equal to the estimated . . . subsidy determined to have been granted, directly or indirectly, on the . . . production . . . of such product." Canada requested that the panel recommend that the excess duties collected be refunded and that no further duties be collected unless the conditions of article VI:3 are met. The United States argued that the duties were levied consistently with article VI:3 and requested that the panel reject the complaint.⁷²

The panel reported to the Council in October 1990, concluding in favor of Canada.⁷³ The panel held that U.S. countervailing duties on fresh, chilled, and frozen pork from Canada were being levied inconsistently with article VI:3 because the U.S. determination that Canadian pork production had benefited from subsidies had not been made in accordance with the requirements of the provision. However, the panel made clear that its report ruled narrowly on the fulfillment of conditions under article VI:3. The panel specified that it had not ruled on whether subsidies to swine producers did or did not benefit pork production to some extent.

The United States has yet to accept the panel report. The United States has noted the complexity of the panel conclusions and, in February 1991, noted that an imminent decision under the Canada-United States Free-Trade Agreement might render the case

⁶⁹ GATT, *GATT Focus*, No. 75, October 1990, p. 3.

⁷⁰ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 98.

⁷¹ GATT, *GATT Focus*, No. 75, October 1990, pp. 2-4.

⁷² *Ibid.*, p. 4.

⁷³ *Ibid.*, p. 2.

moot.⁷⁴ The United States promised to return all cash deposits with interest to Canadian exporters should the binational United States-Canadian panels rule against the U.S. duties in question.⁷⁵

Followup on Canadian and EC complaint on the U.S. Customs Users' Fee—The United States announced October 3, 1990, to the Council that the U.S. Customs and Trade Act of 1990, signed August 20, 1990, contained a provision that brought the U.S. customs users' fee system into conformity with the General Agreement.⁷⁶ The panel report adopted in February 1988 followed a complaint by Canada and the EC that the fee was inconsistent with GATT articles II (Schedules of Concessions) and VIII (Fees and Formalities connected with Importation and Exportation), complaints which led the Council to establish a panel in February 1987.⁷⁷ The panel concluded that fees should relate approximately to the costs of processing the individual import entry in question, which the U.S. ad valorem duty system did not do to the extent that it levied fees exceeding these costs. The panel also found the U.S. ad valorem system inconsistent with its GATT obligations when the fee was intended to pay for certain Customs Service activities that were not "costs of services rendered."⁷⁸

Cases and followups among other countries

Followup on United States, Australian, and New Zealand complaints on Korean restrictions on imports of beef—The United States announced in April 1990 that it had reached an agreement in principle with Korea on its import regime for beef. The bilateral agreement was consistent with the GATT panel report on Korean restrictions on beef adopted in November 1989 as well as with Korean commitments made to the GATT Committee on Balance-of-Payments Restrictions.⁷⁹ Australia announced in May 1990 a bilateral understanding with Korea that effectively resolved a similar dispute on Korea's beef import regime.⁸⁰ Korea announced in July 1990 that it had concluded bilateral talks with New Zealand over Korea's beef import restrictions, reaching an agreement similar to those reached with the United States and Australia.⁸¹

⁷⁴ A binational panel under the Canada-United States Free-Trade Agreement (FTA) has twice remanded a case decided by the USITC concerning material injury by reason of imports of subsidized, fresh, chilled, or frozen pork from Canada. The USITC has reversed its original finding, and the case remains controversial, with an Extraordinary Challenge Committee being requested by the United States on March 29, 1991. See USITC, "Commission responds to second remand to ITC on Canadian pork," *International Economic Review*, Mar. 1991, p. 6; and USITC, "United States-Canada dispute settlement process comes under close scrutiny," *International Economic Review*, May 1991, pp. 8-9.

⁷⁵ GATT, *GATT Focus*, No. 76, November 1990, p. 5; GATT, *GATT Focus*, No. 77, December 1990, pp. 6-7; and GATT, *GATT Focus*, No. 78, January-February 1991, p. 4.

⁷⁶ GATT, *GATT Focus*, No. 75, October 1990, p. 3.

⁷⁷ GATT, *GATT Focus*, No. 44, March 1987, p. 1.

⁷⁸ GATT, *GATT Focus*, No. 53, February-March 1988, p. 7.

⁷⁹ GATT, *GATT Focus*, No. 70, April 1990, p. 3.

⁸⁰ GATT, *GATT Focus*, No. 71, May-June 1990, p. 3.

⁸¹ GATT, *GATT Focus*, No. 73, August 1990, p. 5.

Working party report adopted on Swiss reservations on Article XI under their Protocol of Accession—The Council adopted in April 1990 the report of the working party that examined Swiss reservations to GATT article XI (General Elimination of Quantitative Restrictions) lodged in the Swiss Protocol of Accession to the GATT. Under its protocol of accession, Switzerland must present an annual report to the GATT on measures maintained under the reservation. Whereas some members of the working party felt the Swiss reservation should be terminated as part of a successful Uruguay Round agreement on strengthening GATT rules and disciplines, Switzerland responded that this issue extended beyond the mandate of the working party.⁸²

Japanese complaint on EC regulations on imports of parts and components—The Council adopted in May 1990 the report from the panel requested by Japan disapproving EC duties levied on imported parts and components. The EC agreed to the report's adoption but noted that implementation of the panel's recommendations would need to await the results of the Uruguay Round in the hope that negotiations in the Round would clarify the problem of circumvention of these "anti-dumping" duties.⁸³ The EC sees these charges as "anti-dumping" duties levied on so-called "screwdriver assembly" plants. These plants, set up in the EC, import components of goods and assemble finished products within EC borders which have the effect of avoiding antidumping duties that might otherwise be levied on imports of the finished products.

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

Regional trading arrangements are allowed under GATT article XXIV as an exception to the general GATT rule of most-favored-nation treatment. This exception recognizes the value placed on the closer integration of national economies through freer trade among countries that agree to abolish trade barriers between one another. These regional groupings are sanctioned provided that certain requirements are met to ensure that these arrangements improve trade between participant countries without raising new barriers to those outside the arrangement, that is, create rather than divert trade from those outside. Regional trade arrangements under article XXIV can form either as a free-trade area or a customs union. In either case, duties, regulations, or other trade barriers applied to countries outside the arrangement must be no more restrictive than before the arrangement began.⁸⁴

Typically, the GATT establishes working parties to examine newly formed regional arrangements and their trade-related aspects, although to date no formal

⁸² GATT, *GATT Focus*, No. 70, April 1990, p. 3.

⁸³ *Ibid.*, p. 2.

⁸⁴ GATT, "Text of the General Agreement," *Basic Instruments and Selected Documents*, vol. IV, Geneva, March 1969.

ruling on the compatibility of any free-trade area with the GATT has been issued. Members of these new groupings are normally required to report on a biannual basis concerning the functioning of the arrangement.⁸⁵ In February 1989, the GATT Council formed a working party to examine the Canada-United States Free-Trade Agreement (FTA) that went into effect January 1, 1989, for its compatibility with provisions under the General Agreement, article XXIV in particular.⁸⁶ After a delay in appointing a new chairman that kept the working party from starting up, the United States and Canada were able to respond to initial questioning from other contracting parties about the functioning of the free-trade area in October 1990.⁸⁷

Negotiations on Modifications of Schedules (Art. XXVIII)

Article XXVIII provides the mechanism by which a contracting party may modify or withdraw tariff concessions.⁸⁸ The GATT member wishing to do so must enter into negotiations with contracting parties both for whom a particular concession is of primary significance as well as those with any substantial interest in the concession involved. The article is based on the principle of balanced compensation so that any renegotiated concession should be as advantageous overall to both parties as the previous concession. This balance generally is achieved by adjusting tariffs on other products.⁸⁹

Article XXVIII modifications are also used when tariff rates are adjusted because a product is reclassified for administrative or judicial reasons. Members wishing to use article XXVIII measures must notify the GATT and submit a request to the GATT Council for authorization to enter into negotiations. A number of renegotiations of GATT tariff schedules have come about in recent years with the advent of the new tariff nomenclature, the Harmonized System.⁹⁰ Article XXVIII is the means by which compensation is negotiated for changes to bound tariff rates that arise from conversion to the Harmonized System.

Accessions to the General Agreement (Art. XXVI, XXXIII)

In 1990, four countries became signatories to the General Agreement. Tunisia became the 97th full contracting member on August 19, 1990, although it

⁸⁵ *Ibid.*

⁸⁶ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 106.

⁸⁷ GATT, Council of Representatives, *Report on Work Since the Forty-Fifth Session*, doc. No. L/6766, Nov. 22, 1990.

⁸⁸ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 50.

⁸⁹ GATT, "Text of the General Agreement," *Basic Instruments and Selected Documents*, vol. IV, Geneva, March 1969.

⁹⁰ The Harmonized System was adopted in January 1988. See the section in this chapter on the Committee on Tariff Concessions for further information regarding the Harmonized System.

acceded provisionally over three decades ago in November 1959. Venezuela became the 98th member country, acceding to the GATT on August 31, 1990. Bolivia signed its Protocol of Accession in August 1989 and became the 99th contracting party on September 8, 1990.⁹¹ Costa Rica completed its accession negotiations and ratification to become the 100th GATT signatory on November 24, 1990.⁹² See table 5 for a list of contracting parties to the GATT as of December 31, 1990.

Early in 1991, the accession of new members continued. Macao became the 101st signatory to the GATT on January 11, 1991, although it had applied de facto GATT rules since 1962. Previously, Macao's interests in the GATT had been represented by the Government of Portugal. However, following decla-

⁹¹ GATT, "GATT Membership Reaches Ninety-Nine," press release No. 1490, Sept. 20, 1990.

⁹² GATT, "Costa Rica Becomes GATT's 100th Member," press release No. 1493, Oct. 25, 1990.

rations⁹³ from the Government of Portugal and the People's Republic of China, Macao was deemed to meet the criterion, under GATT article XXXIII, of a separate customs territory that "possesses full autonomy in the conduct of its external commercial relations," and therefore was enabled to join as a full and separate contracting member.⁹⁴ El Salvador signed its Protocol of Accession to the GATT on December 13, 1990.⁹⁵ Thirty days following ratification by its legislature, El Salvador will become the 102nd GATT contracting party.⁹⁶

⁹³ The Government of Portugal declared under GATT art. XXVI:5(c) that Macao had full autonomy to undertake GATT membership. The People's Republic of China (China) also declared under art. XXVI:5(c) that, from Dec. 20, 1999, the Macao Special Administrative Region of China would continue to meet these requirements. GATT, *GATT Focus*, No. 78, January-February 1991, pp. 1, 8. Macao is scheduled to become part of China by the year 2000.

⁹⁴ GATT, "Macao Becomes GATT's 101st Member," press release No. 1501, Jan. 14, 1991.

⁹⁵ GATT, "El Salvador Signs Protocol of Accession to GATT," press release No. 1500, Dec. 17, 1990.

⁹⁶ GATT, *GATT Focus*, No. 77, December 1990, p. 8.

Table 5
Contracting Parties to the GATT: Status as of Dec. 31, 1990

Contracting Parties to the GATT (100)

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

¹ New member in 1990.

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	Swaziland
Angola	Guinea-Bissau	St. Lucia	Tonga
Bahamas	Kampuchea	St. Vincent and the Grenadines	Tuvalu
Bahrain	Kiribati	Sao Tome and Principe	United Arab Emirates
Brunei Darussalam	Mali	Seychelles	Yemen
Cape Verde	Mozambique	Solomon Islands	
Dominica	Papua New Guinea		
Equatorial Guinea	Qatar		
Fiji			

Source: The GATT.

As part of accession negotiations, Tunisia agreed to bind over 900 tariff headings at rates ranging from 17 to 52 percent. It also undertook to abolish import licenses and quantitative restrictions on many products. Venezuela pledged to bind its entire tariff schedule at a 50-percent ceiling, to be lowered to 40 percent after 2 years. Bolivia undertook to bind its entire tariff schedule at a 40-percent ceiling. Costa Rica pledged that it would bind its whole tariff schedule at a ceiling of 60 percent and would reduce this ceiling to 55 percent within 3 years of accession. Costa Rica will also endeavor to end all import surcharges within 4 years and all import-licensing restrictions and quantitative restrictions in a similar time period. El Salvador agreed to bind its tariff schedule at a 50-percent ad valorem ceiling when it acceded, and to reduce this ceiling to 40 percent on December 31, 1993.

A number of other countries are currently in the process of applying for accession to the GATT.⁹⁷ These include Algeria, Bulgaria, China, Guatemala, Honduras, Nepal, and Paraguay. Working groups have been established for most of these.⁹⁸ In addition, the Soviet Union was granted observer status in the GATT as of May 16, 1990. According to the U.S.S.R., this is a first step toward future application for GATT membership.⁹⁹

Waivers (Art. XXV)

In 1990, the contracting parties granted a number of waivers under GATT article XXV:5 so that individual signatories could remain in compliance with their obligations under the General Agreement. Typically, these waivers waived countries' obligations under article II to grant most-favored-nation treatment during tariff renegotiations. Many of these waivers were granted in connection with the implementation of the Harmonized System (see section on the Committee on Tariff Concessions). However, in 1990 one waiver was noted especially for marking the unification of Western and Eastern Germany.

EC Waiver for German Unification

On October 3, 1990, the EC announced the unification of Germany and noted that trade with the former German Democratic Republic (GDR) fell under GATT rules from that date. The EC also noted its adoption of transitional measures to maintain trade between the former GDR and its Eastern European trade partners. One measure was duty-free tariff quotas, whereby a certain volume of imports is permitted

⁹⁷ Taiwan has also indicated informally that it would like to join the GATT. Taiwan would likely accede to the GATT through art. XXXIII under the name of "Separate Tariff Territories of Taiwan, Penghu, Kinmen and Matsu Islands" because the United Nations General Assembly voted in 1971 to recognize the Peoples Republic of China (PRC) as the sole legitimate Chinese Government. See T.Y. Wang, "Taiwan's GATT Membership - Fully Deserved, Yet Elusive," *Christian Science Monitor*, Mar. 4, 1991, p. 19.

⁹⁸ GATT, "GATT Membership Reaches Ninety-Nine," press release No. 1490, Sept. 20, 1990.

⁹⁹ GATT, *GATT Focus*, No. 71, May-June 1990, p. 1.

duty-free entry but imports exceeding this limit must pay established tariff rates. Another was quantitative restrictions for trade from European COMECON countries identical in amount to previous GDR trade agreements.¹⁰⁰

On November 7, 1990, the EC requested a temporary waiver of its obligations under GATT article I:1.¹⁰¹ GATT signatories granted this waiver at the 46th Session of the Contracting Parties, held December 13, 1990, by a vote of 56 in favor, three against,¹⁰² and five abstentions.¹⁰³ The waiver is effective from October 3, 1990, through December 31, 1992. It will permit the EC to grant duty-free treatment to certain imports from Eastern Europe¹⁰⁴ and the Soviet Union for the quantities and values stipulated in trade agreements signed by the former German Democratic Republic. The waiver is aimed at maintaining existing trade flows and facilities between this part of unified Germany and the Eastern European and Soviet signatories to trade agreements with the former GDR.¹⁰⁵

Trade Policy Review Mechanism

The Trade Policy Review Mechanism (TPRM) was initiated provisionally following the April 1989 Mid-Term Review of the Uruguay Round as part of the agreements reached in the Negotiating Group on Functioning of the GATT System (FOGS). In 1990, the GATT Council reviewed the trade policies of Sweden and Colombia under the TPRM in June.¹⁰⁶ In July and August 1990, additional reviews were held of the trade policies of Canada, Hong Kong, Japan, and New Zealand.¹⁰⁷ Future reviews are scheduled for the EC, Hungary, and Indonesia (April 1991); Bangladesh, Chile, and Thailand (June 1991); Norway, Switzerland, and Nigeria (September 1991); and Argentina, Austria, Finland, Ghana, Singapore, and the United States once again (December 1991).¹⁰⁸ The United States¹⁰⁹ was one of the first countries reviewed under the TPRM in December 1989, along with Australia and Morocco.¹¹⁰

Implementation of the Tokyo Round Agreements

The operation¹¹¹ in 1990 of the Tokyo Round agreements and arrangements (informally referred to

¹⁰⁰ GATT, *GATT Focus*, No. 75, October 1990, p. 2.

¹⁰¹ GATT, *GATT Focus*, No. 76, November 1990, p. 4.

¹⁰² The United States, Japan, and Hong Kong.

¹⁰³ GATT, *GATT Focus*, No. 77, December 1990, p. 6.

¹⁰⁴ Bulgaria, Czechoslovakia, Hungary, Poland, Romania, and Yugoslavia.

¹⁰⁵ GATT, *GATT Focus*, No. 76, November 1990, p. 4.

¹⁰⁶ GATT, *GATT Focus*, No. 72, July 1990, pp. 1, 6-9.

¹⁰⁷ GATT, *GATT Focus*, No. 74, September 1990, pp. 2-12.

¹⁰⁸ *Ibid.*, p. 2.

¹⁰⁹ For a discussion of the review of U.S. trade policies in December 1989, see USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 52.

¹¹⁰ GATT, *GATT Focus*, No. 68, February 1990, pp. 15-16.

¹¹¹ The Tokyo Round Codes entered into force on Jan. 1, 1980, with the exception of the Government Procurement and Customs Valuation Codes, which became effective 1 year later, on Jan. 1, 1981. The United States and the EC implemented the Customs Valuation Code earlier, on July 1, 1980.

as the Tokyo Round Codes)¹¹² is described in the following section. Negotiated in the Tokyo Round of multilateral trade negotiations (MTN), six of these agreements set out Codes of conduct governing the use of nontariff measures (antidumping, subsidies and countervailing duties, government procurement, standards, import-licensing procedures, and customs valuation) and three are sectoral agreements (bovine meat, dairy products, and civil aircraft). Committees or councils¹¹³ administer their respective Codes.¹¹⁴ GATT members are not required to join the Codes, and a number have chosen not to do so. Non-members may join the Codes, and signatories to the Codes are not obliged to extend the benefits of a Code to nonsignatories. For this reason, Code signatories have sought to assess the operation of the agreements since they began and encourage more GATT members to join, particularly by improving their operation.¹¹⁵ Membership in each of the Codes in 1990 is shown in table 6.

Code on Subsidies and Countervailing Duties

The Code on Subsidies and Countervailing Duties¹¹⁶ elaborates on provisions in the General Agreement concerning the use of subsidies and countervailing measures. The Code provides a mechanism to oversee the international use of subsidies and countervailing measures through a process of notification and review of the subsidy programs of its signatories. It sets guidelines for resort to subsidies and CVD measures and creates rights and obligations to ensure that subsidy practices of one member do not injure the trading interests of another. The Subsidies Code also provides dispute-settlement procedures.

¹¹² The nine Code are informally known as the Anti-Dumping Code, the Code on Subsidies and Countervailing Measures or Subsidies Code, the Government Procurement Code, the Standards Code, the Customs Valuation Code, the Import Licensing Code, the International Meat Arrangement, the International Dairy Arrangement, and the Civil Aircraft Code. They are published in GATT, *Basic Instruments and Selected Documents*, supp. 26, Geneva, March 1980, pp. 8-188.

¹¹³ The International Meat and Dairy Arrangements are carried out by the International Meat Council and the Dairy Products Council, respectively.

¹¹⁴ The committees or councils are made up of signatories to their Code. The committees are charged with carrying out Code provisions and holding meetings on a regular basis, at least twice a year. Special meetings may also be convened to address a particular problem raised by a signatory. The committees address questions on interpretation of Code provisions and Code-related disputes among signatories.

¹¹⁵ Improvement of the Codes is the primary focus of the Negotiating Group on the MTN Agreements and Arrangements in the Uruguay Round. For a summary of 1990 negotiations in this group, see ch. 1.

¹¹⁶ Countervailing duties (CVD) are measures imposed by countries on imports to offset a domestic or export subsidy that unfairly benefits an export product. If subsidized exports from one signatory cause material injury to the domestic industry of another signatory, the injured party may either impose a countervailing duty to offset the subsidy or request that the exporting country eliminate or limit the effect of the subsidy. The Code also provides a procedure for signatories to redress cases where subsidized exports from one signatory displace exports from another in third-country markets. USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 55.

The Committee on Subsidies and Countervailing Measures oversees operation of the Code. The Subsidies Code entered into force in 1980 with 18 members and reached 25 signatories in 1990.¹¹⁷ (Yugoslavia has signed the Code, although its acceptance is pending national ratification.) In 1990, Colombia moved to full Code membership from its previous observer status, bringing membership to 25 signatories.¹¹⁸ Difficulties in application and interpretation of Code provisions have led Code signatories, as well as other GATT members, to examine the broader issue of subsidies and related items in the Uruguay Round negotiations. Notable in this regard are the Negotiating Groups on Subsidies and Countervailing Measures, on Dispute Settlement, and on MTN Agreements and Arrangements, as well as in other groups.

Notification and Review

In 1990, the Committee examined notifications made to it concerning national countervailing-duty laws and regulations, circulated reports submitted on actual countervailing-duty actions, and continued its review of subsidy notifications made to it.¹¹⁹

Of the 25 Code signatories, 22 submitted national CVD laws for committee review in 1990.¹²⁰ The Committee began examination of new notifications from Australia, Canada, and New Zealand of amendments to their national CVD laws or regulations. It concluded reviews of legislation of Brazil, the United States, and Korea and will continue with its examination of legislation of Turkey. The Committee also discussed during 1990 the procedures in the United States for initiating CVD investigations.

The Code requires signatories to submit reports semiannually on all CVD actions taken during the prior 6 months.¹²¹ In the first half of 1990, the Committee received notice that no action had been taken by the following signatories: Austria, Brazil, Chile, Colombia, the EC, Finland, Hong Kong, Japan, Korea, New Zealand, Norway, Sweden, Switzerland, Turkey, and Yugoslavia. Australia, Canada, and the United States notified CVD actions; no notice had come from remaining members. The Committee developed a standard form for these notifications during 1990.

The Committee also continued examination of the 1987 subsidy notifications made to it under article XVI:1.¹²² Notifications were last required in 1987,

¹¹⁷ GATT, *GATT Activities 1981*, Geneva, June 1982, pp. 60-61.

¹¹⁸ GATT, *Report (1990) of the Committee on Subsidies and Countervailing Measures*, doc. No. L/6762, Nov. 14, 1990. For a listing of the signatories, see table 6.

¹¹⁹ *Ibid.*

¹²⁰ Under Subsidies Code art. 19:5, signatories are required to notify the Committee of their CVD laws and/or regulations or of amendments to these rules.

¹²¹ This requirement is specified in Subsidies Code art. 2:16.

¹²² GATT art. XVI:1 requires signatories to the General Agreement to notify in writing the nature and extent of subsidization, its estimated effect, and circumstances requiring

with full notifications again due in 1990. While virtually all signatories had submitted notifications for their 1987 obligations, the Committee will hold a special meeting to examine compliance concerning

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it. In practice, GATT members are to respond once every 3 years to a questionnaire from the Committee on Subsidies and Countervailing Measures concerning its subsidy programs and to update these notifications in the intervening years. GATT, "Text of the General Agreement," *Basic Instruments and Selected Documents*, vol. IV, Geneva, 1969, and USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 57.

the new and full notifications due in 1990.¹²³ A summary of semiannual reports on CVD actions taken in 1990 appears in table A-1, except for the report of the United States.¹²⁴

¹²³ GATT, *Report (1990) of the Committee on Subsidies and Countervailing Measures*, doc. No. L/6762, Nov. 14, 1990.

¹²⁴ U.S. CVD actions are discussed and listed separately in ch. 5.

Table 6
Signatories to the Tokyo Round agreements: Status as of Dec. 31, 1990

(Accepted (A); signed, acceptance pending (S); provisional acceptance (P); new member 1990(*))

Countries	Standards	Govt procurement	Subsidies	Bovine meats	Dairy products	Customs valuation	Import licensing	Civil aircraft	Anti-dumping
Contracting Parties:									
Argentina	S			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 ¹			
Brazil	A		A	A		A ¹			A
Canada	A	A	A	A		A ¹	A	A	A
Chile	A		A				A		
Colombia			A*	A					
Cyprus						A			
Czechoslovakia	A ¹					A	A		A
Denmark	A ¹							A ¹	
Egypt	A		A	A	S		A	A	A
EC ²	A	A	A	A	A	A	A	A	A
Finland	A	A	A	A	A	A	A		A
France	A							A ¹	
Germany	A ¹							A	
Greece	A							S	
Hong Kong ³	A	A	A			A	A		A
Hungary	A ¹			A	A	A	A		A
India	A		A			A ¹	A		A
Indonesia			A ¹						
Ireland	A							A	
Israel	A*	A	A ¹						
Italy	A							A	
Japan	A	A	A	A	A	A	A	A	A
Korea	A		A			A ¹			A
Lesotho						A ¹			
Luxembourg	A							A	
Malawi						A ¹			
Mexico	A					A ¹	A		A
Netherlands	A							A	
New Zealand	A		A	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	S	A		A
Portugal	A							A	
Romania	A			A	A	A	A	A	A
Rwanda	S								
Singapore	A	A					A		A
South Africa				A	A	A	A		
Spain	A							A	A
Sweden	A	A	A	A	A	A	A	A	A
Switzerland	A	A	A	A	A	A	A	A	A
Tunisia	A ¹			A					
Turkey			A			A ¹			

See footnotes at end of table.

Table 6—Continued
Signatories to the Tokyo Round agreements: Status as of Dec. 31, 1990

(Accepted (A); signed, acceptance pending (S); provisional acceptance (P); new member 1990(*)

Countries	Stand-ards	Gov't procure-ment	Subsi-dies	Bovine meats	Dairy prod-ucts	Customs valu-ation	Import licen-sing	Civil air-craft	Anti-dump-ing
United Kingdom . . .	A ¹							A ¹	
United States	A	A		A		A	A	A	A
Uruguay			A	A	A				
Yugoslavia	A		S	A		A	A		A
Zimbabwe						A ¹			
Noncontracting Parties:									
Bulgaria				A	A				
Guatemala				A ¹					
Paraguay				P					
Total signatories	40	12	25	27	16	29	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.

Source: The GATT.

Consultations and Dispute Settlement

The Committee heard no new dispute-settlement cases in 1990 but continued attempts at resolving cases still pending before it.¹²⁵ These cases were (1) EC subsidies on export of wheat flour, (2) EC subsidies on export of pasta products, (3) U.S. definition of "industry" concerning wine and grape products, (4) Imposition by Canada of countervailing duties on imports of boneless manufacturing beef from the EC, and (5) U.S. countervailing duties on nonrubber footwear from Brazil.¹²⁶ These reports, though separate, remained unadopted primarily due to refusal by the losing party to join in a consensus adoption. Difficulties such as report adoption and implementation have led to efforts in the Uruguay Round to elaborate this and other issues concerning subsidies.¹²⁷

The Committee was twice asked in 1990 to undertake conciliation efforts under Code article 17:1. In the first case, the United States asked for conciliation attempts with Germany over an exchange-rate insurance scheme as applied to the Deutsche Airbus. In the second case, the EC asked the Committee for conciliation attempts with Australia on export subsidies to photographic film producers. In March 1991, the Committee agreed to establish a panel under the Subsidies Code to examine the U.S. complaint concerning Deutsche Airbus.¹²⁸

¹²⁵ GATT, *Report (1990) of the Committee on Subsidies and Countervailing Measures*, doc. No. L/6762, Nov. 14, 1990.

¹²⁶ GATT, *GATT Activities 1989*, Geneva, June 1990, pp.

103, 120.

¹²⁷ *Ibid.*

¹²⁸ *Financial Times*, Mar. 12, 1991, p. 4

Group of Experts on the Calculation of a Subsidy

The Group of Experts¹²⁹ is charged with resolving differences in signatories' interpretations on the calculation of the amount of a subsidy. The Committee agreed in June 1987 to suspend activities of the group, primarily because of the demands of the Uruguay Round on several of its members. The Committee agreed to reconvene the group as necessary.¹³⁰

Antidumping Code

The Antidumping Code¹³¹ elaborates provisions of GATT article VI that set out conditions for the use of antidumping duties to counteract the effect on domestic industry of imports that are being

¹²⁹ The Committee on Subsidies and Countervailing Measures set up two groups of experts in May 1980 to help settle highly technical issues left unresolved during the Tokyo Round. One group dealt with "related" exporters and importers. The second group was to develop criteria for the calculation of the amount of a subsidy to clarify coverage under the Subsidies Code. GATT, *GATT Activities 1980*, Geneva, April 1981, p. 11; and GATT, *GATT Activities 1981*, Geneva, June 1982, p. 10.

¹³⁰ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 58.

¹³¹ The Antidumping Code negotiated during the Tokyo Round replaces the one negotiated during the 1964-67 Kennedy Round, known formally as the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade. This revised Antidumping Code brought a number of Code provisions into line with the Code on Subsidies and Countervailing Duties negotiated in the Tokyo Round. Notable issues among these provisions were determination of injury, price undertakings between exporters and the importing country, and the imposition and collection of antidumping duties. GATT, *GATT Activities 1979*, Geneva, April 1980, p. 25.

"dumped."¹³² The Code provides for surveillance of the use of antidumping measures in the international trading system through its notification and review procedures. It prescribes the proper conduct for antidumping investigations and for the imposition of antidumping duties based on provisions of the General Agreement.¹³³ The Code sets out guidelines for the use of these measures and related practices, such as retroactive application of antidumping duties and price undertakings.¹³⁴ The Code also provides dispute-settlement procedures for use between signatories, when needed. In addition, the Code contains provisions that obligate industrial countries to give special consideration to the developing countries before applying antidumping duties.¹³⁵

The Committee on Anti-Dumping Practices is composed of signatories to the Code and oversees the activities of the Code. The Code entered into force in 1980 with 18 full members. In 1990, there were 25 signatories.¹³⁶

Notification and Review

The Committee reviews submissions from signatories concerning their national antidumping legislation and regulations.¹³⁷ By October, 23 signatories had notified the Committee concerning their antidumping legislation or forthcoming changes.¹³⁸ During the year, the Committee received new submissions to examine amendments to antidumping legislation from Australia,¹³⁹ Canada,¹⁴⁰ New Zealand,¹⁴¹ and the United States.¹⁴² The Committee also continued its review of previous notifications of amend-

ments from Australia,¹⁴³ Brazil,¹⁴⁴ the EC,¹⁴⁵ Korea,¹⁴⁶ and the United States.¹⁴⁷ The Committee completed its examination of several pieces of Mexican legislation.¹⁴⁸

The Committee also monitors actual antidumping action as reported by signatories every 6 months.¹⁴⁹ Egypt, Hong Kong, Hungary, Norway, Poland, Romania, Singapore, Switzerland, and Yugoslavia reported no antidumping activity in their notifications for the first half of 1990. Antidumping action was notified by Australia, Brazil, Canada, the EC, Finland, Korea, Mexico, New Zealand, and the United States. Remaining signatories have not yet submitted their notices. A summary of semiannual reports on antidumping actions taken in 1990 appears in table A-2, except for the report of the United States.¹⁵⁰

Consultations and Dispute Settlement

At a special meeting called in September 1990, the Committee established a panel¹⁵¹ to hear a dispute concerning antidumping duties applied by Australia on imports of power transformers from Finland.¹⁵² At the meeting, the Committee continued discussions of the report from a panel established in January 1989 regarding the imposition of antidumping duties by the United States on imports of seamless stainless steel hollow products from Sweden. The panel had reported in August 1990 with recommendations that the U.S. duty be revoked and reimbursed. The United States told the Committee that it had no substantial problem with the report but made clear its concern was the specific remedy recommended. The usual procedure is for governments to determine how to implement panel recommendations.¹⁵³

At its October meeting, the Committee was informed of consultations¹⁵⁴ requested by Mexico and

¹³² Dumped goods are broadly considered imports sold at prices below those prevailing in the domestic market where the goods originate.

¹³³ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 61.

¹³⁴ 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." USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 62.

¹³⁵ There is also an Ad Hoc Group on the Implementation of the Anti-Dumping Code, although it did not meet in 1990. The ad hoc working group was established in 1982 to examine certain technical problems identified since the revised Anti-Dumping Code took effect Jan. 1, 1980. GATT, *GATT Activities 1982*, Geneva, April 1983, p. 30. These issues have included: transparency of AD procedures, how to determine "threat of material injury," constructed value, cumulative injury assessment, price undertakings by developing countries, and undertaking revision and termination. GATT, *GATT Activities 1983*, Geneva, June 1984, p. 15; GATT, *GATT Activities 1985*, Geneva, June 1986, p. 25; and GATT, *GATT Activities 1986*, Geneva, June 1987, p. 33.

¹³⁶ For a listing of the signatories, see table 6.

¹³⁷ Antidumping Code art. 16:6 requires members to notify the Committee of their domestic antidumping legislation.

¹³⁸ GATT, *Report (1990) of the Committee on Anti Dumping Practices*, doc. No. L/6764, Nov. 15, 1990.

¹³⁹ Customs Legislation (Anti-Dumping) Amendment Act 1989 and Customs Tariff (Anti-Dumping) Amendment Act 1989, and Trade Practices (Misuse of Trans-Tasman Market Power) Act 1990.

¹⁴⁰ Special Import Measures Act and Regulations implementing that act, as amended.

¹⁴¹ Dumping and Countervailing Duties Amendment Act 1990.

¹⁴² Interim-final rules implementing certain provisions of the Omnibus Trade and Competitiveness Act of 1988.

¹⁴³ Anti-Dumping Authority Act 1988, Customs Legislation (Anti-Dumping) Amendments Act 1988, Customs Tariff (Anti-Dumping) Amendments Act 1988.

¹⁴⁴ Customs Policy Resolution No. 00-1582.

¹⁴⁵ Council Regulation (EEC) No. 2423/88 of 11 July 1988 on Protection Against Dumped or Subsidized Imports From Countries not Members of the European Economic Community.

¹⁴⁶ Amendments to the Presidential Decree implementing the antidumping-duty provisions of the Korean Customs Act.

¹⁴⁷ Antidumping-duty provisions of the Omnibus Trade and Competitiveness Act of 1988 and of the Canada-United States Free-Trade Agreement Implementation Act of 1988, and revised antidumping duty regulations (U.S. Department of Commerce).

¹⁴⁸ Mexican Foreign Trade Regulatory Act Implementing Article 131 of the Constitution of the United Mexican States, Regulations Against Unfair International Trade Practices, and the Decree Amending and Supplementing the Regulations Against Unfair International Trade Practices.

¹⁴⁹ Antidumping Code Article 14:4 requires signatories to submit reports semiannually of any antidumping action taken in the prior 6-month period.

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

¹⁵¹ Under Antidumping Code art. 15:5.

¹⁵² GATT, *Report (1990) of the Committee on Anti-Dumping Practices*, doc. No. L/6764, Nov. 15, 1990.

¹⁵³ GATT, *GATT Focus*, No. 77, December 1990, p. 6.

¹⁵⁴ Under Antidumping Code art. 15:2.

Canada with the United States concerning an anticircumvention inquiry by the United States on color television picture tubes. The Committee was also informed of consultations requested by Mexico with the United States concerning the imposition of U.S. antidumping duties on imports of cement and cement clinker from Mexico.

Other subjects discussed in the Committee during the year covered U.S. antidumping duties on imports of antifriction bearings from Sweden, EC antidumping duties on imports of compact disc players from Japan and Korea, U.S. procedures for conducting administrative reviews of antidumping duties, EC antidumping proceedings concerning halogen lamps and audiocassettes and tapes from Japan, and Korean antidumping proceedings on imports of polyacrylamide from France, the United Kingdom, and Germany.

Customs Valuation Code

The Customs Valuation Code sets out a single set of rules to determine the customs value of imported goods. The Code details rules to guide customs officials in determining the value of imports for use as a basis for assessment of ad valorem customs duties. The rules laid down in the Code aim to promote a fair, uniform, and neutral system of valuation and to preclude arbitrary or fictitious values.¹⁵⁵ The Code makes customs valuation provisions in the General Agreement more precise.¹⁵⁶ To date, the Code has already made national valuation systems more standardized when compared with the many different systems operating at the time of the Tokyo Round. More harmonized valuation procedures have led to greater predictability in the customs costs faced by traders and has thus helped to reduce risk and promote international trade.¹⁵⁷

The Customs Valuation Code took effect January 1, 1981. The United States and the EC implemented the Code earlier, on July 1, 1980. The Code had 16 original signatories, plus two additional signatories pending ratification. The Code had 29 signatories by 1990 (Poland's, acceptance awaits national ratification.)¹⁵⁸

¹⁵⁵ The Code establishes a set of rules for valuation of imports that revise and expand existing customs valuation provisions under the General Agreement. The Code provides five valuation methods to be used in sequence by customs officials in all signatory countries; that is, the second method may be used only if information is lacking to use the first valuation method and so on. See GATT, "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade and Protocol," *Basic Instruments and Selected Documents*, supp. 26, Geneva, March 1980, pp. 116-153.

¹⁵⁶ The Customs Valuation Code aims to set a fair, uniform, and neutral system for the valuation of goods for customs purposes, based on GATT art. VII. GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 42, Oct. 24, 1990, p. 4.

¹⁵⁷ GATT, *GATT Activities 1989*, Geneva, June 1990, p. 123.

¹⁵⁸ GATT, *Report (1990) of the Committee on Customs Valuation*, doc. No. L6761, Dec. 7, 1990. For a listing of the signatories, see table 6.

Technical Committee

The Committee on Customs Valuation held one meeting, in March 1990.¹⁵⁹ At the meeting, the Technical Committee reported on its recent work to improve the Code.

Customs Code Improvements

In October 1990, several improvements to the Customs Valuation Code were announced as part of the Uruguay Round negotiations.¹⁶⁰ These improvements resulted from technical work completed on several texts that address difficulties encountered by developing countries that apply or wish to join the Customs Valuation Code.¹⁶¹ Availability of these ad referendum texts aims at facilitating accession to, or application of, the Code for such countries.¹⁶²

Agreement on Import Licensing Procedures

In 1990, the Committee on Import Licensing held two meetings—in May and in October. The Committee has held 27 regular meetings since the agreement entered into force. The Agreement on Import Licensing Procedures entered into force on January 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.

The number of signatories remained unchanged, at 27, during the year under review.¹⁶³ An additional 27 governments have observer status in the Committee, whose meetings are also attended by the International Monetary Fund (IMF) and the United Nations Commission on Trade and Development (UNCTAD), in their capacity as observers.

At both 1990 meetings, the Committee took note of certain signatories' replies to GATT questionnaires on import licensing and of signatories' publications containing information on their import-licensing procedures. A proposal on strengthening the Import Licensing Code, introduced by the United States and Hong Kong in September 1989,¹⁶⁴ was also addressed. In addition, the Committee continued its

¹⁵⁹ *Ibid.*

¹⁶⁰ For a discussion of Uruguay Round negotiations, see ch. 1.

¹⁶¹ GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 42, Oct. 24, 1990, p. 4.

¹⁶² One decision allows customs officials to require further proof from importers that the value declared represents the total amount actually paid or payable. Another text sets out a 5-year transition period in which developing countries may retain valuation systems with officially fixed prices, not otherwise allowed under Code provisions. GATT, "News of the Uruguay Round of Multilateral Trade Negotiations," press release No. 42, Oct. 24, 1990, p. 4.

¹⁶³ For a listing of the signatories, see table 6.

¹⁶⁴ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 65.

discussion on the relationship of its work to the Uruguay Round.

Standards Code

The Standards Code, formally known as the Agreement on Technical Barriers to Trade (TBT), entered into force on January 1, 1980. The purpose of the Code is to ensure that technical regulations and product standards¹⁶⁵ do not create unnecessary obstacles to trade.¹⁶⁶ In 1990, Israel joined the Standards Code, bringing membership to 40 signatories.¹⁶⁷

In October 1990, a draft text revising the Agreement on Technical Barriers to Trade was tentatively agreed to by the Uruguay Round Negotiating Group on MTN Agreements and Arrangements. The revised draft Code broadens the scope of the agreement with the hope of minimizing the trade-distorting impact of technical requirements on agricultural and industrial goods. Among the changes to the Code were a clarification of language on the definition of "unnecessary obstacle to trade"; expanding the Code's coverage to processes and production methods (PPMs);¹⁶⁸ provisions that obligate parties to permit acceptance of the results of conformity-assessment procedures conducted by other parties as long as they agree that they are satisfied that the results offer a degree of assurance comparable to their own;¹⁶⁹ requirements that parties use international standards and assessment procedures unless such standards are inappropriate or insufficient; and strengthened obligations relating to regional standardsmaking activities.¹⁷⁰

¹⁶⁵ Compliance with a technical regulation is mandatory, and compliance with product standards is voluntary. Both technical regulation and standards are terms referring to a technical specification for a product, which includes any of the following: (a) the specification of the characteristics of the 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).

¹⁶⁶ 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 certification systems that may affect trade.

¹⁶⁷ USTR, *1991 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, 1991, p. 46. For a listing of the signatories, see table 6.

¹⁶⁸ PPMs are requirements based on the process or production method utilized rather than the end-product characteristics. PPMs are often used where products undergo frequent innovation, such as in pharmaceuticals and chemicals, in the case of agricultural products, and for products where it is difficult or impracticable to test conformance of products. See USITC, "Standards Code Set for Improvement," *International Economic Review*, December 1990, pp. 8-10.

¹⁶⁹ See paragraphs below for discussion of this issue.

¹⁷⁰ USITC, "Standards Code Set for Improvement," *International Economic Review*, December 1990, pp. 8-10.

In tandem with the Uruguay Round Negotiating Group on MTN Agreements and Arrangements,¹⁷¹ the Committee on Technical Barriers to Trade, which administers the Code, met seven times in 1990 to discuss proposed improvements and problems in implementation of the Code, to exchange information, and to handle administrative matters. The main focus of the Committee's discussions in 1990 was strengthening and expanding the Standards Code in support of the Uruguay Round.¹⁷² Discussions of proposals submitted in 1989 continued. The proposals addressed four major areas: conformity-assessment procedures, processes and production methods, second-level obligations (non-central government and private sector entities), and transparency and information exchange.

Four topics were set aside by the Standards Code Committee for consideration by negotiators in the Uruguay Round Negotiating Group on MTN Agreements and Arrangements. Although tentative agreement was reached on two of the issues at the Brussels ministerial, it was acknowledged that further work needed to be done on the relationship of the agreement to GATT dispute-settlement procedures and to a new arrangement on sanitary and phytosanitary measures being discussed in the Negotiating Group on Agriculture. One issue of substance that remained unresolved was the issue of expanding the obligations of central governments with respect to state and local government entities. The EC and Nordic countries favored expanding the obligations of central governments regarding the activities of state and local ones, but the United States, Canada, and other members opposed expanding the obligations because it could result in increased administrative burdens for U.S. States and localities imposing technical requirements such as building codes and food-labeling laws. This issue was not resolved in Brussels. The legal form of the agreement was another issue that remained unresolved.¹⁷³

The Committee had further discussions during 1990 on the improvement, clarification, and expansion of the agreement in the area of conformity assessment. The United States has been concerned that the Code does not require acceptance of test data generated by foreign laboratories. This means that U.S. suppliers must repeat tests that have already been conducted in the United States in order to export their products to another signatory. Their products may also be subject to numerous inspections and certifications for the same product. In addition, the EC has insisted that any agreement on the mutual recognition of foreign test results would have to include assurances that EC suppliers be given equivalent market

¹⁷¹ The purpose of the Negotiating Group is to negotiate improvements to previous GATT Codes and Agreements.

¹⁷² See USITC, *OTAP, 39th Report, 1987*, USITC publication 2095, July 1988, p. 2-23, and USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 60.

¹⁷³ USITC, "Standards Code Set for Improvement," *International Economic Review*, December 1990, pp. 8-10, and Louis J. Murphy, "Brussels Ministerial Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions," *Business America*, vol. 112, no. 1, Jan. 14, 1991, p. 13.

opportunities in foreign markets.¹⁷⁴ The revised draft Code agreed to by the Uruguay Round negotiators did not include the EC reciprocity criteria and addressed other U.S. concerns regarding conformity assessment.¹⁷⁵

The Committee continued to discuss a proposal to extend coverage of the Code to PPMs. Currently, PPMs are not subject to any of the Code's provisions relating to transparency and notification, and they have been a subject of longstanding concern by some signatories who view them as potential technical barriers to trade. PPMs are only referenced in the dispute-settlement provision of the Code.¹⁷⁶ Two disputes involving PPMs have previously been investigated by the Committee.¹⁷⁷ In 1990, the Committee heard details of a New Zealand proposal (which is based on a 1988 U.S. proposal) including the concept of equivalency for PPMs as it relates to conformity assessment¹⁷⁸ and amending the definition of technical specifications to include PPMs.¹⁷⁹ It was noted that sanitary and phytosanitary regulations were being discussed in the Negotiating Group on Agriculture and that consistency among proposals was desirable. The text agreed to in October broadens the scope of the agreement to include PPMs.

The Committee considered three proposals aimed at strengthening second-level obligations under the Code.¹⁸⁰ One proposal was put forth by the EC re-

¹⁷⁴ Five proposals were considered by the Committee to improve the Code's provisions on testing, certification, and assessment of conformity. These included a Nordic proposal on testing and inspection, a U.S. proposal on product-approval and accreditation procedures, a Canadian proposal on certification systems, an EC proposal on conformity-assessment procedures, and a Japanese proposal on the drafting process for technical regulations, standards, and certification systems by central government bodies.

¹⁷⁵ USITC, "Standards Code Set for Improvement," *International Economic Review*, December 1990, pp. 8-10.

¹⁷⁶ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990.

¹⁷⁷ For a more detailed discussion of these cases involving an EC directive for spin chilling of poultry and the EC's ban on growth hormones in beef, see USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 61, and USITC, *OTAP, 38th Report, 1986*, USITC publication 1995, July 1987, pp. 2-20.

¹⁷⁸ The differences and incompatibility of methods of production in different countries were cited as important reasons for establishing a principle of equivalency for PPMs. However, concerns were expressed that such requirements could effectively exclude goods that were made by different processes with equivalent effects.

¹⁷⁹ The United States and New Zealand had each submitted proposals in 1989 for dealing with PPMs.

¹⁸⁰ These obligations concern the standardization, testing and certification activities of state and local government and nongovernmental bodies that are covered only indirectly by the Standards Code, inasmuch as the Standards Code imposes direct legal obligations only on central government bodies involved with standards. These "second level" or "second tier" obligations are thus effective only on a "best efforts" basis, although increased reliance by governments on standards developed by the private sector and by state and local authorities is leading to calls for stronger second-level obligations. See USITC, *Operation of the Trade Agreements Program, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 61; and USITC, *The Effects of Greater Economic Integration Within the European Community on the United States: First Follow-Up Report*, USITC Publication 2268, March 1990.

garding a code of good practice for the preparation, adoption, and application of standards by central governments, state and local governments, and nongovernmental bodies and regional standards organizations. The Committee agreed to request that the Central Secretariat for the International Standards Organization (ISO) prepare a feasibility study on implementation of a country code of good practice. A U.S. proposal that was considered by the Committee covered transparency in regional standards activities only. The text agreed to in October included a modified version of the EC's proposed code of good practice as an annex to the agreement. Central governments would be obliged to conform with the code of good practice, and to rely only on regional and private standards developed by organizations complying with the code when imposing binding regulations. They would also be required to exert best efforts to ensure compliance with the code by private and regional standards bodies and local government authorities in their territories. Another EC proposal dealt with notification of technical regulations by local government bodies.

The Committee continued to examine provisions of the agreement relating to transparency and discussions were held on five proposals submitted in 1989.¹⁸¹ Parties exchanged views on a U.S. proposal for improved transparency in bilateral standards-related agreements. This proposal includes requirements for notifications of standards-related agreements under the notification procedures. The United States has been particularly concerned about the possibility that U.S. suppliers could be disadvantaged if they are not able to participate or obtain information from the EC's regional standards bodies in conjunction with EC's 1992 standardsmaking activities. The revised draft Code agreed to by the Uruguay Round negotiators obligates parties to ensure that regional bodies operate in accordance with Standards Code principles. A voluntary code of good practices included as an annex to the agreement prohibits such bodies from taking actions inconsistent with general principles of transparency and nondiscrimination. In addition, the draft text encourages regional bodies to provide adequate notice of standards-drafting work and reasonable opportunity for comment.¹⁸²

In April, the Committee agreed to discuss the redrafting of Article 10—Publication and Administration of Trade Regulations—based on a Nordic proposal. The Nordic proposal incorporates recommendations previously agreed to by the Committee regarding the timing of notifications, the functions of inquiry points, and responsibilities for notification procedures. Also, in conjunction with the redraft of article 10, the Committee discussed a proposal by India concerning the ability of signatories to request translations of notified documents in one of the GATT languages.

¹⁸¹ For a listing of these proposals, see USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 60.

¹⁸² USITC, "Standards Code Set for Improvement," *International Economic Review*, December 1990, p. 9.

International Dairy Arrangement

The primary objective of the GATT International Dairy Arrangement (IDA) is to expand and liberalize world trade in dairy products to the mutual benefit of exporting and importing countries, under relatively stable market conditions.¹⁸³ The objective is also to further the economic and social development in developing countries.¹⁸⁴

The International Dairy Products Council oversees the arrangement, and a committee¹⁸⁵ supervises each of the three protocols annexed to the arrangement. These are the (1) Protocol Regarding Certain Milk Powders, (2) Protocol Regarding Milk Fat, Including Butter, and (3) Protocol Regarding Certain Cheeses. These protocols set out minimum export prices¹⁸⁶ for dairy products, taking into account the current market situation, consumer price concerns, and the needs of the most efficient producers for a minimum level of return.¹⁸⁷ The Council meets twice a year to evaluate the world market situation for dairy products based on background information established by the GATT Secretariat. The Council also reviews the functioning of the arrangement.¹⁸⁸

The arrangement had 16 signatories as of December 1990, with no new members joining during 1990.¹⁸⁹ The Council held two meetings during the year to evaluate¹⁹⁰ the world dairy market situation

¹⁸³ The IDA aims "to achieve expansion and ever greater liberalization of world trade in dairy products under market conditions as stable as possible, on the basis of mutual benefit to exporting and importing countries." GATT, "New Minimum Prices Set for Dairy Products," press release No. 1464, Sept. 20, 1989.

¹⁸⁴ GATT, "Falling Prices and Rising Export Stocks Unsettle World Dairy Market," press release No. 1495, Nov. 27, 1990, p. 3.

¹⁸⁵ The Committee of the Protocol Regarding Certain Milk Powders, the Committee of the Protocol Regarding Milk Fat, and the Committee of the Protocol Regarding Certain Cheeses. GATT, *GATT Activities 1989*, Geneva, June 1990, p. 127.

¹⁸⁶ Minimum export prices under the IDA were last set in September 1989, taking effect Sep. 20, 1989. The Committee of the Protocol Regarding Certain Milk Powders raised minimum export prices for skimmed milk and buttermilk powder to \$1,200 and for whole milk powder to \$1,250 per metric ton, f.o.b. The Committee of the Protocol Regarding Milk Fat raised the minimum export price for anhydrous milk fat to \$1,625 and for butter to \$1,350 per metric ton, f.o.b. The Committee of the Protocol Regarding Certain Cheeses raised the minimum export price to \$1,500 per metric ton, f.o.b. Previously, minimum prices were set in September 1988 at \$1,050 and \$1,150 for skimmed/buttermilk and whole milk powder, respectively; at \$1,500 and \$1,250 for anhydrous milk fat and butter, respectively; and at \$1,350 for certain cheeses. GATT, "New Minimum Prices Set for Dairy Products," press release No. 1464, Sept. 20, 1989.

¹⁸⁷ GATT, *GATT Activities 1989*, Geneva, June 1990, pp. 126-127.

¹⁸⁸ GATT, "Falling Prices and Rising Export Stocks Unsettle World Dairy Market," press release No. 1495, Nov. 27, 1990.

¹⁸⁹ The United States withdrew from the IDA, effective Feb. 14, 1985. For a discussion of the controversy over reduced-price sales of surplus butter by the EC to the Soviet Union that led to the U.S. withdrawal, see USITC, *OTAP, 36th Report, 1984*, USITC publication 1725, p. 72. For a listing of signatories, see table 6.

¹⁹⁰ The Council bases its evaluation on reports from the protocol committees; on information from participating members, typically concerning dairy production, consumption, and trade, as well as national dairy, food aid, and trade policies; and

and outlook. Following a fairly balanced world market for dairy products in 1989, downward price pressure upset this equilibrium in 1990, particularly for butter and skimmed-milk powder, with sales reportedly being made below the agreed minimum export prices. The GATT Secretariat identified these developments in its annual report¹⁹¹ on the world dairy market.¹⁹²

The Council cautioned participants to observe the agreed minimum prices. The protocol committees expressed concern for the worsened situation, particularly the fragile market for butter. Nonetheless, the committees agreed to maintain the agreed minimum export prices in effect. Notwithstanding the state of the world market for dairy products, the Council concluded that the arrangement was functioning satisfactorily, maintaining order in the world dairy market through its use of export-price disciplines.¹⁹³

Arrangement Regarding Bovine Meat

The Arrangement Regarding Bovine Meat promotes international cooperation towards expansion, liberalization, and stabilization of trade in meat and livestock.¹⁹⁴ The International Meat Council (IMC) supervises the arrangement and evaluates the world market situation for meat products. The Meat Market Analysis Group (MMAG), a subsidiary body set up by the IMC in June 1981, assists the Council in its analysis and evaluation of reports submitted to it on trends in the world meat market. This group of experts meets twice a year, prior to sessions of the International Meat Council.¹⁹⁵

The Arrangement has 27 signatories that cover over 60 percent of world production and consumption and over 90 percent of world exports¹⁹⁶ of fresh, chilled, and frozen beef and veal.¹⁹⁷ Members encompass all major beef exporting and importing countries, with the exception of the U.S.S.R. The arrangement collects and distributes data on meat production and trade and consults on market conditions, as well as provides a forum for discussion of issues raised by members.¹⁹⁸

The IMC held two regular meetings following its 1989 annual report to the GATT Council, in Decem-

¹⁹⁰—Continued

on documentation from the Secretariat. USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 64.

¹⁹¹ GATT, *The World Market for Dairy Products 1990, Eleventh Annual Report*, Nov. 27, 1990.

¹⁹² GATT, "Falling Prices and Rising Export Stocks Unsettle World Dairy Market," press release No. 1495, Nov. 27, 1990.

¹⁹³ *Ibid.*

¹⁹⁴ GATT, "Arrangement Regarding Bovine Meat," *Basic Instruments and Selected Documents*, supp. 26, Geneva, March 1980, pp. 84-90.

¹⁹⁵ GATT, *GATT Activities 1981*, Geneva, June 1982, p. 13.

¹⁹⁶ Exclusive of intra-EC trade. For a listing of signatories, see table 6.

¹⁹⁷ GATT, "Oversupply and Faltering Demand Undermine World Beef Market," press release No. 1503, Feb. 11, 1991, p. 4.

¹⁹⁸ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, pp. 64-65.

ber 1989 and June 1990. The MMAG held more extensive debate on the situation and outlook for world meat markets prior to these meetings, as well as addressed policy questions of special concern to participants. As decided previously at the IMC meeting in June 1989, two informal IMC meetings were held in fall 1989 to discuss possible procedural changes to the arrangement.¹⁹⁹ Whereas the consensus appeared to favor a rationalization of the arrangement's procedural functioning, it also was recognized that formal changes in the operation of the arrangement were unlikely until the impact of the Uruguay Round results became known. As a consequence, participants agreed it might be premature to alter the arrangement's procedures, delegating the IMC Secretariat to ensure that the work at the June 1990 meetings minimized time lost between MMAG and IMC meetings.²⁰⁰

The GATT Secretariat's report for the IMC²⁰¹ noted that production expansion and slowing demand in 1990 led to a 3-percent drop in world exports of beef and veal. General economic slowdown, coupled with the closure of major beef markets due to the Persian Gulf crisis, were major factors in reduced 1990 beef consumption. EC demand was further reduced by concerns over an outbreak of the animal disease bovine spongiform encephalopathy (BSE). The outlook for world beef prices in 1991 is expected to remain weak as production continues to outpace demand.²⁰²

Government Procurement Code

The Government Procurement Code entered its 10th year of operation in 1990.²⁰³ The Code was designed to eliminate one of several nontariff barriers to market access for companies competing abroad. The Code allows suppliers from signatories to compete for certain government contracts tendered by entities that each signatory lists as covered under the Code. Foreign suppliers may compete for these contracts in other signatories on conditions no less favorable than those accorded domestic suppliers. The Code also establishes common procedures to improve transparency by providing information on proposed government purchases, opening and awarding bids, and by helping settle disputes.

The Committee on Government Procurement, which administers the Code,²⁰⁴ met in formal session

¹⁹⁹ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 65.

²⁰⁰ GATT, International Meat Council, doc. No. L/6740, Oct. 19, 1990.

²⁰¹ The GATT Secretariat publishes for the IMC an annual report on the trends in production, consumption, and trade in bovine meat. GATT, *International Markets for Meat 1990/91*, Feb. 11, 1991.

²⁰² GATT, "Oversupply and Faltering Demand Undermine World Beef Market," press release No. 1503, Feb. 11, 1991, p. 4.

²⁰³ For a listing of signatories, see table 6.

²⁰⁴ Government procurement was also discussed as part of the MTN Codes negotiations where Contracting Parties agreed to clarify but not to change Code accession procedures for prospective members. Louis J. Murphy, "Brussels Ministerial

four times in 1990 and five times in its Informal Working Group on Negotiations.²⁰⁵ During 1990, the Committee continued to concentrate on phase 2 of the renegotiation of the agreement as required in article IX:6(b).²⁰⁶ Two major purposes of the renegotiations that began in 1987 are to expand the Code's coverage of goods and to extend the Code to cover service contracts. Signatories to the Code have proposed various means for expanding Code coverage including expanding the Code to subfederal-level procurements and to sectors not covered, such as telecommunications, energy, and transportation.²⁰⁷

The main issue before the Committee in 1990 was extending Code coverage to signatories' utilities sectors. The U.S. and the EC approach to this issue differed. Because of the mix of public, quasi-public, and private firms operating in these sectors among signatories, the EC seeks to extend Code rules to all entities performing public utility-type functions including privately owned firms operating in these sectors. The United States argues that Code disciplines are not needed for privately owned firms since they are ultimately accountable to profit-seeking shareholders and are beyond the scope of an agreement concerned with government procurement.

During June and August the Informal Working Group discussed specific issues that could lead to an overall agreement on government procurement. These issues included criteria for how goods and suppliers gain eligibility for Code benefits, strengthening the rules on the use of offsets and similar conditions, a proposal on how to treat privatizations and nationalizations, the introduction of a bid challenge or protest mechanism, and different means of incorporating services into the Code. Offers and requests from most key signatories for expanding coverage and improving the Code were received by the group

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Inconclusive: GATT Talks Suspended to Allow Countries to Reflect on Positions." *Business America*, Jan. 14, 1991, p. 13.

²⁰⁵ The Informal Working Group was established in 1985 to draft proposals to the Code. Its mandate was expanded in 1987 to include all issues under renegotiation. The group met in January, March, June, October, and November 1990.

²⁰⁶ This article requires signatories to undertake to broaden and improve the agreement no later than 3 years after the Code enters into force. These renegotiations were formally launched at the Committee's November 1983 meeting. They had three main aims: (1) to improve the Code's operation; (2) to explore possible extension of the Code to services and leasing contracts; and (3) to broaden the Code by covering additional entities and/or lowering the minimum contract amount (threshold level) to which the agreement applies. The Committee completed the first phase of renegotiations on Nov. 21, 1986, when it adopted a series of amendments to improve the functioning of the Code, to continue to work toward covering services contracts under the Code, and to increase the number of entities and procurement covered under the Code, in particular in the telecommunications, energy, and transportation sectors. See USITC, *Operation of the Trade Agreements Program*, 39th Report, 1987, USITC Publication 2095, July 1988, pp. 2-21 to 2-22.

²⁰⁷ In 1989, the Committee decided on negotiating modalities for the final talks regarding expansion of the Code. For further information concerning the activities of the Committee during 1989, see USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, pp. 58-59.

and circulated at the August and October meetings. In October the Working Group discussed these offers, including treatment of different types of procurement entities, various categories of services, the threshold level, and amendments to the text of the agreement.

The Committee concluded its 1987 statistical review at its March meeting. At the Committee's March and June meetings, the Committee continued its discussion of "a uniform classification system for statistical purposes." At the March meeting, parties were asked to submit comments for improving the Codes' reporting system. In this regard, several proposals were discussed regarding alternative classification systems, including the Customs Cooperation Council Nomenclature, the SITC system, and the U.N. Central Products Classification system. The Committee agreed to continue its discussion on this issue in 1991.

The Committee's third major review of GATT article III²⁰⁸ continued during 1990. An exchange of views was held on proposals relating to procedures for accession, including problems relating to the accession of developing countries. It was noted that the Negotiating Group on MTN Agreements and Arrangements had already discussed the proposals in detail. In March, the Government of Korea announced that it was seeking accession to the Code, presented an initial offer list of entities, and began bilateral discussions with other parties.

At its January 1990 meeting, the Committee heard a complaint by the United States under article VII:6 regarding the procurement of electronic toll-collection equipment by Norway. The Committee urged continued bilateral discussions and in March the United States requested the establishment of a panel. Again, the Committee recommended further bilateral discussions, and on April 26, 1990, the complaint was withdrawn, having been successfully settled bilaterally.

Agreement on Trade in Civil Aircraft

The Agreement on Trade in Civil Aircraft provides for duty-free treatment of identified civil aircraft, civil aircraft engines, and civil aircraft parts. The agreement also seeks to eliminate nontariff measures, such as the use of official export credits and certain government purchase policies. No new coun-

²⁰⁸ Most governments employ procurement practices that limit foreign competition. Art. III of the General Agreement specifically states that GATT rules restricting the use of internal regulations as barriers to trade do not apply to "procurements by government 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. Signatories to 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, notably when such contracts are for the supply of goods and related services and fall above the threshold of 130,000 Special Drawing Rights. For further detail, see USITC, *The Effects of Greater Economic Integration Within the European Community on the United States*, USITC Publication 2204, July 1989, pp. 14-15 to 15-10, and USITC, *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, June 1986, p. 71.

tries joined the Code in 1990, leaving at 22 the total number of signatories.²⁰⁹

The Committee on Trade in Civil Aircraft held one meeting in 1990. Two topics dominated the agenda: the Federal Republic of Germany's "aids" to the German Airbus partner company²¹⁰ and mandatory offsets.²¹¹

At the Aircraft Committee meeting in 1990, U.S. and EC officials discussed whether the Civil Aircraft Code or the Subsidies Code has competence to handle dispute-settlement procedures in a case of subsidies involving an aircraft manufacturer. In January 1990, the EC requested that consultations be held under the Civil Aircraft Code to discuss the government-financed exchange-rate-guarantee scheme that the German Government promised to the parent company of Deutsche Airbus, the German Airbus partner. Nearly one year earlier, the United States had requested consultations with the EC under the Subsidies Code to discuss the exchange-rate-subsidy plan. No conclusions were reached, however, at the 1990 meeting.

In 1987, the United States requested information from the EC about possible mandatory offsets required by two EC member states and expressed its interpretation of article 4 of the Code covering government-mandated offsets. The United States is seeking agreement among the Code signatories that the use of mandatory offsets is inconsistent with article 4, which states that aircraft purchase decisions should be based on the commercial and technical merits of competing products. At the Committee meeting in 1990, the EC requested that the United States provide more detailed information about the member-state procurements that required obligatory offsets in the U.S. view. Following receipt of this information, the EC agreed to pursue further relevant information from the member states concerned.

The Committee also reviewed the status of U.S.-EC consultations under way on the interpretation of articles 4 and 6. These discussions are taking place as a result of the bilateral dispute over subsidization of Airbus Industries. 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. At the meeting in 1990, no concrete results were achieved.

²⁰⁹ For a listing of signatories, see table 6.

²¹⁰ For a full discussion of the U.S.-EC Airbus dispute and the German exchange-rate subsidy scheme, see ch. 4, section on the EC.

²¹¹ Offset is a common form of countertrade among industrialized countries and refers to compensatory transactions involving aircraft and military equipment. For example, the sale of equipment may be contingent upon the coproduction or subcontracting of some of the components in the buyer's country.



Chapter 3

Trade Activities Outside the GATT

Introduction

Although the General Agreement on Tariffs and Trade (GATT) provides the broad multilateral 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 fora 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 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 Agreement, the United States-Soviet Grain Agreement, and progress on trade agreements in the services sector.

Organization for Economic Cooperation and Development

The OECD, which celebrated its 30th anniversary in December 1990, 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 OECD's main trade-related activities in 1990. As in previous years, the OECD focused on the multilateral trading system, national economic policies, agricultural reform, developing countries, the dynamic Asian economies, and the environment. For the first time, OECD members addressed the issue of the OECD's role in promoting economic reforms in central and eastern Europe.

¹ Current members of the OECD are Australia, Austria, Belgium, Canada, Denmark, Finland, France, 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

At their annual ministerial meeting in May 1990, the OECD ministers stated that the successful completion of the Uruguay Round by the end of the year was "the highest priority on the international economic agenda."² In a communique issued at the close of the May 30-31 Paris meeting, OECD ministers pledged their resolve to fight protectionism. Cautioning that "protectionist pressures remain strong," ministers rejected "tendencies towards managed trade approaches, bilateralism, sectoralism, grey area measures and unilateral action."³ The ministers stated that failure to complete the Uruguay Round by the end of the year "would have a range of negative consequences for the trading system, the global economy, and international economic co-operation."⁴

The communique acknowledged that, while ministers agreed with the objectives of the Uruguay Round negotiations, they differed on their approaches to agricultural reform. Nevertheless, the ministers reaffirmed their commitment to the long-term objectives of global agricultural reform through the establishment of a fair and market-oriented agricultural trading system.

The ministers noted their broad satisfaction with economic developments over the past year and the emergence of sustainable medium-term economic growth in the OECD countries. However, they went on to remark that "certain risks" remain and called upon member countries to increase job creation, reduce external imbalances, promote exchange market stability, further the growth of productive investment, and encourage savings. Ministers cautioned against rising inflation, estimating average annual inflation among OECD countries of about 4.5 percent through 1991 with about 3 percent real average annual economic growth.⁵ All OECD members were urged to maintain "firm and balanced" macroeconomic policies to achieve the goal of noninflationary economic growth "so that high employment and fair social conditions can be sustained."⁶

For the first time, the political and economic reforms in Central and Eastern Europe were the focus of attention at the annual ministerial meeting. Earlier in the year, the OECD Council had approved the creation of a Center for Cooperation with the European Economies in Transition⁷ to provide technical assistance and cooperation to economic reform efforts in

² OECD, press release, Press/A (90) 32, Paris, May 31, 1990.

³ Ibid.

⁴ Ibid.

⁵ OECD, *Economic Outlook*, No. 47, Paris, 1990, p. vii.

⁶ OECD, press release, Press/A (90) 32.

⁷ The Center for Cooperation with European Economies in Transition (the Center) was created in March 1990. The Center, which works under the Secretary-General of the OECD, was established to design and implement a program of activities to assist the process of economic reform in Central and Eastern Europe. In September 1990, the Center co-sponsored a conference with the United Nations Economic Commission for Europe on data collection problems and statistical analysis issues facing central and Eastern Europe. In November 1990, the Center co-sponsored with the World Bank a Conference on the

Central and Eastern Europe.⁸ The ministerial communique affirmed the OECD's determination to support the reform process and stated that the OECD should play a "distinct and important role" by engaging in a policy dialogue to promote economic reforms in Central and Eastern Europe.⁹

As in previous years, the OECD ministerial communique contained several observations about developing countries, the dynamic economies in east and southeast Asia, and the environment.

Stressing that economic growth is the responsibility of the developing countries themselves, ministers acknowledged that stable noninflationary OECD growth promotes improved economic performance in developing countries. The ministers stated that successful completion of the Uruguay Round would help improve economic performance in the developing countries by removing trade distortions and by further opening OECD markets to developing countries' exports. On the issue of debt, the ministers agreed that debt problems remain an impediment to economic growth in many developing countries. The communique called on both creditors and debtor nations to seek "continued resolute action to resolve debt problems." The ministers also stated that their efforts to improve the transfer of developmental resources to developing countries "will not be altered by the support being lent to reforming countries in central and eastern Europe."

The OECD communique welcomed the completion of the 1990 round of informal workshops with Hong Kong, Malaysia, Singapore, South Korea, Taiwan and Thailand.¹⁰ These workshops covered tech-

nology and globalization of the economy, financial market reform, trade policies, and macroeconomic linkages. The 1990 OECD ministerial communique strongly urged that dialogue with the dynamic Asian economies, "whose role and responsibilities are steadily increasing in the world economy," continue as "a matter of high priority."

Finally, the OECD ministers repeated their past warning on the need for increased attention and action in response to environmental problems.¹¹ The 1990 communique outlined the OECD's plans to broaden its research on global climate change and to continue its efforts in developing environmental indicators, evaluating the economic dimensions of environmental problems, and analyzing the links between environmental and trade policies.¹² Ministers indicated the need for OECD countries to contribute to "environmentally sustainable development" to integrate environmental concerns into development planning.

Revised 1990-1991 Economic Outlook

At an October 3, 1990 meeting, OECD Secretary-General Mr. Jean-Claude Paye assessed the global impact of the Persian Gulf crisis.¹³ Noting that inflation "undoubtedly is on the move," and citing the fear of oil scarcity, the financial shock of declining stock markets, deteriorating budgetary situations in many countries, and sluggish growth in the United States, he strongly urged OECD countries to safeguard investment capacity, of their industries during the current period of economic adjustment, and not to ease monetary and fiscal policies.

In December 1990, the OECD acknowledged that "the economic situation has changed substantially."¹⁴ The Organization stated that higher oil prices, a sharp decline in equity prices, and a deeper than expected economic slowdown in the United States were accentuating cyclical differences among OECD countries. Revised forecasts showed OECD economic growth slowing to 1.75 percent in the second half of 1990, and "unlikely to pick up much in the first half of 1991."¹⁵ The OECD's December report concluded with "a less favorable view of the short-term economic outlook" than had previous reports issued during the year.¹⁶ Annual OECD economic growth rate and inflation rate estimates were revised to show real growth slowing to 2.8 percent in 1990 and 2.0 percent in 1991, with inflation of 4.3 percent and 4.9 percent respectively. However, no fundamental changes in the OECD's previously advised policy

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Transition to a Market Economy in Central and Eastern Europe. In early 1991, the Center launched a "Partners in Transition" program to provide "in-dept, tailor-made, concrete" assistance to the countries that are making the most progress in instituting economic reforms, in particular Hungary, Poland, and the Czech and Slovak Federal Republic. "The OECD Center for Cooperation with European Economies in Transition," *The OECD Observer*, April/May 1991, p. 169.

⁸ OECD, press release, Press/A (90) 15, Paris, March 12, 1990.

⁹ While not mentioned in the communique, the OECD also devoted part of its attention in 1990 to the U.S.S.R. The heads of state and government of the seven major industrial countries, at their Houston Economic Summit in July 1990, requested the OECD, the IMF, the World Bank, and the European Bank for Reconstruction and Development to undertake a detailed study of the Soviet economy, to make recommendations for Soviet economic reforms, and to establish conditions for Western economic aid to support Soviet reform efforts. The results of this study were published by the OECD in French as *L'économie de l'URSS* (Paris, 1991), and in English by the World Bank as *The Economy of the USSR* (Washington, DC, 1990). See "Radical Reform for the Soviet Union," *The OECD Observer*, April-May 1991, p. 11.

¹⁰ The OECD first cosponsored a series of "informal seminars" (which participants later referred to as "informal workshops") with Hong Kong, Singapore, South Korea, and Taiwan beginning in January 1989. OECD and Asian participants, including officials, academics, and businesspersons, met to discuss world economic issues and ways to ease trade tensions. For more information on the first such seminar, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, July 1989, p. 53. Additional information is provided in USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, p. 68.

¹¹ The condition of the environment was mentioned for the first time in an OECD ministerial declaration in 1989. See USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, p. 67.

¹² For more on the OECD's work in this area, see the discussion on trade and the environment below.

¹³ OECD, "Address by Mr. Jean-Claude Paye, Secretary-General of the OECD, to the Parliamentary Assembly of the Council of Europe," Press Release, SG/Press (90) 55, Oct. 3, 1990.

¹⁴ OECD, *Economic Outlook*, No. 48, Paris, 1990, p. vii.

¹⁵ *Ibid.*, p. 3.

¹⁶ *Ibid.*, p. vii.

orientations—anti-inflationary monetary policy, budget deficit reduction, and trade liberalization within the GATT framework—were called for.

Despite increased risks and uncertainties, the revised OECD forecast estimated that world trade would slow only “moderately and temporarily” between mid-1990 and mid-1991 as weak activity in the United States is counterbalanced by strength in Japan, Germany, and the oil-exporting countries. In the medium term, the report estimated that U.S. exports of goods and services would rise over the next two years as a result of the country’s improving international competitiveness. The OECD estimated that the large U.S. share of the OPEC market would improve the outlook for U.S. exports as several Middle East countries increase their overseas purchases following resolution of the Persian Gulf crisis. The report also stated that the United States stands to benefit from capital inflows as allied nations make payments for U.S. military expenditures incurred during the Gulf crisis.

According to the OECD, the adverse economic events of 1990 “underline the need for economies to be flexible in order to adjust rapidly to disturbances.”¹⁷ The OECD underscored the importance that countries “maintain the momentum of structural reform” on trade issues, because trade policy “impinges on virtually every area of structural reform, since freer trade stimulates competition and promotes the efficient functioning of all elements of the economic system.”¹⁸ The report reaffirmed the need for a successful conclusion of the Uruguay Round and urged that bilateral trade negotiations and agreements, such as the Structural Impediments Initiative talks between the United States and Japan,¹⁹ be brought into a multilateral context. Urging that “free competition among enterprises should be the rule,” the OECD called for a “systemic review” of such policies as import quotas, voluntary export restraint agreements, safeguard measures, variable import levies, and anti-dumping actions.²⁰

Agricultural Trade

The OECD’s May 1990 Ministerial communique noted the impasse between the United States and the EC in reaching an agreement on farm subsidy reform in the Uruguay Round. The communique outlined the deeply entrenched positions of the two sides—without citing countries by name—exposing sharp differences in their positions.²¹

¹⁷ *Ibid.*, p. xi.

¹⁸ *Ibid.*

¹⁹ See discussion of the Structural Impediments Initiative, ch. 4.

²⁰ OECD, *Economic Outlook*, No. 48, p. xii.

²¹ “Ministers are prepared to negotiate in line with the agreed objectives of the Punta del Este and mid-term Review Declarations, although they differ on how an approach to these objectives should be expressed at this stage. Some feel that negotiations should proceed to seek specific policy commitments in each area of the negotiations. . . . Others prefer to seek reductions in support and protection with commits encompassing all measures affecting directly or indirectly import access and export competition. . . .” OECD, press release, Press/A(90) 32, p. 7.

The question of how to reform world agricultural trade has been a subject of OECD work for several years. As in previous years, the OECD’s 1990 ministerial communique endorsed a report on agricultural policies prepared jointly by the Agriculture and Trade Committees.²² However, ministers noted that “OECD countries have made only limited and uneven progress in implementing the agreed long-term objectives of the policy reform.”²³ The OECD said that agriculture remains characterized “by wide use of internal support and other measures adversely affecting trade,” and that “insufficient structural adjustment” as well as “persistent international tensions and disputes” continue to plague agricultural markets.²⁴

The 1990 Ministerial communique stated that agricultural assistance policies remain costly to both OECD and non-OECD countries. In its June 1990 economic outlook, the OECD noted that “inefficiencies introduced by agricultural policies have reduced OECD output by over \$70 billion in recent years.”²⁵ The measures of assistance used by the Organization are producer and consumer subsidy equivalents (PSEs and CSEs).²⁶ In recent years, the OECD has also calculated percentage PSEs and CSEs to measure, on a commodity-by-commodity basis, the share of assistance to producers in the value of each country’s agricultural output, and the rate of implicit tax on consumers. For the OECD as a whole, the total PSE declined for the second consecutive year from \$164 billion in 1988 to \$141 billion in 1989. The percentage PSE also declined from 45 percent in 1988 to 39 percent in 1989. The CSE fell from \$122 billion in 1988 to \$104 billion in 1989, with the percentage CSE declining from 35 percent to 31 percent during the same period. The OECD calculated the total value of all transfers from consumers and taxpayers due to agricultural policies as \$245 billion in 1989, a 13 percent decline from the 1988 level of \$282 billion but still higher than any other year before 1985.²⁷

Despite these reductions, the OECD reported that “assistance in percentage and absolute terms remains substantially above the high average for the 1979–85 period and above the levels of any year before

²² OECD, *Agricultural Policies, Markets and Trade Monitoring and Outlook 1990* (Paris, 1990).

²³ OECD, Press/A (90) 32, Paris, May 31, 1990.

²⁴ *Ibid.*, p. 5.

²⁵ OECD, *Economic Outlook*, No. 47, p. xi.

²⁶ Both of the subsidy equivalents are designed to measure the cost of policies that assist production and tax consumption of agricultural commodities. The PSE 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 CSE (actually calculated as a negative number) corresponds to the implicit tax on consumption resulting from a given policy measure, net of any subsidies to consumption. Both are measured in U.S. dollars. Although PSEs and CSEs are broader measures of assistance than nominal or effective rates of protection, these subsidy equivalents do not cover all agricultural production (coverage varies by country) and they exclude some transfers to production. See OECD, *Agricultural Policies*, pp. 87-109.

²⁷ OECD, *Agricultural Policies*, pp. 8-9.

1985."²⁸ Furthermore, the OECD stated that the apparent decline in total assistance was due primarily to higher world market prices and a stronger U.S. dollar.

Policy changes were only "marginal" to the reduction in rates of assistance, the OECD said. Prices received by producers increased in national currencies, but the stronger U.S. dollar caused prices received by producers to decline in the OECD average. The OECD concluded that changes in producer prices and other output-based support policies have a larger influence on a country's assistance level than the same proportionate change in world prices. As a result, producer prices and output-based supports "must play a major role in the progressive and concerted reduction in assistance."²⁹

Trade and the Environment

In its report on the environment³⁰ published in January 1991, the OECD identified several trade-related aspects of environmental issues.

On the subject of international trade and environmental regulations, the report urged members to prevent differences in environmental standards from leading to nontariff trade barriers. The report endorsed common standards and testing procedures as ways to promote international trade. Enhanced cooperation in labeling schemes for "green" products was proposed to foster international trade in environmentally friendly goods. While the OECD's Trade Committee observed no significant distortions in international trade related to environmental policies, the Committee plans to investigate "how concepts such as transparency, national treatment and non-discrimination, legitimacy and proportionality should be applied in the context of environmental regulations."³¹

The report considered cases in which international trade flows have a negative environmental impact on national, regional, and global scales. Stressing the importance of environmental conservation, the OECD recommended policies that "prevent international trade from having major environmental consequences." Essential to this effort are the environmental and trade policies that are designed "so that prices of internationally traded products, services or natural resources fully reflect the environmental cost of their production, consumption or disposal."³²

The OECD also studied the trade effects of environmental policies.³³ Stricter regulations were found

²⁸ *Ibid.*, p. 8.

²⁹ *Ibid.*, p. 9.

³⁰ OECD, *The State of the Environment* (Paris, 1991).

³¹ *Ibid.*, p. 274.

³² *Ibid.*, p. 276.

³³ This subject has been investigated in academic research. For a summary discussion of economic models analyzing the effects of environmental policies on trade patterns, see James A. Tobey, "The Effects of Domestic Environmental Policies on Patterns of World Trade: An Empirical Test," *Kyklos*, vol. 43, 1990, fasc. 3.

to have only negligible trade effects among the OECD countries.³⁴ However, the report cautioned that it is still too early to determine whether environmental regulations ultimately will affect international competitiveness and trade performance. The OECD was not able to determine the net environmental impact of international trade liberalization and free trade areas, the study said.

Finally, the report addressed developing countries and the countries of central and Eastern Europe. Debt-for-nature swaps³⁵ represent an "important step forward" in promoting environmental conservation in developing countries, the OECD said. Central and Eastern Europe, facing industrial and urban pollution, will need assistance in cleaning up and rehabilitating environmental and industrial resources. The report concludes that industrialized countries have a "special responsibility" to respond to environmental problems in non-OECD countries and to "promote the integration of environmental concerns into trade and aid policies and practices."³⁶

Services

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."³⁷ The work program has two parts: Committees with sectoral expertise are identifying and evaluating obstacles to trade in specific service industries, while the Trade Committee and its working group are establishing a general framework for considering service trade issues.

Tourism services

International tourism is one of the service areas that has long been the subject of study and agree-

³⁴ This conclusion corroborates findings in academic research on the subject. "The theory that trade suffers from the imposition of environmental policy has a strong element of a priori plausibility but, surprisingly, has little empirical support." *Ibid.*, p. 291.

³⁵ Debt-for-nature swaps are arrangements in which an indebted country establishes an environmental conservation program in exchange for the cancellation of a portion of the country's foreign debt. In such arrangements, bilateral aid agencies or private donors first purchase the developing country's debt from existing commercial bank creditors. To diversify their loan portfolios, banks routinely sell or trade their loans to developing countries in so-called "secondary debt" markets. Because of the high credit risk developing-country debt carries, this debt is sold to other banks or private investors for less than its face value. (Banks do not allow debtor countries to repurchase their own debt, however.) Once the debt is purchased, the creditor country supervises the establishment of an environmental conservation program in the debtor country. The debtor country then establishes a local-currency trust fund to finance the environmental program. The debtor country saves in several ways: the donor's purchase of the debt the secondary market reduces the creditor country's outstanding debt by a significant percentage; some donors forgive part of the remaining debt; and, in lieu of making debt service payments in U.S. dollars, the debtor country makes payments to the environmental trust fund in its own currency.

³⁶ OECD, *The State of the Environment*, p. 282.

³⁷ OECD, "OECD Council Meeting at Ministerial Level Communique," *The OECD Observer*, May 1982, p. 6.

ments by the OECD.³⁸ The OECD Tourism Committee (TC) held its 58th session in April 1990 in Estoril, Portugal. The TC reported that tourism in OECD countries continues to flourish and estimated that tourism "will become the largest economic sector of the world's economy by the year 2000."³⁹ However, further expansion of tourism is hindered by overburdened infrastructure, air and ground congestion, and safety and security risks, creating "a critical situation" which stands to worsen as the demand for passenger transport increases over the next several years. The TC recommended several policy changes to address transport problems that OECD countries will face in the 1990s. Specific recommendations included (1) the use of improved computer-based passenger booking procedures, (2) the construction of new airports and such improvements as secondary runways at existing airports, and (3) increased use of high-speed trains as alternatives to travel by air and automobile.⁴⁰

Technical engineering services

The OECD published a case study⁴¹ on technical engineering services (TES)⁴² in January 1991. The report examined several important factors pertaining to trade in TES. These observations noted that (1) barriers in OECD countries were responsible for limited trade in TES among OECD countries; (2) protectionist policies in OECD countries restrict TES exports to developing countries; (3) alternative TES suppliers, such as Brazil, Taiwan, India, and Korea, have entered the TES market; (4) the lack of available financing restricts the demand for TES in developing countries; and (5) developing countries exhibit wide variation in their use of protectionist barriers to promote local TES capability.

Customs Cooperation Council

During 1990 the Customs Cooperation Council (CCC) and its subordinate committees continued their efforts toward customs simplification and harmonization. Their work again focused on administering the Harmonized Commodity Description and Coding System (known as the Harmonized System or HS). Implemented by a convention that entered into force internationally on January 1, 1988, the HS is a structured nomenclature to describe goods in trade for tariff, statistical, and transport documentation pur-

³⁸ For more information on the OECD code and tourism, see USITC, *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC publication 1871, 1986, p. 117.

³⁹ OECD, *Tourism Policy and International Tourism in OECD Member Countries* (Paris, 1990), p. 17.

⁴⁰ For more detailed information, see *ibid.*

⁴¹ OECD, *Technical Engineering Services* (Paris, 1991).

⁴² Technical engineering services include the provision of design services for the construction of a goods or power-producing facility or of infrastructure; inspection and technical supervision of this construction; preparation for industrial production of new products; design, construction, and start-up of industrial production capacity; and testing, improvement, and modification of capacity and products.

poses. As of November 1, 1990, 60 countries and the EC were contracting parties to the HS convention, and still more countries are considering accession.⁴³ Many of the latter, including the U.S.S.R., send observers to HS-related meetings, as do international organizations. Upon acceding to the convention, the United States replaced its former Tariff Schedules of the United States with an HS-based tariff (the Harmonized Tariff Schedule of the United States or HTS) effective as of January 1, 1989.

The CCC recommended certain amendments to the international HS nomenclature in July 1989. Such amendments were deemed accepted when no Contracting Party to the convention notified an objection to the amendments within six months of the date of notification of the recommendation. The United States is obliged to implement these amendments domestically in the HTS on January 1, 1992. As authorized under section 1205 of the Omnibus Trade and Competitiveness Act of 1988, the International Trade Commission published a list of proposed changes to the HTS necessary to reflect the amendments adopted by the CCC and solicited comments from other Federal agencies and the public.⁴⁴

Principal responsibility for the HS lies with the Harmonized System Committee (HSC), which is charged with ensuring uniform application of the nomenclature and proposing necessary amendments thereto to reflect trade and technological change. The HSC meets twice each year. Recommendations and advice from both of its related bodies and questions presented by the countries party to the convention are considered, and results of votes thereon are submitted to the CCC for its approval. Questions concerning the classification of specific merchandise (such as sport utility vehicles) are considered, including potential amendments to the text and explanatory notes that may be deemed necessary.

During its April⁴⁵ and October 1990⁴⁶ sessions, the HSC agenda covered a range of topics and classification questions. Among the matters discussed were technical assistance (especially to developing and Eastern European countries), training activities, cooperation with other international organizations (particularly the GATT), the proposed HS commodity data base, the exchange of national customs rulings, possible standardized units of quantity, and data collection relating to ozone depleting substances. In addition, the HSC took note of many new classification inquiries, directed further studies on several topics, and made numerous amendments to specific

⁴³ See Customs Cooperation Council (CCC), *Report to the Customs Cooperation Council on the Sixth Session of the Harmonized System Committee*, CCC Doc. 36.300 (HSC/6/Nov. 90), pp. 2-3.

⁴⁴ 55 Federal Register 1733, Jan. 18, 1990.

⁴⁵ CCC, *Report to the Customs Cooperation Council on the Fifth Session of the Harmonized System Committee*, CCC Doc. 36.300 (HSC/5/Apr. 90), pp. 4-10 and annexes C/1 through M, inclusive.

⁴⁶ CCC, *Report to the Customs Cooperation Council on the Sixth Session*, CCC Doc. 36.300, pp. 4-13 and annexes C-G.

explanatory notes. Last, the HSC considered proposed changes to the nomenclature needed to implement prior CCC or HSC decisions and noted proposed HSC involvement in the potential GATT effort to develop harmonized country-of-origin rules.

Two significant related bodies, the one new to the CCC and the other in existence for some years, carried out specific responsibilities regarding the HS. In January 1990 the Review Subcommittee of the HSC began a systematic 3-year review of all chapters of the HS nomenclature to prepare recommended changes needed to deal with new products and processes, as well as trade patterns.⁴⁷ This body has to date met three times. Considered in these meetings were chapters covering machinery, electrical equipment, and scientific instruments and apparatus.⁴⁸ The Subcommittee took up various proposals to modify or create provisions for automatic data processing machines, machinery used to manufacture semiconductor devices, facsimile machines, electrical wire and cable, optical fiber cables, digital audio tape, camcorders, industrial robots, new medical diagnostic apparatus, and high-definition televisions and picture tubes therefor. Other issues included the definition of printed circuits and of devices "capable of operation without an external source of power." The efforts of this body to modernize the HS nomenclature is of great significance to producers and exporters of recently-developed products, and the U.S. delegation has taken an active role.

The Scientific Subcommittee has for many years dealt with highly technical issues, generally involving chemicals, and provides advice and recommendations to the HSC on such questions. It meets once each year unless there is an insufficient number of questions to justify meetings. The expertise of this group is heavily relied upon by the HSC regarding questions on these matters, and adoption of its proposals has generally been perfunctory. Among its areas of study in 1990 were precursors and essential chemicals most commonly diverted into illegal drug manufacture, nomenclature changes suggested by the United Nations Environment Program, and amendments to the nomenclature covering certain derivatives and mixtures.⁴⁹

Although difficult issues will arise during the work of these bodies, the modernization of the HS nomenclature and efforts to attain consistent interpretation within the countries using it will likely result in significant benefits for the trading community. The ongoing examination of the HS will keep the nomenclature abreast of changes in trade and technology,

⁴⁷ CCC, *Report to the Customs Cooperation Council on the Fifth Session*, CCC Doc. 35.960, pp. 3-11 and annexes D, I, J, and K, and CCC, *Report to the Customs Cooperation Council on the Sixth Session*, CCC Doc. 36.300, pp. 4-13 and annex C-G.

⁴⁸ *Ibid.*

⁴⁹ CCC, *Report to the Customs Cooperation Council on the Fifth Session*, CCC Doc. 36.300, annexes E/1 and L/13.

facilitating the description of goods and the comparability of data for the bulk of world trade.

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 or have different economic systems.⁵⁰

UNCTAD convenes in conference once every 4 years. The most recent conference was UNCTAD VII, held in July-August 1987; UNCTAD VIII will convene in September-October 1991. Between conferences, the Trade and Development Board (TDB), UNCTAD's governing body, oversees the organization's functions. The TDB holds two or more regular sessions per year and an occasional special session. In 1990, the TDB convened its 36th session (second part) in March and its 37th session (first part) in October. The following sections discuss some of the major topics that were the focus of ongoing trade-related work at UNCTAD in 1990.

Trade Relations with Central and Eastern European Countries

Promoting trade and economic cooperation among countries having different economic and social systems⁵¹ has been a subject of particular interest to UNCTAD.⁵² The Final Act of UNCTAD VII directed the TDB to consider developing a program aimed at promoting intersystems trade, in particular East-South trade.⁵³

At its March 1990 meeting, the TDB was "unable to agree on a future program of work for UNCTAD with respect to trade and economic relations with Eastern Europe."⁵⁴ The political and economic reforms in central and Eastern Europe, particularly the

⁵⁰ Membership in UNCTAD is open to all countries that are members of the United Nations or of any of the agencies related to the organization.

⁵¹ 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.

⁵² For a discussion of the TDB's work on this subject, see UNCTAD, "Report of the Intergovernmental Group of Experts on Further Promotion of Inter-Systems Trade," TD/B/1244-TD/B/AC.45/2, Jan. 23, 1990.

⁵³ The relevant provisions of the Final Act of these issues are paragraphs 30 (c) and 105 (28). For a discussion of the Final Act of UNCTAD VII, see *Operation of the Trade Agreements Program*, 37th 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.

⁵⁴ UNCTAD, "Change In Eastern Europe Steals Board Limelight," *UNCTAD Bulletin*, No. 3, May-June 1990, p. 6.

introduction of free-market economic policies, were seen as having "undermined" the justification for a distinct UNCTAD program. UNCTAD had justified this program by the "difference" of the central planning system governing the Central and Eastern European region. At the Spring 1990 TDB session several Eastern European representatives indicated that they considered UNCTAD's "traditional agenda formulation irrelevant" for the new central and Eastern Europe.⁵⁵ They said that their "difference," along with centralized economic planning, was a thing of the past.

The TDB's concern was that the Central and Eastern European countries now were more interested in addressing their own problems and in developing closer ties with the West than in engaging in dialogue with UNCTAD. Unable to agree on a future program for trade and economic relations with Central and Eastern Europe, the TDB's Spring 1990 session may have marked "the last UNCTAD debate on the subject,"⁵⁶ with future activities left to the discretion of UNCTAD's Secretary-General.

The Generalized System of Preferences

The Generalized System of Preferences (GSP) is a framework under which developed countries provide preferential tariff treatment to certain goods exported by developing countries.⁵⁷ The system was designed to promote industrialization and to accelerate economic growth in developing countries by increasing their export earnings. Preferential tariff rates accorded by developed countries are at the core of GSP benefits. Under the GSP, most-favored nation (MFN) tariffs are eliminated or reduced for beneficiaries on products covered by the scheme. The GSP is composed of 16 autonomous schemes offered by 22 OECD countries and five Eastern European countries. The UNCTAD Special Committee on Preferences is responsible for overseeing the GSP.

The Committee on Preferences held its second 10-year comprehensive review of the GSP in May 1990.⁵⁸ While admitting that the GSP has had only "a small impact on growth and industrialization," the Committee reported nevertheless that "the impact has been positive" in promoting trade and investment in export-oriented production in developing countries.⁵⁹ Noting that "the second decade of the operation of the individual schemes terminates in the period 1991-1993 and decisions requiring their extension must soon be taken,"⁶⁰ the Committee proposed several measures for improving the GSP program.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ The operation of the U.S. GSP system in 1990 is discussed in chapter 5.

⁵⁸ See UNCTAD, "Comprehensive Review of the Generalized System of Preferences, Including Its Implementation, Maintenance, Improvement and Utilization," TD/B/C.5/130, March 5, 1990.

⁵⁹ *Ibid.*, p. 17.

⁶⁰ *Ibid.*, p. 1.

Among the shortcomings in the current GSP system, the Committee cited (1) "the growing tendency in some major preference-giving countries to unilaterally exclude countries from benefits, often on the basis of non-economic criteria;"⁶¹ (2) the prevalence of nontariff barriers, and (3) the complex system of rules of origin. A review of research on the impact of expanding GSP product coverage showed that, while the number of products covered under GSP schemes increased during the 1980s, restrictions and limitations in OECD countries led to a reduction in the overall ratio of the value of preferential to dutiable imports. Thus the Committee concluded "that there is considerable room for improvement in the GSP schemes."⁶² Its recommendations to preference-giving countries for improving the GSP in the 1990s included expanding the products covered by the GSP scheme, exempting GSP-eligible products from nontariff measures and granting across-the-board duty-free treatment to products originating in developing countries or enlarging the margin of GSP preference to compensate for any erosion of GSP benefits resulting from tariff liberalization in the Uruguay Round.⁶³

The main changes in GSP schemes worldwide described by the Committee on Preferences included the extension of beneficiary status to Hungary and Poland by the EEC and the United States. Other changes noted in the U.S. GSP program were the decisions to suspend benefits to Burma and the Central African Republic indefinitely because of alleged violations of human rights.⁶⁴

Restrictive Business Practices

Resolution 35/63, adopted at UNCTAD's fifth conference of December 5, 1980,⁶⁵ calls upon the organization to act in an advisory and training role in order to assist developing countries in detecting and effectively controlling restrictive business practices (RBPs). UNCTAD has concentrated on two categories of RBPs: (1) "horizontal RBPs," or cartel arrangements, that dominate the domestic market, imports, exports, or world markets and (2) "vertical RBPs," or market dominance practices, such as refusals to deal or threats thereof, resale price maintenance, tied-selling, exclusive dealing, and predatory pricing.⁶⁶ Contributions from developed countries permitted UNCTAD to launch a series of seminars on

⁶¹ UNCTAD, "Improving the Generalized System of Preferences," *UNCTAD Bulletin*, No. 3, May-June 1990, p. 7.

⁶² UNCTAD, "Comprehensive Review of the GSP," p. 14.

⁶³ *Ibid.*, p. 19.

⁶⁴ The Central African Republic was reinstated to the U.S. GSP in 1990. A further discussion of these and other modifications is contained in the chapter 5 section on the U.S. GSP program.

⁶⁵ Adopted as "The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices," TD/RBP/CONF/10/ Rev.1, Dec. 5, 1980; this is UNCTAD's code of conduct on restrictive business practices.

⁶⁶ See UNCTAD, "Towards Increased Competition in World Trade," *UNCTAD Bulletin*, No. 6, Nov.-Dec. 1990, p. 8.

RBPs for the benefit of developing countries.⁶⁷ These seminars have included presentations on how RBPs adversely affect international trade, the need for RBP control legislation, and the role of RBP control within the context of overall industrialization and economic policies.

An Intergovernmental Group of Experts (IGE) meets annually to review cases of RBPs encountered by developing countries in their international trade transactions with developed countries and to discuss legislation introduced by various countries to control RBPs. The ninth annual meeting of the IGE, held April 23–27, 1990, acted largely as a preparatory session for UNCTAD's ten-year review of its set of principles on RBPs. This review conference, entitled the United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, convened in Geneva during November 26–December 7, 1990.⁶⁸ The conference was accompanied by "an unprecedented demand from developing countries for technical cooperation in the area of RBPs."⁶⁹ Participants expressed their concern about the increasingly competitive world environment and the adverse effects continued growth of RBPs would have on developing countries' economies. The review conference recommended that developing countries "come to grips with restrictive business practices affecting international trade," and stated that "mutually reinforcing action is needed at both national and international levels."⁷⁰ The conference called for future work to address the needs for improvements in transparency, particularly through exchanges of information among countries, and to define consultation procedures for bringing relief to affected parties.

Services

Issues related to trade in services have long been a part of UNCTAD's work program. Services are one of five areas specifically singled out for consideration during UNCTAD VIII. The Secretariat has produced studies on specific service industries (notably shipping, insurance, and financing related to trade) and on service control of restrictive business practices. Within the United Nations, many organizations deal with service-sector concerns. Whereas some bodies focus their attention on a particular sub-sector (e.g., the International Civil Aviation Organization), others

⁶⁷ The first regional seminar on RBPs for African countries was held in 1986. Subsequent seminars were held for Asian countries in 1987, for French-speaking African countries in 1989, and for Latin American countries in 1990. For a complete description of these seminars, see UNCTAD, "Review of All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices," TD/RBP/CONF.3/4, Aug. 14, 1990.

⁶⁸ See UNCTAD, "Towards Increased Competition in World Trade," p. 7.

⁶⁹ *Ibid.*, p. 9.

⁷⁰ *Ibid.*, pp. 7-9.

deal with issues applicable to a much broader array of sectors (e.g., the World Intellectual Property Organization).

The Final Act of UNCTAD VII (105(19))⁷¹ requested that the Secretariat undertake a two-phase study of trade in services from the point of view of developing countries. Phase one was to analyze "the implications of the issues raised in the context of trade in services"; phase two was "to explore appropriate problematics for trade in services" in view of "the technological changes in the field of services." The Secretariat treated the first part of this request in 1989,⁷² and treated the second part at the TDB's March 1990 session.⁷³ The 1990 study addressed market issues, legal and institutional issues influencing government attitudes toward trade in services, and the impact of technological advances "that will have to be taken into account in establishing multilateral disciplines aimed at liberalizing and expanding trade in services as a means of promoting the development of developing countries."⁷⁴

The Secretariat's study calls for a selective approach to liberalized trade in services so as neither to undermine the ability of developing countries to carry out macroeconomic and employment-generating policies nor to interfere with such strategic national objectives as national security and cultural sovereignty. In addition, the report argues that selective liberalization should not hinder the growth of "knowledge-based" services in developing countries, such as financial services, or restrict access to services needed for firms in developing countries to compete in foreign markets. Such a selective approach should also consider liberalization in sectors that will improve the competitiveness of developing countries' exports. Thus, by exercising "some degree of control of the various services involved," developing countries can avoid becoming "captive producers or customers" of services in a world where developed countries control global markets.

The Secretariat remarked that the "absence of sufficiently desegregated trade statistics" identifying trade flows and the problems associated with lack of an "internationally agreed 'nomenclature' for services" are major impediments to international negotiations on liberalizing trade in services. Generally, however, the Secretariat noted that developing countries run deficits in service trade (except in travel and services rendered through the movement of labor abroad). For firms in developing countries to benefit from liberalization of trade in services, they will have

⁷¹ For a discussion of the Final Act of UNCTAD VII, see USITC *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC publication 2095, 1988, pp. 3-6 to 3-7.

⁷² UNCTAD, "Services: Issues Raised in the Context of Trade in Services," TD/B/1197. For a discussion of this report, see USITC, *Operation of the Trade Agreements Program, 41st Report, 1989*, USITC publication 2317, 1990, pp. 82-83.

⁷³ UNCTAD, "The Problematics of Trade in Services and Technological Change," Jan. 10, 1990, TD/B/1241.

⁷⁴ *Ibid.*, p. 3.

to acquire competitive advantages to compete with firms from developed countries. Such advantages "may only be possible in the context of solutions to more general problems of debt and infrastructural development." Reducing barriers to entry, created by government and corporate measures restricting access to information and technology, will also facilitate trade in services for newcomer firms in developing countries. The report also asserted that increased transparency on the part of governments and firms trading in services will improve the statistics on trade in services and facilitate decisions by governments with respect to trade liberalization.

Finally, the Secretariat stated that liberalization of trade in services should address existing regulations at the international, national, and provincial or state levels, as well as differences in regulations among countries. At the same time, the Secretariat stated that liberalization in services should "address the adverse effects of regulation and not aim at deregulation per se." The report concluded with the caution that new trade policy concepts for trade in services not result in the "introduction of new discriminatory and restrictive measures or an unnecessary undermining of the unconditional most-favored-nation principle."

Maritime services

The UNCTAD Committee on Shipping held its 14th session in June 1990. The existing imbalance between the supply and demand in world shipping continued to receive a significant portion of the Committee's attention.⁷⁵ A report on world shipping prepared by the UNCTAD Secretariat indicated that, while the imbalance between supply and demand in world shipping had improved in recent years, "excessive and speculative ordering could again rapidly increase world shipbuilding capacity" and lead to renewed "substantial overcapacity."⁷⁶ The report asked governments, international organizations, shipowners, and banks and other financial institutions to "refrain from artificially and excessively stimulating demand for new ships through subsidies, easy financing and other support measures."⁷⁷

The Committee on Shipping also addressed concerns expressed by developing countries about the possible adverse impact sophisticated multimodal transport and containerization might have for their transportation industries. The Committee adopted a resolution recognizing the need "to avoid widening the gap between the developed and developing countries with regard to multimodal transport and containerization," and requested the Secretary-General to convene a meeting of experts in 1991 to investigate the problems experienced by users and providers of

⁷⁵ For a discussion of the Committee's prior work on the imbalance between the world supply and demand for shipping, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC publication 2208, p. 71.

⁷⁶ UNCTAD, "Imbalance Between Supply and Demand in World Shipping," March 29, 1990, TD/B/C.4/333, p. 7.

⁷⁷ *Ibid.*, p. 9.

multimodal and/or container transport operations involving sea links.⁷⁸

Insurance and reinsurance

The UNCTAD Committee on Invisibles and Financing Related to Trade (CIF) held its 13th session in February 1990. The Committee reviewed developments in the field of insurance and examined a statistical report prepared by the UNCTAD Secretariat.⁷⁹ The CIF also focused on specific problems faced by developing-country insurers in choosing reliable reinsurers.

Stagnant economic growth and a shortage of foreign exchange are the most prevalent factors impeding the growth of insurance markets in developing countries. The Committee called on developing countries "to continue to intensify their efforts to promote and consolidate their domestic insurance sectors,"⁸⁰ and to consider "extending insurance to new strata of the population, particularly in the agricultural sector" in order to make insurance a more dynamic and more viable factor in the domestic economy.⁸¹ On the subject of reinsurance, the CIF expressed its concern that "most companies in the developing countries had limited possibilities for obtaining the relevant information needed for choosing reinsurers or reinsurance brokers."⁸² The Committee recommended that authorities in developing countries act on behalf of domestic insurers by obtaining information from foreign-based reinsurers and brokers and making this information available to the domestic companies.

Negotiation and Operation of International Commodity Arrangements

UNCTAD's Committee on Commodities is the most active international forum for discussion on the issue of commodities policy. UNCTAD's role in monitoring commodities reflects the importance of these products to developing countries, which depend heavily on commodity exports to developed countries. The Committee on Commodities annually monitors the operation of international commodity arrangements.⁸³ International commodity agree-

⁷⁸ UNCTAD, "UNCTAD Shipping Committee to Study Multimodal Transport," *UNCTAD Bulletin*, No. 5, Sept.-Oct. 1990, p. 14.

⁷⁹ UNCTAD Secretariat, *Statistical Survey on Insurance and Reinsurance Operations in Developing Countries, 1984-1986*, TD/B/C.3/231, Jan. 9, 1990.

⁸⁰ UNCTAD, "Review of Developments in the Field of Insurance and Reinsurance: Draft Resolution submitted by the Chairman," TD/B/C.3/L.175, Feb. 8, 1990, p. 2.

⁸¹ UNCTAD, "Draft Report of the Committee on Invisibles and Financing Related to Trade on the First Part of its Thirteenth Session," TD/B/C.3/L.174, Feb. 8, 1990, p. 2.

⁸² *Ibid.*, p. 3.

⁸³ In 1990, the Committee on Commodities monitored arrangements on coca, coffee, copper, iron ore, jute and jute products, nickel, olive oil, rubber, sugar, tin, tropical timber, tungsten, and wheat. The committee also monitored ongoing consultations on several commodities not covered by international agreements or arrangements, including bananas, bauxite, cotton and cotton yarns, hard fibers (sisal and henequen, abaca, and coir), manganese, meat, phosphates, tea, and vegetable oils. For more detailed information, see UNCTAD, "Review of the

ments evolved out of the concern of both commodity producing and consuming nations over the disruptive effects of wide fluctuations in commodity prices. Commodities policy continues to be at the forefront of North-South dialogue.

In 1990, the Committee on Commodities conducted its fourteenth annual review of international commodity markets.⁸⁴ The committee considered both traditional and new concerns developing countries have about the commodity market situation. Traditional concerns include (1) depressed commodity prices, especially for cocoa and coffee, leading to large shortfalls in many developing countries' export earnings; (2) structural over-supply for some commodities, with an oversupply in temperate-zone commodities attributable at least in part to developed countries' farm income support policies; and (3) declining demand for natural raw materials as synthetic substitutes become more widely available and used. New concerns identified in 1990 included (1) decreasing demand for commodities in developed countries because of the influence of noneconomic factors such as health and environmental concerns; (2) over-supply of certain commodities, leading to lower prices, because of the use of high-yield varieties and improved production techniques; and (3) limited market opportunities, even for efficient producers, because of price supports developed countries give to their domestic producers.⁸⁵

The OECD also studied recent trends in production, prices, and international demand for commodities.

At the end of 1990, the United States was participating in six of the seven international commodity agreements: those covering coffee, natural rubber, jute, sugar, tropical timber, and wheat.⁸⁶ 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 through enacted legislation. A treaty is the customary route. In general practice, the U.S. Government has expressed concern regarding the potential for long-term market distortions under international price-stabilization mechanisms. It contends that world markets should be allowed to operate freely and without government interference. U.S. efforts are focused on promoting research and development funding rather than market intervention. However, the United States has shown that it is

⁸³—Continued

Work Programme, with Particular Reference to the Results of Intergovernmental Consultations held Pursuant to the Relevant Paragraphs of the Final Act of UNCTAD VII," TD/B/C.1/311, Aug. 30, 1990.

⁸⁴ UNCTAD, "Review of the Commodity Situation and Outlook," TD/B/C.1/309, December 1990.

⁸⁵ For a more detailed discussion of these concerns, see UNCTAD, "Commodities: Old Concerns Persist, New Ones Emerge," *UNCTAD Bulletin*, No. 6, Nov.-Dec. 1990, pp. 9-10.

⁸⁶ The United States does not participate in the international agreement governing cocoa.

willing to consider participation in a commodity agreement if there is a demonstrated need in an economically sound market and a balance between producer and consumer interests.

The following sections summarize significant developments in the 1990 operation of international commodity agreements covering cocoa, coffee, natural rubber, jute, sugar, tropical timber, and wheat. Three of the agreements (cocoa, coffee, and natural rubber) 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 the consumer. The cocoa and natural rubber agreements provide for market intervention through buying and selling of buffer stocks to moderate price swings. The now-suspended coffee agreement used export quotas to stabilize prices. In price-stabilization arrangements, the proposed price range must be compatible with the anticipated long-term market trend. In addition, the price-affecting mechanism must be sufficiently flexible to allow prices to move both up and down in response to changes in international supply and demand. In contrast, the agreements covering jute, sugar, tropical timber, and wheat are not specifically designed to stabilize prices. Instead, these agreements seek to promote research and market development of the respective commodities.

Cocoa

The 1986 International Cocoa Agreement (ICCA),⁸⁷ concluded in July 1986, replaced the 1980 agreement, which expired on September 30, 1986.⁸⁸ In January 1987, the 1986 ICCA went into effect as the requisite number of cocoa producing and consuming member countries provisionally ratified the accord.⁸⁹ Unlike in the previous agreement, the world's largest producer of cocoa—the Cote d'Ivoire—is a member of the 1986 ICCA. The agreement was scheduled to be in effect through yearend 1990; after that time it became eligible to be extended for an additional 3 years if a new agreement had not been already 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.⁹⁰

The 1986 ICCA's 250,000-ton buffer stock includes 100,000 tons of cocoa carried over from the 1980 ICCA. The buffer stock is financed by a

⁸⁷ The two "Cs" in the initials for the International Cocoa Agreement (ICCA) are used to distinguish it from the International Coffee Agreement (ICA).

⁸⁸ The 1980 ICCA replaced the ICCA of 1975 and its predecessor, the ICCA of 1972.

⁸⁹ Ratification by countries accounting for 80 percent of world exports and 65 percent of world imports are needed for the agreement to enter into force.

⁹⁰ U.S. Department of State, "International Commodity Agreements," GIST, Aug. 1985.

1.4-cent per pound levy on member exports and on member imports from nonmembers. The ICCA provides for semiautomatic adjustment mechanisms and price reviews. Prices in the current ICCA are denominated in Special Drawing Rights (SDRs) to moderate currency fluctuations.⁹¹ The following tabulation lists the price ranges⁹² of the ICCA as of February 1991:

	SDR/ton	Approx. cents/lb.
Upper intervention price (must sell)	2,155	142
May sell price	2,100	138
Median price	1,820	120
May buy price	1,540	101
Lower intervention price (must buy)	1,485	98

Cocoa prices under the agreement are determined by reference to a daily price and by an indicator price expressed in SDRs per ton. 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.⁹³

The ICCA also includes a provision for a Withholding Scheme in case the buffer stock is unable to maintain prices within the designated range.⁹⁴ 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.

Efforts to renegotiate the agreement in 1990 proved unsuccessful. The agreement's buffer stock mechanism ran out of funds in the 1980s because of members' growing arrearages in funding the buffer stock mechanism and because of a collapse in international cocoa prices. Little chance of the renegotiation of the ICCA exists until producer-country debts are paid. In July 1990, arrears totaled approximately \$150 million, of which Cote d'Ivoire owed \$87 million. At the March 1990 ICCO meetings, the Agree-

⁹¹ For 1990, according to ITC calculations, the average SDR exchange rate was 1.36 SDR/U.S. dollar.

⁹² Based on ITC calculations.

⁹³ The daily price is the average daily quote for cocoa beans of the nearest three active future trading months on the London Cocoa Terminal Market and on the New York Coffee, Sugar, and Cocoa Exchange at the time of the London daily close. The indicator price is the average of the daily prices over 10 consecutive market days.

⁹⁴ 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 when the indicator price is at or below the lower intervention price for 5 or more consecutive days, or when either 80 percent of the maximum capacity of the buffer stock has been filled, or when the net financial resources of the buffer stock are only sufficient to purchase 30,000 tons of cocoa.

ment's administrative provisions were extended until September 30, 1992, without the buffer stock mechanism; the 1.4-cent per pound levy on member exports and imports from nonmembers used to finance the buffer stock was suspended as of April 15, 1990; and the buffer stock manager was authorized to sell any stockpiled cocoa over 10 percent defective, without replacement. It was also agreed that the buffer stock manager, as of October 1, 1990, could sell extra cocoa to meet operating expenses. However, sufficient funds are deemed available to cover costs for the 1990/91 season. The September 1990 meetings of the ICCA Executive Committee and Council ended without concluding a new Agreement. Meetings of the ICCA Executive Committee and Council in September 1990 ended without concluding a new Agreement. If the ICCA is not renegotiated or extended, the buffer stock must be gradually liquidated over a period of no more than 4 1/2 years.

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 present agreement is an extension (for 2 years) of the original 6-year agreement, which was to expire on September 30, 1989. The International Coffee Organization (ICO) administers the ICA under rules and regulations established by the International Coffee Council (ICC).

On July 3, 1989, the ICC suspended export quotas,⁹⁵ but elected to extend the ICA, without economic provisions, until September 30, 1991. Following the suspension and the resulting increased supply, coffee prices declined significantly. The ICO composite price reached a low of 61 cents per pound in October 1989, which was 47 percent less than the October 1988 average of \$1.14. USDA officials report that disagreement among ICA members over discount sales to nonmembers, market shares, and the problem of availability of the types and qualities of coffee required by consuming countries led to the suspension of quotas.

Table 7 shows that during 1986-90, the average annual ICO composite indicator price declined from \$1.71 per pound to 72 cents per pound.

⁹⁵ Until July 1989, when export quotas were suspended, the terms of the ICA remained essentially unchanged from those of the original agreement. The agreement provided for export quotas to stabilize prices, but had no provision for a buffer stock. Each exporting member country was annually assigned a coffee export quota and was required to affix an ICA certificate of origin to coffee exports. Importing member countries were required to refuse any shipments from exporting countries not accompanied by valid ICA certificates. For more detailed information on the suspension of quotas, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC publication 2317, September 1990, p. 72.

Table 7
Green coffee: International Coffee Organization monthly average composite indicator prices, on the basis of the 1979 agreement, 1986-90

(Per pound)

Month	1986	1987	1988	1989	1990
January	\$2.04	\$1.18	\$1.15	\$1.27	\$0.92
February	1.91	1.16	1.21	1.18	.92
March	2.04	1.01	1.18	1.17	.90
April	1.92	1.04	1.16	1.18	.92
May	1.77	1.11	1.16	1.16	.92
June	1.54	1.02	1.19	1.05	.92
July	1.49	.96	1.14	.77	.92
August	1.54	.98	1.07	.69	.92
September	1.81	1.05	1.14	.69	.92
October	1.63	1.11	1.14	.61	.91
November	1.49	1.16	1.14	.62	.91
December	1.31	1.15	1.24	.62	.91
Average	1.71	1.08	1.16	.92	.92

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

The International Coffee Council met in London September 17-18, 1990. Salient issues discussed were (1) the future of the ICA scheduled to expire September 30, 1991; (2) the extension of the contract of the ICO Executive Director, due to expire at the end of March 1991; (3) the ICO budget for 1990/91; and (4) progress on the negotiations for renewal of the lease on the ICO current headquarters facilities.

Although no progress was made to reinstate export quotas, it was agreed that the ICA would be extended for another year until September 30, 1992. The Council extended the contract of the ICO Executive Director (Alex Beltrao, a Brazilian citizen who has held that office since 1968) for a 2-year period until March 1993. As for the ICO budget, members expressed their desire that, if possible, outlays be restrained to the level of the previous year and that annual dues not be increased. Negotiations are continuing for the renewal of the lease on the London ICO headquarters.

Vietnam was admitted as an exporting member of the ICO on September 28, 1990. The ICO has ruled that Vietnam will be classified initially as an exporting member exempt from basic quotas under the provisions of article 31 of the ICA 1983, as extended. For statistical purposes, the crop year of Vietnam shall be deemed to run from October 1 to September 30 and coffee produced and exported be classified as Robusta.

The ICO has announced that it will not fund a 1991 Winter Coffee Drinking Survey for the U.S. market. The Board of Management of the Promotion Fund has decided to discontinue support for all market research activities.

Natural Rubber

The International Natural Rubber Agreement of 1987 (INRA 1987) is the second such agreement on

natural rubber replacing INRA 1979.⁹⁶ The purpose of INRA 1987, like that of its predecessor, is to stabilize natural rubber prices and to foster expanded natural rubber supplies at reasonable prices. INRA 1987 is designed to reflect fully market trends and to operate in an effective and financially sound manner.⁹⁷ It provides for the continuation of the buffer stock established by INRA 1979 of not more than 550,000 metric tons. The buffer stock is used to defend a price range that is adjusted regularly in accordance with market conditions, and the buffer stock mechanism is the sole instrument for price stabilization. The financing of INRA 1987 is shared equally between importing and exporting members. INRA 1987 has a term of 5 years that can be extended for 2 years.

The Buffer Stock Manager (BSM) of the International Natural Rubber Organization (INRO) entered the market to purchase natural rubber for the INRO stockpile in each of the first 3 months of 1990.⁹⁸ This intervention by the BSM was an attempt to defend the price of natural rubber, as the 5-day moving average of the INRO daily market indicator price

⁹⁶ INRA 1987 came into force provisionally on December 29, 1988. 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. For a detailed discussion of the INRA's origin and its operation, see *Operations of the Trade Agreement Program*, 33rd Report, 1981, USITC publication 1308, pp. 91-94; and publication 1955, pp. 3-14 and 3-15. For further information on U.S. participation in INRA 1987, see U.S. Department of State, *Airgram*, Dec. 5, 1988, Message Reference No. A 301.

⁹⁷ This is accomplished through periodic reviews of the reference price. The reference price is a midrange price level that is reflective of recent market prices. See the discussion of the 1990 reference price review below.

⁹⁸ The Economist Intelligence Unit, *Rubber Trends*, No. 125, London, England, March 1990, pp. 5, 18, 19, and 25; and, The Economist Intelligence Unit, *Rubber Trends*, No. 126, London, England, June 1990, pp. 16, 20, and 26.

(DMIP)⁹⁹ had been below the lower intervention price (the "may buy" level) of 185 Malaysian/Singapore (M/S) cents per kilogram (i.e., 81.9 U.S. cents per kilogram or 37.2 U.S. cents per pound) from about mid-December 1989 on into 1990.¹⁰⁰ INRO 1987 considers the market indicator price above, at, or below price levels specified in this agreement if the average of the DMIP for the last 5 days is above, at, or below such prices.¹⁰¹ The intervention by the BSM in support of prices was the first intervention since INRO sold off its stocks in March 1989. This has been the first purchase by the BSM since 1986.¹⁰²

In spite of intervention by the BSM, the DMIP fluctuated narrowly below the lower intervention (i.e., "may buy") price level of 185 M/S cents per kilogram during April-June 1990. The 6-month average of the DMIP at the end of June 1990 was 182.93 M/S cents per kilogram. Therefore, the International Natural Rubber Council ("Council") at its 21st session on July 10 and 11, 1990, carried out its first 15-month review of the reference (i.e., mid-range or mid-point) price and agreed on a 5-percent downward revision of the INRO reference price to 207.20 M/S cents per kilogram against the former level of 218.10 M/S cents per kilogram.

There was a consensus among both the consumer and producer members of the Council that the minimum required cut of 5 percent would be sufficient to reflect the prevailing equilibrium in international natural rubber markets.¹⁰³ Consequently, changes to the various intervention levels (i.e., upper and lower intervention and upper and lower trigger action price) were also revised downward by 5 percent.¹⁰⁴

⁹⁹ The DMIP and other INRA-related prices are described in detail in articles 29-32 of the *International Natural Rubber Agreement, 1987*, Treaty Document 100-9, 100th Congress, 1st sess., October 20, 1987.

¹⁰⁰ The exchange rate used is the mathematical average of the Malaysian currency exchange rate and the Singapore currency exchange rate. For 1990, the rate used was calculated from data provided by the International Monetary Fund, *International Financial Statistics*, vol. XLIV, No. 3, March 1991, pp. 348 and 468.

¹⁰¹ For an explanation of the daily market indicator price (DMIP), the conversion of the M/S currency to the U.S. currency, and the intervention prices and other INRA related prices, see *Operations of the Trade Agreements Program*, 41st Report, 1989, USITC Publication 2317, pp. 75 and 76; *Operation of the Trade Agreements Program*, 33rd Report, 1981, USITC publication 1308, pp. 92-94; *Operations of the Trade Agreements Program*, 32nd Report, 1980, USITC publication 1414, pp. 90-92; and, *Operations of the Trade Agreements Program*, 31st Report, 1979, USITC publication 1121, pp. 86-88.

¹⁰² The Economist Intelligence Unit, *Rubber Trends*, No. 125, London, England, March 1990, pp. 18 and 19; and, The Economist Intelligence Unit, *Rubber Trends*, No. 126, London, England, June 1990, p. 16.

¹⁰³ Committee on Statistics, *Annual Assessment of the World Natural Rubber Situation and Related Areas*, Nineteenth Meeting, Nov. 9 and 13, 1990, ST/19/4, Agenda item 4, and the Economist Intelligence Unit, *Rubber Trends*, London, England, No. 127, September 1990, pp. 19-20.

In August 1990, the INRO five-day moving average of the INRO DMIP reached its high of 189.36 M/S cents per kilogram. Since then, natural rubber prices edged down, and in November 1990 approached the new "may buy" level of 176 M/S cents per kilogram despite the 5-percent reduction in intervention thresholds in July. This reduction encouraged sufficient speculation that further intervention by the BSM in support of prices is likely.¹⁰⁵ Official sources, however, report that no further intervention by the BSM occurred during 1990.¹⁰⁶

Official sources attribute the decline in price for natural rubber during 1990 to a combination of two principal factors. First, there was a slack in demand in the automotive and tire industries in 1990. Second, there was more than an ample supply of natural rubber to meet worldwide needs.¹⁰⁷

There were additional significant actions taken by the International Natural Rubber Council of INRO during the 21st session (July 10 and 11, 1990) and the 22d session (November 12 and 13, 1990), which were both held in Kuala Lumpur.¹⁰⁸ At the 21st session, the Council agreed to resolution 124, Refund of Surplus Funds Under the Buffer Stock Account Under INRA 1979. This refund amounted to a total of approximately \$11 million Malaysian Ringgets (approximately \$4 million U.S. dollars)¹⁰⁹ to members who so request. The United States is entitled to \$1.3 million Malaysian Ringgets (\$479,000 U.S. dollars), or about 12 percent of the total refund. About \$880 million Malaysian Ringgets (\$326 million U.S. dollars) from INRA 1979 have already been refunded.

Also, at the 22d session (November 11-13, 1990), the Council extended the time limit for the deposit of instruments of ratification, acceptance, or approval up to and including December 31, 1991, to enable members who had made provisional applica-

¹⁰⁴ The new upper trigger action price ("must sell") level was set at 249 M/S cents per kg (as against 262 M/S cents per kg previously); the upper intervention price ("may sell") level was set at 238 M/S cents per kg (as against 251 M/S cents per kg); the lower intervention price ("may buy") level at 176 M/S cents per kg (formerly 185 M/S cents per kg.); and the lower trigger action price ("must buy") level at 166 M/S cents per kg (previously set at 174 M/S cents per kg). With a special vote requiring a two-thirds majority, the reference price could have been reduced by more than 5 percent at the July 1990 meeting. See the Committee on Statistics, *Annual Assessment of the World Natural Rubber Situation and Related Areas*, 19th Meeting, Nov. 9 and 13, 1990, ST/19/4, Agenda item 4, and, The Economist Intelligence Unit, *Rubber Trends*, No. 127, London, England, September 1990, pp. 19 and 20.

¹⁰⁵ *Ibid.*, No. 128, December 1990, pp. 4, 20, 25, and 26.

¹⁰⁶ USITC staff telephone interview, Office of Commodities, U.S. Department of Commerce, Feb. 12, 1991, and Feb. 13, 1991.

¹⁰⁷ *Ibid.*

¹⁰⁸ The actions at these meetings are summarized in the official *Press Communiqué* issued at the end of each session (i.e., Annex 12, CL/21/Communiqué, July 11, 1990; Annex 9, CL/22/Communiqué, November 13, 1990); The Economist Intelligence Unit, *Rubber Trends*, No. 126, June 1990, p. 16; and, No. 127, September 1990, p. 14.

¹⁰⁹ \$1.00 US = \$2.70166 Malaysian Ringgets.

tion to ratify INRA 1987. Sri Lanka, the fourth largest producer of natural rubber in the world and a member of INRA 1979, formally joined INRA 1987 on July 19, 1990. Sri Lanka is the fifth exporting country after Malaysia, Indonesia, Thailand, and Nigeria to join INRA 1987. INRA 1987 now comprises 5 exporting and 20 importing members and the European Community.¹¹⁰

Worldwide consumption of natural rubber reached 5.320 million metric tons (mt) in 1990, a 2-percent increase over 5.225 million mt in 1989.¹¹¹ Worldwide production of natural rubber in 1990 reportedly reached 5.170 million mt, an increase of 1.2 percent over 5.110 million mt in 1989. Natural rubber stocks declined again in 1990 as natural rubber demand rose about 150,000 mt more than production. Another source estimates 1990 natural rubber consumption at 5.330 million mt and production at 5.200 million mt, with an overall decline in stock of 130,000 mt in 1990.¹¹²

Jute

The International Jute Agreement (IJA) was signed in 1982 under the auspices of UNCTAD and became effective January 9, 1984.¹¹³ Unlike some intergovernmental commodity agreements, the IJA does not administer buffer stocks, pricing-level measures, or export quotas to stabilize world prices or supplies. In addition, there are no provisions for obligatory contributions to the IJA's Special Account, which is used for project funding.

The original IJA agreement expired in 1989 but was reenacted and temporarily extended until January 9, 1991, to allow the final drafting of a new jute agreement. The new agreement, scheduled to last until January 9, 1996, was ratified by most members and entered into effect provisionally in January 1991.¹¹⁴ The new agreement is similar in focus and direction as the original 1982 agreement, although it has added some cooperative ventures and environmental measures as new objectives.

The IJA is essentially a research and development oriented agreement to promote sales of jute and jute products. The IJA concentrates on maintaining and expanding existing markets for jute, as well as

¹¹⁰ For a detailed description of these proceedings, see the official *Press Communiqué* issued at the end of each session (i.e., Annex 12, CL/21/Communique, July 11, 1990; Annex 9, CL/22/Communique, November 13, 1990); The Economist Intelligence Unit, *Rubber Trends*, No. 126, London, England, June 1990, p. 16; and, No. 127, September 1990, p. 14.

¹¹¹ International Rubber Study Groups (IRSG), *Press Release*, 32nd Assembly of the IRSG, Ottawa, Canada, Sept. 10-14, 1990.

¹¹² The Economist Intelligence Unit, *Rubber Trends*, No. 128, London, England, December 1990, p. 25.

¹¹³ For more detailed information on the formation of the IJA, see USITC, *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC publication 1725, July 1985, pp. 95-97.

¹¹⁴ U.S. Department of State Telegram, January 1991, Dhaka, Message Reference No. 00808.

creating new markets by enhancing the competitiveness and quality of jute and jute products. The objectives of the new IJA are similar to those of the former IJA, although the following new objectives have been added: (1) to provide effective cooperation and consultation between jute exporting and importing countries; (2) to consider the environmental aspects in IJO activities; and (3) to encourage jute processing in both importing and exporting countries.

The International Jute Organization (IJO), headquartered in Dhaka, Bangladesh, administers the IJA. The IJO assembles data, undertakes research and development projects, and oversees studies pertaining to the problems in the overall jute market. The International Jute Council (IJC) is the Agreement's highest governing body. It conducts two formal meetings annually for all signatories. The exporting countries and the importing countries, as two blocs, each account for 50 percent of the IJC votes.

The Food and Agriculture Organization of the United Nations projected world production of jute fiber to total 3.6 million metric tons for crop year 1990/91. This is a 16-percent increase in production from the previous crop year of 3.1 million metric tons and the largest output in the last 4 crop years, but still well below the average of 4.5 million metric tons for 1983/84-1985/86. The increase in 1990/91 production resulted after carryover stocks were reduced to a lower than usual level at the start of the crop year. The tighter supply of jute led to higher prices, which, in turn, led producers to increase the amount of acreage under cultivation. Increased acreage coupled with availability of quality seed and favorable weather conditions combined to yield an increase in world production.

Developing countries produced 99 percent of the world's output of jute fiber in crop year 1990/91. India and Bangladesh, traditionally the largest suppliers, accounted for 44 percent (1.6 million metric tons) and 23 percent (0.8 million metric tons), respectively, of the world production in crop year 1990/91.¹¹⁵

World exports of jute fiber in crop year 1989/90 increased 26 percent from the previous crop year, amounting to 480,800 metric tons. Developing countries accounted for 97 percent of all exports. Bangladesh remained the major source of exports. The increase in world exports of jute fiber was chiefly the result of a 28 percent increase in exports from Bangladesh. India, the leading world producer of jute fiber, consumes most of its output domestically. However, the increased demand for jute exports was attributed largely to India. For the first time, India's government permitted the importation of raw jute fiber, allowing jute manufacturers to purchase jute fiber at the more competitive international prices.

¹¹⁵ The only developed country that produces a significant amount of jute fiber is the Soviet Union. It accounted for approximately one percent (47,000 metric tons) of world production in crop year 1990/91.

World production for all jute products (including yarn, twine, carpetbacking, fabrics, sacking, and other finished goods) declined to 3.4 million metric tons in 1989. This was a slight drop from the previous year and a 9 percent decline from the 1986 output.¹¹⁶ Rising concern for the environment has increased interest in some nontraditional jute products, such as carpets, clothing, decorative wall hangings, paper, geotextiles, and non-woven products for automobile panels; strong competition from manmade fibers has displaced the use of jute in many other products, however. Developing countries accounted for 94 percent (3.3 million metric tons) of the world production of jute products in 1989. As with jute fiber, India is the largest producer of jute goods, providing 40 percent (1.4 million metric tons), and Bangladesh produced about 21 percent (710,000 metric tons). Developed countries produced only 6 percent (192,000 metric tons) of the world total, with the Soviet Union accounting for more than one-fourth of this production in 1989.

World exports of jute products have declined in recent years, although exports of 1.0 million metric tons in crop year 1989/90 were slightly above the previous crop year. The rise was attributed mostly to increased competitiveness of jute products compared with products of manmade fibers. This was a consequence of relatively higher manmade fiber prices caused by increased oil prices in the Middle East. As with jute fiber, most exports of jute products are from developing countries, accounting for 91 percent of the total in crop year 1989/90. Bangladesh is the largest exporter of jute products while India is the second major exporter though the leading producer.

World apparent consumption of jute fiber was 3.3 million metric tons in 1989, a slight increase (2 percent) over the previous year. Developing countries were responsible for 79 percent of total world consumption, with those countries in the Far East accounting for almost half (49 percent) of the total. India, the largest consumer of jute, accounted for 37 percent of total world consumption. China was the second leading consumer of jute fiber, accounting for 17 percent of the total in 1989. Bangladesh, which produces almost one-fourth of the world output, domestically consumed less than one percent of the world total consumption.

Sugar

The 1987 International Sugar Agreement (ISA) entered into force on January 1, 1988, following expiration of the 1984 ISA.¹¹⁷ The International Sugar Organization (ISO), located in London, administers the agreement. Concluded on September 11, 1987,

¹¹⁶ Data for jute production lags about one and one half years behind fiber output information.

¹¹⁷ For a more detailed discussion of provisions under the 1987 ISA, see USITC, *Operation of the Trade Agreements Program*, 39th Report, 1987, USITC publication 2095, July 1988, p. 3-13.

this current ISA operated for its slated 3 years, and was scheduled to expire on December 31, 1990. The ISA Council voted in November 1990 to extend the 1987 agreement for another year¹¹⁸ to allow time for the results of the Uruguay Round to become known.

Like its predecessor agreement,¹¹⁹ the 1987 ISA is merely an administrative agreement—it does not contain economic provisions to control prices.¹²⁰ The only change the 1987 ISA makes with regard to the previous agreement is the method of financing the ISO. Rather than an even split between importers and exporters, importers are liable for only 42.5 percent of the costs, with exporters accountable for the remaining 57.5 percent. This change was primarily made in order to more equally distribute the burden of payment between the two groups since more exporters than importers are signatories to the ISA.

The number of exporting signatories to the ISA grew from 34 to 38 in 1989. New exporting members were Austria, Bolivia, Colombia, and Mexico. The Organization as of November 1990 listed 45 members, with the EC constituting one member. Including importing countries, the Organization as of October 1989 consisted of 47 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 has been in arrears in its payments to the ISO for several years. The current amount of the arrearages as of August 1990 was \$215,000. In addition to losing its voting rights over the arrearages, the United States also lost its seat on the policy-making ISO Sugar Council, in which it was traditionally one of ten representatives of importing sugar countries. The Council is the main policy-making body of the ISO.

¹¹⁸ The 1987 ISA allowed for two such extensions, which require two-thirds of the votes of the exporting members and two-thirds of the votes of the importing members.

¹¹⁹ For more details about the 1984 agreement, see USITC, *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC publication 1725, July 1985, p. 90.

¹²⁰ 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, as identical refined sugar is obtained from tropically grown sugarcane and from temperately grown sugar beets. Individual countries also heavily regulate their 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 requires about 20 months from planting to reach full production (which then is continued for several years), the price swings are usually extended.

The use of target prices was discontinued after 1984. Actual prices have remained below the 1982-84 target range. Table 8 presents the monthly world market prices for January 1985–November 1990.

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 thus forming the International Tropical Timber Organization (ITTO). These countries account for over 95 percent of world trade in tropical timber.

The objectives of the ITTA¹²¹ 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.

¹²¹ For the purpose of the ITTA, "tropical timber" is defined as nonconiferous tropical wood that grows or is produced for industrial uses in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawn wood, veneer, and plywood.

The ITTA is the third commodity agreement to be negotiated under the framework of UNCTAD's Integrated Program for Commodities. Its objectives are to provide an effective framework for cooperation and consultation between tropical timber-producing and consuming countries with a view to promotion, expansion, diversification of international trade in tropical timber, and to the improvement of 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. Projects in these areas are financed from the internal UNCTAD accounts (the Second Account of the Common Fund for Commodities), from regional and international financial institutions, and from voluntary contributions.

At its Ninth Session in Yokohama, in November 1990, the International Tropical Timber Council (ITTC) established an "expert panel" to appraise new ITTO project proposals with respect to their technical soundness. The panel was directed to screen new project proposals, to ensure their relevance to the ITTO Action Plans and Work Programs, and to recommend adjustments to the proposals that would enhance technical feasibility.

In an effort to improve ITTO's project review process, a 12-person technical panel convened at the headquarters of the Malaysian Timber Industry Board in Kuala Lumpur, Malaysia. The panel comprised six

Table 8
Raw sugar: Monthly world market prices, F.O.B., Caribbean Ports, Bulk Basis (I.S.A.), 1985-90

(Cents per pound)

Period	1985	1986	1987	1988	1989	1990
January	3.59	4.87	6.47	9.64	9.69	14.38
February	3.66	5.55	7.32	8.40	10.49	14.63
March	3.78	7.07	7.51	8.48	11.54	15.39
April	3.37	8.36	6.64	8.49	12.14	15.24
May	2.77	7.64	6.71	8.85	11.93	14.62
June	2.74	6.36	6.40	10.52	12.63	12.99
July	3.15	5.58	6.03	14.04	14.01	11.92
August	4.35	5.50	5.57	11.09	13.96	10.92
September	5.14	4.67	5.79	10.18	14.13	11.00
October	5.01	5.42	6.60	10.29	14.42	9.77
November	5.53	5.93	7.28	10.82	15.02	10.00
December	5.37	5.66	8.25	11.28	13.52	(¹)
Average	4.04	6.05	6.71	10.17	12.79	12.81

¹ Not available.

Source: Compiled from UNCTAD data.

individuals from tropical timber producing countries and six from consuming countries. Detailed comments were prepared by the panel for 48 project proposals, submitted from all regions of the world. The panel's comments will be forwarded to the countries that submitted proposals so that they may strengthen them prior to final submission to the ITTO Committees and Council at their next session in Quito, Ecuador, in May 1991.

Wheat

The International Wheat Agreement (IWA), unlike many international commodity agreements, has no provisions for buffer stocks, intervention ranges, or export quotas. The activities of the IWA are allocated to two conventions, a Wheat Trade Convention and a Food Aid Convention. As part of its responsibilities, the IWA provides technical studies, food aid pledges by exporters and importers to needy developing nations, 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 was June 30, 1986. A new IWA was negotiated in 1986, with signatures affixed in June 1986. Both the Wheat Trade Convention and the Food Aid Convention of the IWA expire June 30, 1991.

While continuing all the functions and organizational structures of predecessor agreements, the latest IWA expanded the scope of research and reporting to include information on other grains, while maintaining its emphasis on wheat. It also increased the pledges under the Food Aid Convention. The new agreement remained without the power to intervene in the world market in order to regulate supplies and prices. The principal difference between the old and the new IWA was that the later agreement downplayed the language in the original IWA dealing with eventual price intervention, an activity the United States opposes.

The decision taken by the Food Aid Committee at its 61st Session on December 13, 1990, regarding the further extension of the Food Aid Convention, 1986, is as indicated below.¹²²

The Council agrees in principle to extend the Wheat Trade Convention for two years to 30 June 1993. It notes, however, that some countries are not in a position to vote on the extension at this session.

The Council further agrees that if countries with reservations lifted them by 30 April

¹²² From the memorandum issued by the Executive Director, International Wheat Council, dated Dec. 17, 1990, addressed to the Members of the Council.

1991 it would confirm its decision on the extension at its June 1991 session in accordance with the provisions . . . of the Convention.

In marketing year 1989/90,¹²³ world utilization of wheat and wheat flour rose to 536.2 million metric tons (mt) from 531.5 million mt the previous year. Total world production increased slightly over 7 percent, from 500.3 million mt in 1988/89 to 536.4 million mt in 1989/90. Utilization did not exceed production for the first time in 3 years, such that world stocks were no longer drawn down (they had declined 33.5 percent from a high of 176.4 million mt in 1986/87 to a low of 117.4 million mt in 1988/89); the U.S. Department of Agriculture forecast for 1990-91 indicates a continuation of the increase in world production and stocks.¹²⁴ However, the stocks of major foreign wheat exporters for 1989/90 are some 12 percent higher than the previous year.¹²⁵

During 1988/89 to 1989/90, world trade in wheat declined marginally from 96.8 million mt to 96.6 million mt; total non-U.S. wheat trade increased by over 6.5 percent, from 59.2 million mt to 63.1 million mt, whereas the trade in U.S. wheat declined from 37.6 million mt to 33.5 million mt, almost an 11-percent decline. The U.S. share of the world wheat market declined from 38.8 percent in 1988/89 to 34.7 percent in 1989/90.

Production of major importers rose in 1989/90. India and China produced record wheat crops owing to expanded area and yields. In China there are problems in getting the wheat from the rural areas to the urban areas, such that urban areas may not see the benefit of the increased production.¹²⁶

U.S. wheat exports are down in 1989/90 owing to tight supplies and increased competition for a static world market. The largest markets for U.S. wheat have been China, the USSR, and Japan. China and the USSR have also been the largest purchasers of wheat under the Export Enhancement Program (EEP). EEP sales have increased, but they remain 50 percent below the June-January pace of 1988/89, reflecting in large part reduced EEP sales to China and India.

While world wheat prices rose from calendar years 1988 to 1989, they declined in 1990. As an example, the 1988 Gulf port price for no. 2 hard winter wheat, ordinary protein, f.o.b. vessel, was \$146.00 per metric ton; in 1989 the price was \$171.00; in September 1990 the price had fallen to \$115.00, a 33 percent decline in less than one year.¹²⁷

¹²³ July 1989 through June 1990.

¹²⁴ U.S. Department of Agriculture, Economic Research Service, *Wheat, Situation and Outlook Report*, (WS-291, November 1990).

¹²⁵ *Ibid.*, (WS-288, February 1990).

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

Bilateral Trade Agreements Activities

The Bilateral Investment Treaty Program

The U.S. Bilateral Investment Treaty (BIT) program was launched in 1981 to help promote U.S. direct investment abroad.¹²⁸ 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 in developing countries—are eliminated, U.S. international investment flows should increase.

The U.S. Government negotiates BITs using a prototype treaty that has the following main objectives: (1) 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. These objectives are based on a version of the original BIT prototype, which was last updated in 1987.

Since the beginning of the program, the United States has held preliminary discussions with over 40 countries regarding possible BITs. No BITs were ratified by the Congress in 1989. Two BITs, one with Panama¹²⁹ and one with Poland,¹³⁰ were ratified by the Senate in 1990.¹³¹

United States-Israel Free-Trade Agreement

The year 1990 was the fifth full year of operation of the United States-Israel Free-Trade Agreement.¹³² This agreement, which became effective on September 1, 1985, was the first FTA entered into by

¹²⁸ For a more detailed discussion of the BIT program, see USITC, *Operation of the Trade Agreements Program*, 35th Report, 1983, USITC publication 1535, 1984, pp. 36-43.

¹²⁹ The United States signed the Investment Treaty with Panama (Treaty Doc. 99-14) on Oct. 27, 1982, but the Senate withheld ratification because of U.S. displeasure with the government of Manuel Noriega. BNA, "State Department Official Urges Senate Panel to Approve Poland, Panama Treaties," *International Trade Reporter*, September 26, 1990, pp. 1489-1490.

¹³⁰ The United States signed the Treaty with Poland Concerning Business and Economic Relations on March 21, 1990. President Bush transmitted the treaty to the Senate for ratification on June 19, 1990. For further information on the U.S. treaty with Poland, see "Administration Publicizes Trade Strategy with East Europe to Counter Criticism," *Inside U.S. Trade*, March 30, 1990, pp. 20-22. For additional details on transmittal of the treaty for Senate approval, see "Message to the Senate Transmitting the Poland-United States Business and Economic Relations Treaty," *Weekly Compilation of Presidential Documents*, June 19, 1990, p. 970.

¹³¹ *Congressional Record*, vol. 136, no. 150-Part III, Oct. 27, 1990, S17717.

¹³² The United States-Israel Free Trade Area Implementation Act of 1985, Public Law 99-47, received Congressional approval on June 11, 1985.

the United States.¹³³ Under the agreement, tariffs on all goods in trade originating in the two countries will be eliminated over a 10-year period.¹³⁴ 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.

The FTA immediately eliminated duties on products both the United States and Israel consider the least import-sensitive.¹³⁵ The remaining more sensitive products were placed onto one of three lists¹³⁶ for the purpose of phasing out customs duties. Each list follows a different staging pattern based on the product's import-sensitivity, with the complete elimination of duties on all traded goods to be accomplished by January 1, 1995. Initial duty reductions of products on the A and B lists began on September 1, 1985, with duties on less sensitive A-list products phased out on January 1, 1989, and duties on more sensitive B-list products scheduled to be completely eliminated by January 1, 1995. Duties on C-list goods, the most import-sensitive products, were frozen until January 1, 1990. The FTA specifies that C-list duties after this date are to be determined by the governments of Israel and the United States, and that duties on these products are to be completely eliminated effective January 1, 1995.

In addition to duty-free entry into the United States under the FTA, Israeli exports to the United States also are eligible for duty-free entry under the U.S. GSP program.¹³⁷ However, the FTA offers Israel the advantage of guaranteed duty-free access to the United States, while the U.S. GSP program is scheduled to expire on July 4, 1993, and imposes competitive need limits and tighter origin rules.

Trade between the United States and Israel under the FTA increased further in 1990. Imports under the FTA were at their highest level since the FTA became operational. The total reported value of duty-free imports under the FTA in 1990 was \$853 million, or

¹³³ For a more detailed discussion of the U.S.-Israel Free Trade Area Agreement, see USITC, *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC publication 1725, July 1985, pp. 26-33.

¹³⁴ Between 1982 and the time the FTA agreement was signed in 1985, over 90 percent of Israel's exports had duty-free access to the United States under the U.S. GSP program or on a most-favored-nation basis. See USITC, *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC publication 1725, July 1985, p. 27. See also "U.S.-Israel: Two Views," *The Israel Economist*, October 1987, p. 18.

¹³⁵ Israeli exports of textiles and apparel, which had not received duty-free treatment by the United States in the past, grew by 20 percent in 1986 primarily because of provisions under the FTA. See "U.S.-Israel: Two Views," *The Israel Economist*, October 1987, p. 18. For a more detailed analysis of the results of the FTA during its first full year of operation, see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC publication 1995, July 1987, pp. 3-18 to 3-19.

¹³⁶ Initially referred to as Categories II, III, and IV, they are now referred to as the A, B, and C lists.

¹³⁷ See discussion of the U.S. GSP program in chapter 5.

about 26 percent of total U.S. imports from Israel. In comparison, U.S. imports from Israel entering free of duty under the U.S. GSP totaled \$492 million, or 15 percent of imports. Table 9 lists the top 20 items imported from Israel under the United States-Israel FTA during 1988-1990.¹³⁸

Trade Dispute

In May 1990, for the first time in the history of the U.S.-Israel FTA, the agreement's dispute settlement procedures were invoked. Israel invoked dispute resolution procedures because the United States took "action affecting machine tool imports from Israel that Israel believes violates the FTA."¹³⁹ The dispute involved country of origin requirements for U.S. imports of machine tools containing Taiwanese components by the Israeli company Sharnoa Electronics. In late January 1990, the U.S. Department of Commerce decided to count imports of Sharnoa Electronic's machine tools against an existing quota on machine tools from Taiwan,¹⁴⁰ indirectly stemming further imports from Israel.¹⁴¹ This Commerce decision effectively rendered ineffective a prior decision by U.S. Customs Service in late 1989, which had found that the machine tools in question were substantially transformed in Israel and that well over 35 percent of the products' value was added in Israel, thereby qualifying the machine tools as being of Israeli origin under the terms of the FTA.¹⁴² While the United States, Taiwan, and Israel were unable to resolve the machine tools dispute during the February 28-March 2 talks on the issue, the Israeli firm reportedly agreed to meet the Commerce criteria for machine tool rules of origin and to seek a non-Taiwanese source for its components to qualify the machine tools for export to the United States.¹⁴³

On May 8, 1990, Tel Aviv informed the United States that it was activating the FTA's dispute resolution mechanism. Israel's complaint was twofold. First Israel said that the United States was in violation of the rules of origin under the FTA. Israel argued that its Taiwanese components underwent a "substantial transformation" in Israel through the addition of "numerous high-tech components. . . all of either Israeli or U.S. origin. . . manufactured into a

¹³⁸ Leading items exported to and imported from Israel are contained in appendix tables A-3 and A-4.

¹³⁹ Office of the Economic Minister, Embassy of Israel, "Israel and the United States to Arbitrate First Dispute Under Free Trade Agreement," *U.S.-Israel Economic Relations Update*, No. 1, January 1991, p. 5.

¹⁴⁰ For information on the U.S. voluntary restraint agreement with Taiwan on imports of machine tools, see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC publication 1995, July 1987, p. 4-41.

¹⁴¹ Steven Watkins, "Israel Threatens to Take U.S. to Dispute Settlement over Machine Tools," *Inside U.S. Trade*, Feb 16, 1990, p. 1.

¹⁴² *Ibid.*, p. 8.

¹⁴³ "Taiwan Presses Administration to Alter Origin Rule for Machine Tools," *Inside U.S. Trade*, March 2, 1990, pp. 16-17.

finished product for export to the United States"¹⁴⁴ Second, Israel stated that the U.S. action counting Israeli machine tool exports with Taiwanese components against Taiwan's variable restraint agreement quota had the effect of quantitatively limiting Israel's exports to the United States, which is prohibited under the FTA, and that this U.S. action prompted Taiwan to cease shipping machine tool components to Israel.

U.S. and Israeli officials were unable to resolve the issue in a June 1990 meeting.¹⁴⁵ As a result, the machine tools issue went to a dispute resolution panel under the terms of the U.S.-Israel FTA in July 1990, where it remained for the balance the year.

Negotiations on the FTA

Two rounds of negotiations took place between the United States and Israel in 1990 regarding several FTA-related issues. During May 8-9 negotiations in Washington, DC,¹⁴⁶ Israel formally initiated the FTA's dispute resolution panel on machine tool exports as discussed above. Israel also noted its recent accession to the GATT Standards Code, fulfilling an agreement extending from the FTA to apply standards equally to imported and domestic products. Other major Israeli concerns in the negotiations included U.S. rules of origin covering Israeli printed and dyed textiles,¹⁴⁷ a request for exemptions from cumulation provisions of U.S. antidumping and countervailing duty laws,¹⁴⁸ and a request to begin duty reductions on C-list goods.¹⁴⁹ Major issues of concern for the United States included (1) nontariff barriers to U.S. exports, including certain discriminatory Israeli taxing practices such as the TAMA price

¹⁴⁴ "Israel and the United States to Arbitrate First Dispute," p. 2.

¹⁴⁵ "U.S., Israel May Consider Further Opening Services, Procurement Trade," *Inside U.S. Trade*, June 8, 1990, p. 4.

¹⁴⁶ United States-Israel Joint Committee, *Protocol on the U.S.-Israel Free Trade Area Agreement's Joint Committee Meeting in Washington on May 8-9, 1990*, May 1990.

¹⁴⁷ At issue were semifinished goods imported into Israel and subsequently printed and dyed in one operation, with the final goods to be considered of Israeli origin. The Israeli delegation requested an interpretation of U.S. Customs regulation 19 CFR 12.130 that requires dyeing and printing to be accomplished in two separate operations by foreign manufacturers in order to meet U.S. requirements for substantial transformation.

¹⁴⁸ Three Israeli commodities remained subject to countervailing and antidumping duty orders in 1990 (see tables A-20 and A-22). Israel requested a retroactive exemption from an outstanding countervailing duty order on roses that became effective before the FTA was implemented. Israel also requested that two other commodities currently subject to U.S. antidumping orders, industrial phosphoric acid and oil country tubular goods, be given a new injury investigation. U.S. Israel Joint Committee, *Protocol on the U.S. Israel FTA*, May 1990.

¹⁴⁹ Under the terms of the FTA, C list products became eligible for duty reduction, with approval from both Washington and Tel Aviv, on January 1, 1991. In January 1991, the United States rejected an Israeli request to initiate duty reductions on C-list products. See Steven Watkins, "U.S. Refuses to Agree to Phase Out Tariffs Under U.S.-Israel Trade Pact," *Inside U.S. Trade*, Jan. 26, 1990, p. 1.

Table 9

Israel: Leading U.S. Imports for consumption, under special duty provisions of the United States-Israel FTA, customs value, 1988-90

(Thousands of dollars)

HS commodity	Time period		
	1988	1989	1990
8517.90—Parts of telephonic or telegraphic apparatus, etc	23,251	39,583	28,657
8406.90—Parts for steam and other vapor turbines	9,308	8,602	26,479
7113.19—Jewelry and parts thereof, of other precious metal	14,627	11,146	25,555
9031.40—Other optical instruments and appliances	2,093	20,842	24,344
8525.20—Transmission apparatus incorporating reception apparatus	180	33,574	22,842
9015.80—Surveying instruments and appliances, nesoi etc	9,922	16,599	21,282
2710.00—Oil (not crude) from petrol & bitum mineral etc	9,469	4,928	19,162
9018.90—Instruments and appliances used in medical, surgical, dental, and veterinary sciences nesoi	8,467	11,888	18,285
6104.62—Womens' and girls' trousers overalls breeches shorts cotton, knit	1,715	6,090	16,882
6110.20—Sweaters, pullovers etc, knit etc, cotton	3,244	7,926	16,074
6109.10—T-shirts, singlets, tank tops etc, knit etc cotton	6,034	9,152	14,907
8533.21—Fixed resistors, nesoi, pwr hand cap nov 20 w	8,058	10,171	14,713
6112.41—Women's or girls' swimwear synthetic fibers, knit	8,603	13,607	12,441
2924.21—Ureines and their derivatives; salts thereof	77	12,321	11,001
8529.90—Parts excluding antennas, for transmission, radar, radio, television, etc., nesoi	25,686	8,440	10,360
6302.21—Bed linen, printed, of cotton, not knit or crochet	405	4,104	9,847
2931.00—Organo-inorganic compounds nesoi	210	2,869	8,868
2008.30—Citrus fruit (including mixtures), prep etc nesoi	5,615	2,949	8,833
3917.32—Tubes etc, not reinforced etc, without fittings	1,358	5,567	8,557
2921.43—Toluidines (aminotoluenes) and their derivatives	1,939	4,030	8,421
Total of items shown	140,261	234,389	327,511
Total other	576,887	525,027	525,142
Total all commodities	717,147	759,416	852,653

Note.—Data before 1989 are estimated.

Source: Compiled from official statistics of the U.S. Department of Commerce. Top 20 commodities sorted by imports for consumption, customs value in 1990.

markup tax;¹⁵⁰ (2) harmonized customs valuation methods;¹⁵¹ (3) Israeli government procurement practices; and (4) the removal of duties on U.S.-origin prefabricated housing and building supplies, which are on Israel's C-list.

The second round of negotiations in 1990 took place in Jerusalem on July 16-17.¹⁵² Both sides agreed to increase bilateral dialogue on services within the GATT Uruguay Round framework. Israel ex-

¹⁵⁰ TAMA is a Hebrew acronym meaning "additional rate of increase." The TAMA tax is a price markup tax Israel selectively imposes on imports. The TAMA tax affects about 15 percent of U.S. exports to Israel, primarily iron and steel, motor vehicle parts, computers, resistors, and other fabricated metal parts. Under an October 1988 agreement, Israel was to phase out the use of the TAMA. In September 1990, the Knesset passed a law to phase out the TAMA beginning on January 1, 1991 with phase-out completion scheduled for January 1, 1995. For a more detailed discussion of U.S.-Israeli discussions on the TAMA tax, see "U.S. Tells Israel that 'Discriminatory' Taxes on Imports Violate FTA," *Inside U.S. Trade*, Jan. 10, 1988, p. 11. See also Watkins, "U.S. Refuses to Agree to Phase Out Tariffs," p. 2.

¹⁵¹ Israel is not a member of the GATT Customs Valuation Code. The United States expressed its concern about the Israeli practice of Harama, which has led to a 2-5 percent value increase on goods imported by sole distributors.

¹⁵² United States-Israel Joint Committee, *Protocol on the U.S.-Israel Free Trade Area Agreement's Joint Committee Meeting in Washington on July 16-17, 1990*, July 1990.

plained its "Bridge to Europe"¹⁵³ concept, proposing the project be jointly studied, and expressed interest in receiving notification of U.S. legislation that might be inconsistent with the FTA. The United States expressed its continued interest in having duties removed from U.S.-origin prefabricated housing and building materials, standards enforcement, and harmonized customs valuation methods. Israel agreed to consider a U.S. proposal lowering the threshold value of code-covered government procurement contracts from \$50,000 to \$25,000. No agreement was reached during 1990 negotiations on duty reductions for C-list goods.

United States-Soviet Union Grain Agreement

Since the mid-1970s, United States-Soviet grain trade has been conducted under long-term bilateral accords. On June 1, 1990, the United States and the Soviet Union signed the third 5-year long-term grain agreement (LTA). Effective January 1, 1991, the So-

¹⁵³ In addition to the 1985 FTA agreement with the United States, Israel has an FTA agreement with the European Community (EC) that was signed in 1975. Under the "Bridge to Europe" concept, Israel has proposed that U.S. firms export raw materials or semifinished goods duty-free to Israel for production or finishing, after which the goods are to be exported duty-free into the EC. The goal of this program is to encourage greater U.S. investment in Israel. *Ibid.*, p. 2.

viet Union is committed to purchase a minimum of 10 million metric tons (mt) of U.S. grains annually, up from 9 million mt required under the agreement which expired December 31, 1990. The purchase must consist of at least 4 million mt of wheat and 4 million mt of feed grains (corn, barley, or grain sorghum).¹⁵⁴ The additional 2 million mt may be wheat, feed grains, soybeans and/or soybean meal. In any one year, the Soviet Union may substitute up to 750,000 mt of one commodity for the other, but, over the life of the agreement, the Soviets must purchase at least 20 million mt of wheat and 20 million mt of feed grains. Each ton of soybeans or meal purchased counts as double the quantity actually exported. The agreement also permits the Soviets to purchase as much as 14 million mt of wheat and feed grains annually, 2 million mt more than under the old agreement, without prior consultations with the U.S. Department of Agriculture. Under the previous agreement year that expired December 31, 1990, actual purchases by the Soviet Union were 3.8 million mt of wheat; 16.5 million mt of corn; 342 thousand mt of soybeans; 1.4 million mt of soy meal; and 7 thousand mt of barley.¹⁵⁵

In response to reportedly widespread food shortages in the Soviet Union and to requests from the Soviet Government for assistance, on December 12, 1990, President Bush announced a 6-month waiver for the Soviet Union of the Jackson-Vanik amendment of the 1974 trade law that ties the availability of U.S. Government credits and other trade preferences to a country's emigration policies.¹⁵⁶ (The temporary waiver extends only to the granting of credit; it does not apply to MFN treatment.)

The waiver made the Soviet Union immediately eligible for up to \$1 billion in loans provided by the Commodity Credit Corporation, U.S. Department of Agriculture, for the purchase of grains and other U.S. agricultural products. Immediately available were approximately \$530 million in guarantees to U.S. exporters for shipments of feed grains (barley, corn, sorghum, and oats); \$165 million for wheat and/or flour; \$165 million for protein meals (soybean meal, cottonseed meal, linseed meal, and sunflower seed meal); \$25 million for frozen and chilled poultry meat, with details regarding the remaining \$100 million to be determined later.¹⁵⁷

U.S. exporters of farm products had seen their markets in the Soviet Union drop rapidly as the economically troubled nation faced hard-currency difficulties. Without access to U.S. loan guarantees, the Soviet Union had either slowed its agricultural pur-

chases or turned to other countries that offered credit guarantees.¹⁵⁸

U.S. Textile Trade Agreements Program

The Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA), has governed world trade in textiles and apparel since 1974. Created under the aegis of the GATT through a waiver of normal GATT rules, the MFA allows signatories to place quantitative limits, or quotas, on imports of most textiles and apparel.¹⁵⁹ Quotas can be established through the negotiation of bilateral agreements or, in the absence of mutually agreeable limits, imposed unilaterally by the importing country for up to 2 years, provided that the limits are not below actual import levels during any 12 of the previous 14 months. The quotas are placed mostly on shipments from newly industrializing economies (NIEs) and developing countries. The quotas are a derogation from the GATT nondiscrimination principle, which prescribes no-less-favorable treatment be accorded to all member countries.

The MFA has been extended 3 times, most recently in August 1986, and is currently scheduled to expire on July 31, 1991. The future of the MFA is included as a subject of negotiation in the Uruguay Round, with a goal of returning textile and apparel trade to normal GATT rules. Despite the lack of progress in resuming Uruguay Round talks, no decision has been made in the GATT either to extend¹⁶⁰ or renegotiate the MFA as of April 15, 1991.

U.S. imports of MFA-covered products, which had grown at an average annual rate of 11 percent by volume during 1980-89, showed little growth in 1990. They rose by less than 1 percent over the 1989 level to 12.4 billion square meter equivalents (SMEs), valued at \$33 billion. Eighty percent of this value consisted of apparel imports, which remained unchanged at 6.1 billion SMEs, valued at \$26 billion. However, imports' share of the U.S. apparel market probably rose, because U.S. consumer purchases of

¹⁵⁸ Following President Bush's decision to grant the Soviet Union credit guarantees to purchase U.S. agricultural products, the Soviet Union made the largest one-time purchase of U.S. grain in history. According to a USDA report, in January 1991, the Soviet Union acquired over 3.7 million tons of grain costing between \$340 million and \$380 million. Foreign Broadcast and Information Service, (FBIS), *Daily Report: Soviet Union*, Jan. 23, 1991, p. 6.

¹⁵⁹ The MFA covers products of cotton, wool, manmade fibers, and, since August 1986, silk blends, linen, and ramie. It replaced GATT programs developed in the 1960s that controlled trade in cotton goods.

¹⁶⁰ In February 1991, some GATT members reportedly considered seeking to extend, without renegotiating, the MFA through February 1993—a projected date when an Uruguay Round textile pact might come into effect. Mary Foley, "U.S. May Seek Extension of Accord on Textiles to '93," *Journal of Commerce*, Feb. 12, 1991.

¹⁵⁴ U.S. Department of Agriculture, Foreign Agricultural Service, Fact Sheet, "U.S./Soviet grain trade," Aug. 14, 1990.

¹⁵⁵ Export Sales Reporting Office, Foreign Agricultural Service, U.S. Department of Agriculture.

¹⁵⁶ The Jackson-Vanik amendment prohibits preferential lower tariffs or access to U.S. credits to any nation that denies its citizens the right to emigrate.

¹⁵⁷ *International Trade Reporter*, Jan. 9, 1991, p. 38.

apparel reportedly fell during 1990.¹⁶¹ Textile imports increased by only 1 percent, to 6.2 billion SMEs, valued at \$6 billion.

The United States has bilateral agreements or quotas in place with more than 40 countries, as shown in table 10.¹⁶² The agreements with China and the so-called Big Three (Korea, Taiwan, and Hong Kong) are the most comprehensive. In 1990, quotas on products from China totaled 1.6 billion (SMEs); Taiwan, 1.3 billion SMEs; and Hong Kong and Korea, 1.1 billion SMEs each. Annual quota growth is limited to roughly 3 percent for China and 1 percent for the Big Three.¹⁶³ The limited quota growth facing the Big Three since 1986 caused production costs to rise and, for Korea and Taiwan, currencies to appreciate, forcing them to trade up to higher valued goods and shift production of basic goods to lower cost nations. As a result, the Big Three's relative importance has waned over the years, with their share of total U.S. textile and apparel import volume falling from 37 percent in 1985 to 26 percent in 1990. The major beneficiaries of this trade shift have been China, now the largest supplier with 14 percent of total import volume, and the smaller low-cost suppliers such as the Caribbean Basin countries and Asian countries other than the Big Three, such as Malaysia, Indonesia, Bangladesh, and Sri Lanka, as shown in Figure 3.

Several textile agreements were extended and new agreements negotiated during 1990. Agreements with Fiji—a new supplier—and the United Arab Emirates were negotiated during 1990, but have yet to be finalized as of February 1991. The agreement negotiated with Argentina in 1989 was formally approved in 1990; it currently provides for a limit on only one category (women's and girls' wool trousers). The agreement with Nepal was amended during 1990, and the pact with Turkey was renegotiated. The agreements with Mauritius, Singapore, Trinidad and Tobago, Yugoslavia, and the Northern Mariana Islands were extended. The agreement with Mexico, which became effective in 1988 and had increased Mexican access to the U.S. apparel market, was liberalized further in 1990. Unilateral restraints continue to be set on imports from Thailand in selected product categories. No new agreement has been reached with Thailand to replace the ones that expired in 1988. The United States also imposed a unilateral restraint on imports of cotton printcloth fabric from Nigeria and held consultations to discuss bilateral

¹⁶¹ U.S. consumer purchases of apparel reportedly fell by 5 percent during January-November 1990. See "Imports Continue at High Level While U.S. Shipments Drop," *Inside Textiles*, Point Publishing Co., Inc., Point Pleasant, NJ, Jan. 21, 1991, p. 6.

¹⁶² U.S. authority to enter into agreements or establish quotas with MFA and non-MFA signatories is provided under sec. 204 of the Agricultural Act of 1956.

¹⁶³ The protocol extending the MFA in 1986 permits importing countries to limit annual quota growth for major suppliers to rates lower than the MFA minimum growth—1 percent for wool goods and 6 percent for other restricted goods.

trade issues including a possible agreement during 1990.¹⁶⁴

Trade Developments in Selected Service Industries

Architectural, Engineering, and Construction Services

Trade

The recent building glut in the United States, coupled with a recessionary economy, has had negative effects on the architectural, engineering, and construction services (AEC) sector in the United States. Increased activity in 1990 in the public works sector was offset by large decreases in private construction, in both the housing and commercial sectors. Such conditions in the domestic market are prompting U.S. architects, engineers, and contractors to actively seek to export their services at competitive prices. However, U.S. firms continued to face strong competition in 1990 in the international AEC market; the competition in this market is expected to intensify in 1991.

Exports of AEC services in 1990 were estimated at \$52 billion compared with \$43 billion in 1989. The estimated value of new contracts won by U.S. contractors overseas increased by 20 percent from \$39.3 billion in 1989 to \$47.3 billion in 1990.¹⁶⁵ Foreign billings by U.S. design firms increased from \$3.4 billion in 1989 to \$4.2 billion in 1990, or by 24 percent.¹⁶⁶ In addition, the value of international contracts won by U.S. firms has been increasing in recent years.

U.S. firms encounter significant obstacles when vying for overseas projects. Among these are language barriers, metric measurements, and foreign companies that receive financial assistance from their governments. Moreover, industry officials indicate that U.S. liability costs have placed U.S. AEC firms at a disadvantage, giving foreign competitors the edge both globally and in the U.S. market.

On the import side, foreign-owned construction firms won approximately \$19 billion in U.S. construction contracts in 1990, an increase over 1989 contracts of approximately 20 percent.¹⁶⁷ Germany, the United Kingdom, Japan, and France accounted for most of this penetration, accomplished largely through the purchase of U.S. firms.

¹⁶⁴ Data in the preceding paragraph based on USITC staff interviews with analysts from U.S. Department of Commerce and U.S. Department of State.

¹⁶⁵ "The Top 400 Contractors," *Engineering News Record*, May 27, 1991, pp.34-37.

¹⁶⁶ "The Top 500 Design Firms," *Engineering News Record*, April 8, 1991, pp. 33-66.

¹⁶⁷ USITC staff estimates based on data contained in "Construction," U.S. Department of Commerce, 1990 U.S. Industrial Outlook, pp. 5-1 to 5-15, and *Ibid.*, 1991 U.S. Industrial Outlook, pp. 5-1 to 5-16.

Table 10

Countries with U.S. textile and apparel agreements or quotas: U.S. general imports of textiles and apparel subject to the MFA, 1990, and expiration dates of agreements or quotas, as of April 15, 1991

Country	Imports (1,000 dollars)	Expiration date
Argentina*	47,366	03/31/92
Bangladesh*	438,305	01/31/93
Brazil* ¹	224,328	03/31/92
Burma ²	9,229	12/31/90
China* ¹	3,526,287	12/31/91
Colombia* ²	184,715	03/31/90
Costa Rica*	338,324	05/31/92
Czechoslovakia*	9,971	05/31/92
Dominican Republic*	723,259	05/31/92
Egypt* ¹	92,235	12/31/91
El Salvador*	70,274	12/31/92
Fiji	13,498	12/31/92
Guam ³	(⁴)	07/31/91
Guatemala*	205,653	12/31/92
Haiti	167,081	12/31/93
Hong Kong* ¹	3,797,961	12/31/91
Hungary*	51,382	12/31/91
India* ¹	792,569	12/31/91
Indonesia* ¹	695,672	06/30/92
Jamaica*	238,375	12/31/92
Korea* ¹	2,717,597	12/31/91
Macao* ¹	421,058	12/31/91
Malaysia* ¹	514,226	12/31/91
Mauritius ¹	123,430	09/30/92
Mexico* ¹	678,422	12/31/91
Nepal	47,444	12/31/93
Nigeria	5,568	12/31/92
Northern Mariana Islands ³	(⁴)	10/31/91
Pakistan* ¹	427,600	12/31/91
Panama ²	62,955	03/31/90
Peru* ¹	77,886	12/31/91
Philippines* ¹	1,096,276	12/31/91
Poland* ¹	66,980	12/31/92
Singapore* ¹	629,625	12/31/95
Soviet Union	8,785	12/31/92
Sri Lanka*	437,129	06/30/92
Taiwan ¹	2,978,041	12/31/95
Thailand*	593,897	(⁵)
Trinidad and Tobago	1,413	12/31/91
Turkey* ¹	351,014	12/31/93
United Arab Emirates	92,270	12/31/93
Uruguay*	53,974	06/30/91
Yugoslavia*	80,852	12/31/92

*Signatory to the MFA Protocol that went into effect on 8/01/86.

¹ The agreement with this country includes group, or aggregate, limits.

² The agreement with this country has not been renewed, as of 04/15/91.

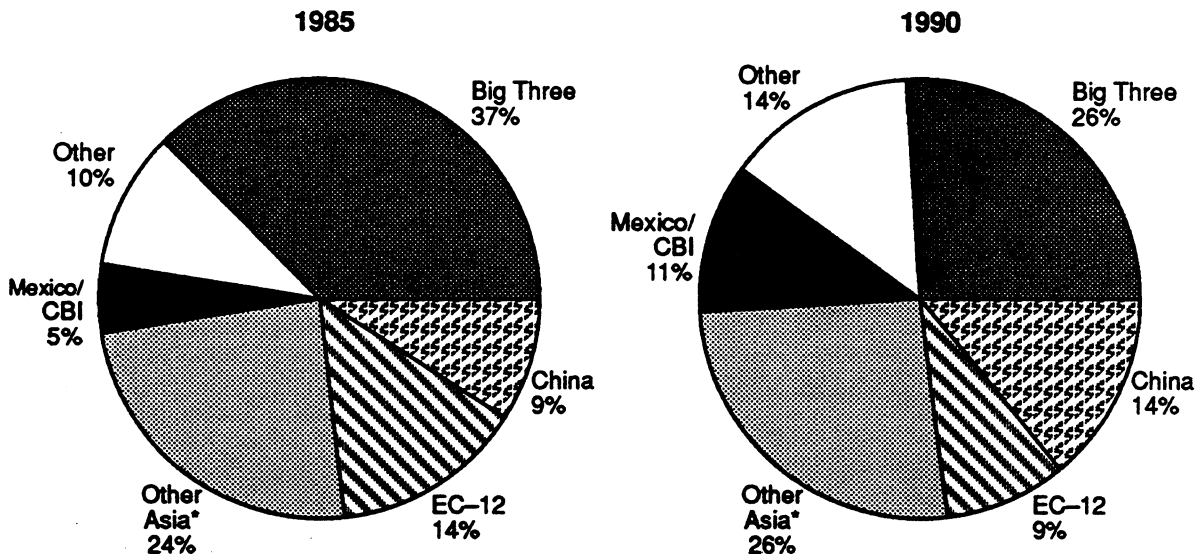
³ The agreements with Guam, a U.S. territory, and the Northern Mariana Islands, a U.S. commonwealth, are "quota exceptions" for sweaters classified as products of foreign countries, but assembled in these insular areas. In general, quota-free entry is allowed for a specified number of sweaters provided that at least 40 percent of the assembly workers were citizens or nationals of certain areas or the United States. Imports in excess of the specified amounts are charged to quotas established for the country of origin, usually the country where the sweater parts were knitted.

⁴ Not applicable.

⁵ No new agreement has been signed with Thailand, as of 04/15/91, to replace the three that expired on 12/31/88. Since the expiration, certain imports from Thailand have been subject to unilateral restraints.

Source: Office of the United States Trade Representative, Office of the Chief Textile Negotiator; U.S. Department of State, Bureau of Economic and Business Affairs, Textiles Division; and U.S. Department of Commerce, International Agreements Division, Office of Textiles and Apparel.

Figure 3
U.S. imports of textiles and apparel by major suppliers, 1985 and 1990



*Asia consists of the following countries and groups of countries: ASEAN countries (Thailand, Malaysia, Singapore, Brunei, Indonesia, and the Philippines), Bangladesh, India, Japan, Pakistan, Sri Lanka, Macau, United Arab Emirates, Oman, Bahrain, Qatar, Maldives, and Nepal.

Trade-related Activities in 1990

Recent political and economic changes around the world have been creating new opportunities for the U.S. AEC industry. This trend is likely to continue in the coming years. U.S. AEC firms are readying themselves for the new global environment, the impending EC economic integration, free market developments in Eastern Europe and the Soviet Union, growth in the Pacific Rim region, and increased cooperation in the North American market, by sharpening their competitiveness and pursuing joint venture opportunities. The largest opportunities in foreign markets for U.S. firms include the infrastructure, housing/office, and environmental sectors.

European Community.—The top 500 U.S. design firms reported an increase of \$1.6 billion in European billings in 1990 over 1989 levels, making Europe the most important region for the firms for a third consecutive year. U.S. AEC firms are preparing for EC 92 by setting up branch offices in Europe and entering into joint ventures with EC firms. Mergers and acquisitions between U.S. and European firms are also growing in number. Perhaps the most important development in the EC in 1990 for U.S. AEC firms occurred in October 1990, when the EC Council of

Ministers granted final approval to procurement rules that will open bidding on government contracts to non-EC firms in the water, energy, transportation, and telecommunications sectors. These sectors account for about half of the EC's total public procurement market. This EC directive will go into effect January 1, 1993, for all EC members except Spain, Portugal, and Greece. Spain has until 1996 to comply with the tenets of the directive; Portugal and Greece have until 1997. U.S. firms remain concerned about provisions in the directive requiring bids to have at least 50 percent EC content and granting a 3 percent bid preference to EC-based firms. Another important development for AEC firms in the European market in 1990 was the partial and continuing privatization of the United Kingdom's electrical power market. U.S. firms have moved decisively to become the largest foreign participants in this market.

The EC housing market has become increasingly important, as demand continues to exceed supply. Environmental engineering is likely to become a lucrative area as European governments consider environmental mandates similar to legislation recently passed in the United States. In addition, the EC is planning a 5-year, \$120 billion infrastructure pro-

gram, which should provide important opportunities for U.S. engineers.¹⁶⁸

*Asia.*¹⁶⁹—Increased AEC activity was noted in Korea, Thailand, and Taiwan. Industry sources are also optimistic about Malaysia, Indonesia, and Hong Kong. Total construction output in Hong Kong rose 21 percent in the first half of 1990, as compared to the same period 1989. As part of Hong Kong's ambitious infrastructure program, a consulting contract to manage a \$16 billion airport and mass-transit system was awarded to a U.S. firm in April 1990; a contract also was awarded to a joint venture involving a U.S. firm to design and build a comprehensive chemical waste treatment facility. Singapore's construction sector has grown approximately by 17 percent in 1990 over 1989, a sizable increase when compared with its 1 percent growth in 1989.¹⁷⁰

Korea's construction market is difficult for U.S. firms to enter without establishing a joint venture with a Korean firm.¹⁷¹ Korean firms are fiercely competitive in terms of cost, quality, and efficiency, tending to push U.S. firms out of the basic infrastructure market. Thus, U.S. participation in the more than \$5 billion worth of Korean infrastructure work announced at the beginning of 1991 will depend on the technical requirements of the plans, as U.S. firms traditionally have been competitive only in high-technology projects in Korea. In 1990, however, a major U.S. firm won a contract to design an airport near Seoul. The airport is expected to be among the world's 10 largest. Industry sources predict that the scope of this project is immense and that the project exemplifies Asia's role as the world's fastest growing market for international construction firms.¹⁷²

Significant activity was noted in the Thai construction market in 1990. A U.S. firm, as part of a U.S.-Japanese-Thai consortium, won a bid to develop a plan for a land bridge across the Isthmus of Kra, linking the Indian Ocean and the Gulf of Thailand.¹⁷³

North America.—The announcement, in 1990, of possible negotiations for a free-trade agreement between the United States and Mexico has led some officials in the engineering industry to believe that such trade liberalization could produce enormous opportunities for engineers in infrastructure, energy, environmental clean-up, and telecommunications. However, while opportunities currently abound in the airport, port, and highway construction fields, the

¹⁶⁸ *International Construction Newsletter*, Associated General Contractors of America, October 1990; *Engineering News Record*, Aug. 2, 1990; "Construction," U.S. Department of Commerce, *1991 U.S. Industrial Outlook*, pp. 5-1 to 5-16.

¹⁶⁹ For a discussion of AEC activity in Japan, see the discussion of Japan in ch. 4.

¹⁷⁰ *Journal of Commerce*, December 18, 1990; *Engineering News Record*, August 2, 1990; *Constructis*, MDIS-McGraw Hill Joint publication, December 1990.

¹⁷¹ "U.S. Builders Hope Korean Projects Favor High-Tech," *Journal of Commerce*, Jan. 9, 1991.

¹⁷² *Ibid.*

¹⁷³ *World Bank Watch*, Sep. 4, 1990, p. 7.

overall effect of an FTA on U.S.-Mexican trade in AEC services is likely to be negligible.¹⁷⁴ AEC services currently play a minimal role in U.S.-Mexican trade. This is largely due to Mexican regulations restricting foreign participation in construction projects to a minority role in joint ventures, and to U.S. immigration laws that restrict the cross-border movement of unskilled labor. Under an FTA, U.S. AEC firms would continue to benefit from their competitive advantage in projects requiring advanced design techniques and highly skilled construction management teams.¹⁷⁵

In 1990, U.S. and Canadian industry officials focused on the details for a system to recognize licensing credentials and develop a reciprocal registration arrangement for Canadian and U.S. architects and engineers. While the U.S.-Canada Free-Trade Agreement was expected to stimulate economic growth and foster new industry opportunities in North America, Canadian officials report that Canada's economic prospects are the bleakest among the major industrialized nations. Canada spent most of 1990 mired in a recession that is expected to last through 1991. Construction starts in Canada were down 17 percent in 1990; this downward trend is expected to continue.¹⁷⁶

Middle East.—Increased emigration from the Soviet Union to Israel exacerbated the housing shortage there in 1990. Israeli leaders indicated that they would welcome assistance from the U.S. housing industry, and industry sources have forecast that U.S. contractors will participate substantially in the construction of housing units in Israel over the next 5 years. By the end of 1990, some dozen U.S. companies had begun joint housing ventures with Israeli contractors.

In 1989, U.S. design engineers earned 54 percent of design contracts awarded to foreign firms in the Middle East, while U.S. contractors captured 43 percent of the international construction market in this region. The war in the Persian Gulf, while expected to have serious global repercussions for AEC trade in 1990 and 1991, did not hamper U.S. design firms' earnings in the Middle East in 1990. U.S. design firms' billings increased by 52 percent, from \$460 million in 1989 to \$697 million in 1990. Billings for 1991 will undoubtedly increase even more significantly due to reconstruction efforts.¹⁷⁷

Despite gloomy prospects for the Middle East, in 1990, U.S. companies began to speculate on opportunities for eventual reconstruction work in the Persian Gulf region, specifically in Saudi Arabia and Kuwait.

¹⁷⁴ See USITC, *The Likely Impact on the United States of a Free Trade Agreement with Mexico*, USITC publication 2353, Feb. 1991.

¹⁷⁵ *Ibid.*

¹⁷⁶ *Journal of Commerce*, Feb. 15, 1991; *Constructis*, MDIS-McGraw Hill Joint publication, December 1990.

¹⁷⁷ *Engineering News Record*, April 8, 1991.

The reconstruction of Kuwait was expected to run as high as \$100 billion. On January 14, 1991, the U.S. Government and the Kuwaiti Government-in-exile signed an agreement for reconstruction in Kuwait upon its liberation from Iraqi occupation. By the end of February 1991, 171 contracts had been awarded; 70 percent of these went to U.S. firms. The Kuwaiti Government refused to deal with construction firms from countries that did not participate in Operation Desert Storm, effectively blocking German and Japanese firms from participating in the country's reconstruction. However, industry sources expect that Japan will likely be extremely active in the rebuilding of Iraq. While a good deal of work in the region had been halted due to the Persian Gulf War, some projects continued. For example, a U.S.-Saudi joint venture, in February 1991, won and commenced work on contract to build three airports in the southern region of Saudi Arabia's Empty Quarter.¹⁷⁸

Eastern Europe and Soviet Union.—Increased private sector involvement in the Soviet Union and Eastern Europe will provide opportunities for U.S. participation in the development of infrastructure, housing, and environmental management systems. As the Soviet President decreed in 1990 that, by the year 2000, every family in the Soviet Union will have its own house or apartment, housing construction opportunities are expected in the coming decade. Soviet housing proposals include the construction of 30 million new apartments and houses over a 9-year period. The United States was able to forge inroads into the Soviet construction sector in 1990 and entered into several contracts through various joint ventures. Additionally, Soviet engineers contracted for training in Western marketing techniques, project scheduling, construction methods, and human resources management in 1990.¹⁷⁹

Recent changes in Eastern Europe offer increasingly attractive opportunities in AEC services. Years of neglect in the housing, infrastructure, and environmental sectors, along with the need for business facilities for the recent, continuing influx of private sector business into the region, have created important opportunities for new construction. Forging relationships with local businesses is vital to U.S. success in entering the East European construction market.¹⁸⁰ A group of U.S. builders traveled to Eastern Europe in October 1990 to explore opportunities in the area's expanding housing market, and U.S. firms participated in environmental projects in Hungary, Czechoslovakia, and Poland. There are serious constraints,

¹⁷⁸ *Engineering News Record*, Jan. 28, 1991; *Journal of Commerce*, Feb. 5, 1991; *Journal of Commerce*, Feb. 6, 1991; *Washington Post*, Feb. 22, 1991.

¹⁷⁹ *ASCE News*, American Society of Civil Engineers, December 1990; *Journal of Commerce*, Sep. 6, 1990; *Engineering News Record*, July 26, 1990 and Nov. 26, 1990; *Constructis*, MDIS-McGraw Hill Joint publication, December 1990.

¹⁸⁰ *Nation's Building News*, Aug. 15, 1990, p. 8.

however, for U.S. AEC firms wishing to participate in this market. Perhaps the most obvious constraint is the continuous shortage of foreign exchange. This funding problem is exemplified by the approximately 25 percent decline in construction activity in Poland in 1990 compared with 1989. However, financial aid to pay for environmental projects came from the United States Congress, the Agency for International Development, the European Community, the Organization for Economic Cooperation and Development, the World Bank, and the U.S. Overseas Private Investment Corporation. Additionally, the European Bank for Reconstruction and Development announced it would provide loans for private sector-related development and for environmental and infrastructure projects to Central and Eastern European countries.¹⁸¹

Financial Services

Trade

International financial services by U.S.-based firms generally are provided through local branches or subsidiaries established in individual country markets. In general, the U.S. Government as well as private sources do not maintain comprehensive databases on revenues of domestic and international financial services. However, the Bureau of Economic Analysis (BEA) estimates that fees and commissions from U.S. banks and brokerage firms generated from sources outside the United States were \$3.57 billion in the first three quarters of 1990, or about 6 percent less than the \$3.77 billion earned during the first 3 quarters of 1989.¹⁸²

The foreign direct investment position of U.S. banks in countries outside the United States at yearend 1989 was estimated at \$19.9 billion, up slightly from \$19.1 billion in 1988. The foreign direct investment position for U.S. finance and insurance firms at yearend 1989 in countries outside the United States was \$77.1 billion, an increase of more than 27 percent over the 1988-number of \$60.5 billion.¹⁸³

In terms of assets, Japan continued to dominate the global banking market in 1990. Of the ten largest banks ranked in terms of assets at the end of 1989, seven were Japanese, two were French-based and

¹⁸¹ *Consulting Engineer*, fall 1990; *Nation's Building News*, National Association of Home Builders, Aug. 13, 1990; *Engineering News Record*, Jan. 7, 1991; *Constructis*, MDIS-McGraw Hill Joint publication, December 1990; *Civil Engineering*, September 1990; *Journal of Commerce*, Jan. 23, 1991; *Eurosphere*, KPMG Peat Marwick, January-February 1991.

¹⁸² Based on BEA data.

¹⁸³ Periodically, the *Survey of Current Business*, a publication of the BEA, provides statistics on the U.S. international investment position, measuring the stock of U.S. assets abroad and of foreign assets in the United States. The BEA indicates that its measurement is not entirely accurate as it is based on information subject to being outdated, incomplete or based on misreported data on international balance of payment flows. Nevertheless, the data provide an indication of the magnitude of U.S. assets abroad.

only one U.S. bank, Citicorp, was included.¹⁸⁴ The Japanese banks, according to this ranking, held almost 77 percent of the ten banks' total assets.¹⁸⁵

Major legislative reforms are affecting financial institutions and systems throughout the world. At the same time, the industry is adjusting to intensified global competition and structural reforms. Those major industrialized countries or regions that are in the process of implementing or proposing major changes in their financial regulations include the United States, Japan, Mexico, and the European Community.

Trade-related activities in 1990

The global financial industry in general is undergoing a period of consolidation and retrenchment in an environment of intense competition.¹⁸⁶ U.S. banks have been perhaps the most visible in their retreat from foreign markets. In recent years the banks have been plagued by such problems as loan defaults by developing countries, increased rates of default, commercial real estate loans; the need for increased capital levels to meet the international standards set according to the Basle Accord;¹⁸⁷ and intensified competition from foreign banks as well as nonbank financial institutions. By the end of 1988, the 132 largest U.S. banks monitored by the Federal Reserve had 849 branches in foreign countries, down from 163 banks that maintained 917 branches in 1984.¹⁸⁸ This reduction in foreign activities for U.S. banks led to a decline in foreign assets of U.S. banks of almost 20 percent between 1981 and 1988, \$343 billion versus \$275 billion, respectively.¹⁸⁹ Industry executives anticipate that the consolidation trend among U.S. banks will continue over the next several years as even the major money center banks merge to retain competitiveness.¹⁹⁰

European Community.—During 1990, U.S. financial firms continued to focus on the European Community (EC) integration plan of 1992 even though most of the banking directives have been implemented.

Despite the progress in implementing the banking directives, industry representatives indicate concern that the Investment Services Directive (COM(89)629), central to the implementation of the overall EC92 financial liberalization plan, will not be completed by the proposed deadline.¹⁹¹ As of mid-February 1991, negotiations on the draft Directive were stalled.¹⁹² The Directive was intended to complement the core Second Banking Directive and would introduce a single license for nonbank investment firms and their subsidiaries, including those from third countries.¹⁹³ ¹⁹⁴ However, branches of third country investment firms will not be authorized to offer services throughout the EC.¹⁹⁵

If the investment services directive is not finalized, the main companion directive that addresses capital adequacy of investment firms¹⁹⁶ as well will likely not be completed. The controversy over the capital adequacy directive continues to be that it sets a lower level of capital requirements for foreign and domestic investment firms than for banks.¹⁹⁷

Heightened competition in the EC is tempering some of the growth projections that international bankers anticipated at the outset of the EC92 integration and financial liberalization plan.¹⁹⁸ Industry analysts indicate that the banking industry in the EC will shrink as 1992 approaches given that Europe has half the deposits per capita of the United States but 20 percent more branches.¹⁹⁹ For example, Citicorp, the largest U.S.-based bank, is in the process of scaling back in the EC despite being considered the only

¹⁹¹ See *The Effects of Greater Economic Integration Within the European Community of the United States*, USITC publication 2204, July 1989, pp. 5-18; *1992/The Effects of Greater Economic Integration within the European Community on the United States: First Follow-up Report*, USITC publication 2268, March 1990, pp. 5-10.

¹⁹² "Needed: More Matter, Less Art," *The Economist*, Dec. 8, 1990, p. 86.

¹⁹³ As of mid-1991, the Directive was not finalized. The Nov. 23, 1990, progress report required by article 8b indicates that the Council's work programme for 1991 has scheduled the Investment Services Directive to be finally adopted by June 1991.

¹⁹⁴ "Completing the Internal Market: An Area without Internal Frontiers," Progress Report Required by Article 8b of the Treaty, Commission of the European Communities, (COM(90)552 Final), Brussels, 23 November 1990, Annex, p. 24.

¹⁹⁵ "Report of the Technical Working Group on EC Financial Issues to the EPC Policy Group on European Monetary Reform and Financial Liberalization," Department of the Treasury, October 1990, pp. 13-3.

¹⁹⁶ "Capital Adequacy of Investment Firms and Credit Institutions," (COM(90)141).

¹⁹⁷ Based on conversations with industry executives, government officials and trade association representatives in the United States and European Community during 1989, 1990, and 1991.

¹⁹⁸ *The Effects of Greater Economic Integration Within the European Community on the United States*, Report to the Committee on Ways and Means of the United States House of Representatives and the Committee on Finance of the United States Senate on investigation No. 332-267 under section 332 of the Tariff Act of 1930, USITC publication 2204, July 1989, ch. 5.

¹⁹⁹ "U.K. Guidelines Aid Banks To Spot Money Laundering Transactions," *Financial Times*, Dec. 11, 1990, p. 1.

¹⁸⁴ "Happy Days Aren't Here Again," *Business Week*, July 2, 1990, p. 80.

¹⁸⁵ *Ibid.*

¹⁸⁶ For a discussion of Japan's financial industry, see the discussion of Japan in ch. 4.

¹⁸⁷ All banks from the major industrialized countries will be required to meet minimum capital standards as set by the Basle Committee by the end of 1992. For example, U.S. banks will be required to fulfill three basic capital ratios: tier 1 capital composed mainly of common equity and preferred stock, equal to at least 4 percent of their risk-based assets; tier 1 capital must equal at least 3 percent of their unweighted total assets; and total capital must equal at least 8 percent of risk-adjusted assets.

¹⁸⁸ "U.S. Banks Cut Global Business as Rivals Grow," *New York Times*, July 5, 1990, p. 1.

¹⁸⁹ *Ibid.*

¹⁹⁰ "Strategist Who Knows the Market," *Financial Times*, Dec. 3, 1990, p. 27.

truly global bank in the world and having over 700 offices in 11 European countries.²⁰⁰

Mexico.—Mexico is in the process of implementing legislation that would significantly change its present banking system. In August 1990, Mexico's Finance Minister announced that a special divestiture committee had been set up to oversee the sale of most of Mexico's 18 commercial banks that had been under majority ownership by the Mexican Government since 1982.²⁰¹

Mexican banks were nationalized in 1982²⁰² when a combination of fiscal and foreign debt problems prompted the Government of Mexico to take control of them. Other U.S. and foreign banks that continued to operate in Mexico after the nationalization or that entered Mexico after 1982 were permitted to maintain only representational offices. This system effectively prohibits foreign banks from establishing commercial bank operations in Mexico and from competitively providing a full range of financial services and products directly to Mexican individuals and entities. U.S. banks, particularly those along the border with Mexico, have indicated an interest in expanding their operations into Mexico as a result of the proposed free trade agreement.

The Mexican Government plans to sell its 66 percent stake in each of the banks by using public auctions and offering share packages through the stock exchange.²⁰³ Mexican investors will continue to hold the controlling interest; direct or indirect foreign participation will be limited to a 5-percent ownership level for all foreign investors.²⁰⁴ The Mexican Government's divestiture of the banks and change in ownership laws are considered to be a significant step toward liberalizing its banking system.

²⁰⁰ "Fired! Now, Europe is Singing the White-Collar Blues," *Business Week*, Nov. 26, 1990, p. 71.

²⁰¹ Of the 18 commercial banks, 3 of them, Banamex, Bancomer, and Serfin, account for 80 percent of Mexico's commercial banks' total assets.

²⁰² At that time, only one U.S. bank, Citibank, was grandfathered under Mexican law and allowed to operate in Mexico as a privately owned, foreign commercial bank. Due to its long presence in Mexico, Citibank was allowed to continue operating in Mexico, but nevertheless has been limited to its existing network of five branch offices and has been restricted in introducing new financial products and services since 1982 as compared with the nationalized Mexican banks. Citibank is the only foreign bank with a government charter that allows it to accept branch deposits.

²⁰³ In 1987 the Mexican Government allowed Mexican investors to purchase up to 34 percent of the shares in commercial banks.

²⁰⁴ Foreign investment of "C" capital participation certificates that are without ownership rights will be permitted up to 34 percent; foreign direct or indirect ownership through "B" certificates will be permitted up to 5 percent. Series "A" shares of a financial holding company represent 51 percent, which may be acquired only by Mexican individuals. "Banks Come Full Circle," *Business Mexico*, September 1990, p. 34.

Maritime Transportation Services

Trade

Maritime transportation services are classified in U.S. international transactions accounts under "other transportation." In 1989, the trade deficit in maritime transportation services declined to \$1.0 billion, from \$1.5 billion in 1988.²⁰⁵ The decline in the trade deficit can, in part, be attributed to an increase in imports carried by U.S.-flag ships. Preliminary data indicate that, in 1989, the U.S.-flag deep sea foreign trade fleet carried 36 million long tons of cargo valued at \$69.7 billion. This represents an increase of 16 percent in tonnage and an increase of 21 percent in value over 1988 data.²⁰⁶

U.S. exports of maritime transportation services, consisting of ocean freight, port expenditures, and charter hire totaled \$11.6 billion in 1989, a 5 percent increase over the \$11.1 billion recorded for 1988. Port expenditures accounted for 65 percent of exports in 1989. Total U.S. imports of ocean freight, port expenditures, and charter hire remained steady at \$12.6 billion in 1988 and 1989. Ocean-freight payments constituted 75 percent of imports of maritime transportation services in 1989. Exports of maritime transportation services as a proportion of total U.S. international transportation exports decreased from 40 percent in 1988 to 38 percent in 1989; for imports, the share rose from 45 percent in 1988 to 47 percent in 1989.²⁰⁷

There has been intense global competition among trade liner fleets in recent years, forcing both conference and nonconference carriers to fight to preserve their market shares.²⁰⁸ Despite an increasing volume of trade, excess capacity continues to exist on the U.S.-foreign trade liner routes, further depressing freight rates. Likewise, freight rates have remained below breakeven levels for U.S.-flag foreign trade liquid and dry bulk carriers in spite of reduced shipping capacity and increased worldwide demand for bulk shipping services.²⁰⁹ The volatile oil market during the Persian Gulf war also complicated freight rates.²¹⁰ As a means of dealing with the highly competitive transatlantic trades, and in light of the forthcoming European Community integration, U.S. ocean carriers are expanding their presence in Europe. They are establishing service arrangements to

²⁰⁵ Trade data for 1990 were not available at the time this report was published. Data are from *U.S. Industrial Outlook 1991*, U.S. Department of Commerce.

²⁰⁶ U.S. Department of Commerce, *U.S. Industrial Outlook 1991*, ch. 42.

²⁰⁷ U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, June 1989.

²⁰⁸ Conferences in the liner industry set freight rates. These rates apply to all flag carriers in the conference.

²⁰⁹ U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, ch. 42.

²¹⁰ Federal Maritime Commission, *Annual Report for 1990*, pp. 13-14.

share space, and thereby increase their frequency of service without adding to capacity or significant new capital investment.²¹¹

Trade-related activities in 1990

The U.S. maritime industry continues to be adversely affected by restrictive measures employed by foreign governments limiting the industry's foreign-service operations. These measures include minimum rate structures, market access restrictions, cargo preference schemes, restrictions on the use of certain equipment, and discriminatory port fees. In 1989, in an effort to combat such restrictive measures, the Federal Maritime Commission (FMC) adopted a Final Rule in order to incorporate the Foreign Shipping Practices Act of 1988 into its regulations. The act, contained in the Omnibus Trade and Competitiveness Act of 1988, directs the FMC to address adverse foreign conditions affecting United States carriers in U.S.-foreign oceanborne trade that do not exist for foreign carriers in the United States. The 1988 Act prescribes an investigatory-type proceeding, an information-gathering mechanism, and actions, or sanctions that the FMC is directed to take to offset such adverse conditions.²¹²

As of December 1990, four countries were under FMC investigation for unfair trade practices: Japan, Korea, the People's Republic of China, and Taiwan. The FMC is investigating the People's Republic of China for restrictions on U.S. carrier branch office activities, nonrecognition of U.S.-flag carrier tariffs, restrictions on port service and inland operations, and excessive or discriminatory charges for various Chinese-controlled services.²¹³ The FMC is also investigating the lack of continued progress toward easing Taiwan's restrictions on U.S. carrier operations of off-dock container terminals, truck licensing, chassis registration, repositioning and use of containers, and shipping agency operations.²¹⁴ In addition, Korea is being investigated concerning its restrictions on U.S.-flag carrier terminal and transportation services within that country. Japan is being investigated regarding a fee charged to U.S.-flag and other carriers serving ports in Japan. According to the FMC, the fee "is allegedly not related to maritime services provided to carriers at Japanese ports, but is used to finance other projects."²¹⁵ If the FMC determines that action is necessary against any of these countries, it may impose tariff or agreement suspension,

²¹¹ Ibid.

²¹² Federal Maritime Commission, *Regulations to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States*, Docket No. 88-24, Mar. 16, 1989.

²¹³ Federal Maritime Commission, *Annual Report for 1990*, p. 19.

²¹⁴ Ibid.

²¹⁵ Federal Maritime Commission, Order pursuant to the 1988 Foreign Shipping Practices Act and the 1984 Shipping Act requiring U.S.- and Japanese-flag carriers to provide information concerning shipping conditions in the U.S.-Japanese trade, Oct. 18, 1990.

deny access to U.S. ports or to assess fees up to \$1 million per voyage to flag-carriers of those countries.

Nine major carriers in the transpacific trades were fined a total of \$20.5 million in September 1990 as a result of the FMC's Fact Finding Investigation No. 18. The carriers were EAC Lines, Hanjin Shipping Co., Hyundai Merchant Marine, K line, Mitsui O.S.K. Ltd., Neptune Orient Lines, Nippon Liner Systems, Nippon Yusen Kaisha, and Senator Line.²¹⁶

In late 1990, the United States and the U.S.S.R. entered into a new maritime agreement. Among other changes, the new Maritime Pact provides for improved access and reduced entry requirements for an increased number of ports in each country. In addition, certain Soviet carriers have expressed interest in establishing services in the transpacific trades.²¹⁷

During 1990, a U.S. delegation from the Department of Transportation and the Maritime Administration met with Brazilian officials to set up talks for a new bilateral maritime agreement. The existing agreement, which primarily concerns government-controlled cargoes, expires on June 30, 1991. Government cargoes comprise 50 percent of the liner trade between the two countries. Under the current agreement, each country's carriers are guaranteed access to 50 percent of the other nation's government cargoes.²¹⁸

Maritime interests remain concerned about costly oil spills and liability issues. Comprehensive oil spill liability and compensation legislation (H.R. 1465) was signed into law on August 18, 1990. The major provisions of the new legislation include increases in the maximum pollution liability for shipowners (and no liability limit in case of wilful misconduct, gross negligence, violation of Federal standards, failure to report a spill, or refusal to participate in clean-up); the creation of a \$1-billion Federal clean up and compensation fund from oil shipment fees; a requirement that all tankers entering U.S. ports have double hulls by the year 2010; the establishment of a national planning and response system; and a rule that tanker crews work no more than 15 hours per day or 36 hours in any 3-day period.²¹⁹

Lastly, U.S.-flag carriers and other U.S. maritime industry participants were involved extensively with Operation Desert Shield. This operation required the shipment of millions of additional tons of cargo over and above the regular levels contracted for by the Military Sealift Command (MSC). During peace

²¹⁶ Federal Maritime Commission, *Annual Report for 1990*, p. 19.

²¹⁷ Ibid., p. 20.

²¹⁸ The bilateral equal access agreement with Brazil provides each country's merchant vessels with equal access to bilateral government-impelled cargoes, with the exception of U.S. agricultural commodities and the defense cargoes of both nations. Under the agreement, the two countries have access to the cargo of third-party trades, subject to existing laws and treaties.

²¹⁹ American Maritime Congress, *Washington Letter*, Aug. 13, 1990, p. 2.

time, the MSC ships about 2.4 million tons of military cargoes on U.S.-flag ships in each 6-month period. These cargoes are worth approximately \$200 million in revenue for the U.S.-flag carriers. The additional shipments called for by the MSC during the last 6 months of 1990 resulted in special contracts and additional revenues to U.S.-flag companies.²²⁰ The MSC also discontinued a complicated allocation

²²⁰ Shipping industry representative, telephone conversation with USITC staff, Feb. 25, 1991.

system implemented earlier in 1990 and returned to simpler cargo distribution system. The now-discontinued system had resulted in the rejection of over 1,000 rates for shipping cargo between January and April 1990, virtually excluding some U.S.-flag vessels from carrying military cargoes.²²¹

²²¹ American Maritime Congress, *Washington Letter*, Dec. 17, 1990, p. 4.

Chapter 4

Developments in Major U.S. Trading Partners

This chapter reviews the economic performance of major U.S. trading partners, U.S. trade with those countries, and important bilateral trade issues in 1990. Specifically, U.S. relations with the European Community (EC), Canada, Japan, Mexico, Taiwan, the Republic of Korea (Korea), and Brazil are discussed. Three-fourths of this trade consisted of manufactured goods (see fig. 4).¹

The U.S. merchandise trade deficit with the world registered \$116.0 billion in 1990. This was a decrease of over \$2.5 billion from the deficit's 1989 level and the third successive decline in the U.S. deficit in merchandise trade. Nearly two-thirds of this deficit was with the countries under review in this chapter. Of the seven trading partners covered here, the United States had a 1990 merchandise trade surplus only with the EC. This surplus was valued at nearly \$2.3 billion and occurred in spite of a deficit of more than \$10 billion with Germany, the United States' largest EC trading partner. The largest bilateral merchandise trade deficit in 1990 was with Japan, in the amount of \$42.7 billion, or 37 percent of the U.S. total.

Trade turnover with the four leading U.S. trading partners (EC, Canada, Japan, and Mexico) increased between 1989 and 1990, whereas trade between the United States and the remaining three partners covered here—Taiwan, Korea, and Brazil—decreased. U.S. exports rose in all seven markets. Meanwhile, U.S. imports from three partners grew, while those from four others declined.

The EC remained the largest single trading partner of the United States in 1990, accounting for over one-fifth of total U.S. trade. While the volume of two-way trade was notable, U.S.-EC trade relations remained fractious during the year. This uneasiness was primarily the result of longstanding differences over issues such as agricultural subsidies and the effect of these divergences on progress in the multilateral Uruguay Round. Bilateral trade frictions in 1990 were generally the result of earlier unresolved problems. Meanwhile, the EC internal market program progressed steadily during the year and the EC also moved closer to the goal of economic and monetary union. Although the U.S. administration generally supports the EC 1992 program, concern among it and other EC trading partners continues. The United States is monitoring the

¹ Trade data are presented in this chapter according to broad product sector groupings: food, manufactured goods, fuel and raw materials, and all other goods. These groupings are based on the Standard International Trade Classification (SITC), revision 3. SITC section categories included within each product sector grouping are as follows: Food—SITC secs. 0, 1, and 4; Manufactured goods—SITC secs. 5, 6, 7, and 8; Fuel and raw materials—SITC secs. 2 and 3; and All other goods—SITC sec. 9.

program to ensure that the single market does not increase barriers with the rest of the world.²

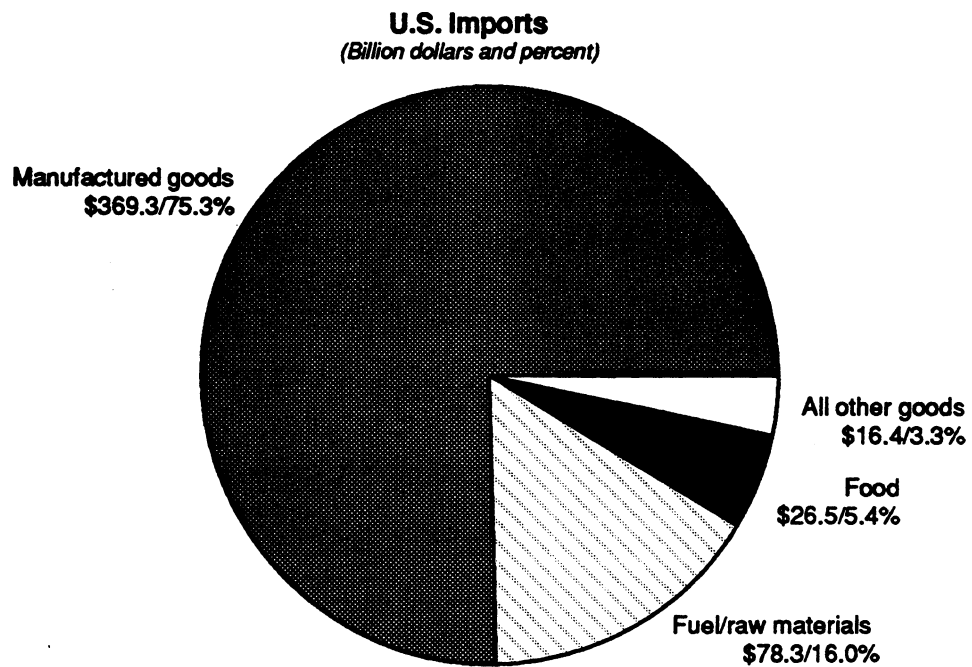
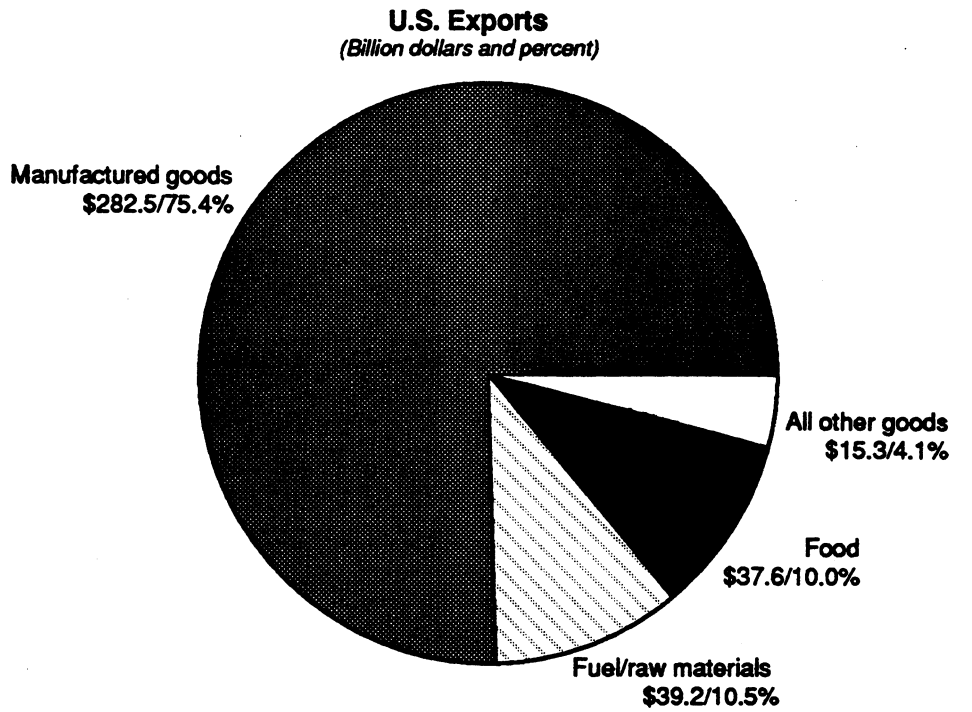
Canada is the second-largest U.S. trading partner. The United States-Canada Free-Trade Agreement (FTA) continued to be the centerpiece of bilateral trade relations in 1990. Yearend marked the completion of 2 years of operation of the bilateral pact. A number of disputes were referred to the bilateral dispute-settlement panels authorized under the agreement, and the process has operated smoothly. Two internal Canadian developments—the constitutional crisis involving Quebec's continued association with the rest of Canada and the movement toward imposition of a new goods and services tax—formed a backdrop for United States-Canadian trade relations in 1990. Canada also took some steps in the direction of easing barriers in intra-Provincial trade—steps that could improve U.S. access to the Canadian market.

Japan was the third most significant U.S. trading partner in 1990. The year marked the fourth successive annual decline in the U.S. merchandise trade deficit with Japan. Even though there has been a 28-percent drop from the \$59.1 billion level of 1986, the 1990 deficit of \$42.7 billion was the largest bilateral deficit. The trade deficit position of the United States has strongly influenced bilateral relations and has heightened sensitivity in a number of perennial problem areas, such as telecommunications, semiconductors, supercomputers, beef, etc. As the trade balance improves, there appears to be, if not a lessening of tension, a greater willingness to engage in broad-based consultations. Nevertheless, a number of bilateral issues remained under review. These included the Structural Impediments Initiative, satellites, automobiles, and rice.

United States-Mexican trade continued to flourish in 1990, making the country the fourth-largest U.S. trading partner. U.S. exports rose significantly, and imports also rose, but by a slightly lower margin. Continuing the trend of the last few years, bilateral relations between the United States and Mexico improved significantly in 1990. As part of its own domestic policy reforms, Mexico put into effect new measures affecting foreign exchange, foreign investment, and privatization. The year was notable in that the presidents of both countries announced their intention to enter into negotiations toward a bilateral

² The United States International Trade Commission, in response to a joint request from the House Committee on Ways and Means and the Senate Committee on Finance, is monitoring EC efforts to arrive at a single market. At the committees' request it provided an initial report by July 15, 1989, with followup reports as necessary. At the time of preparation of this 42nd OTAP report, 4 reports have been published; 2 additional reports are planned. See: *The Effects of Greater Economic Integration Within the European Community on the United States*, USITC Publication 2204, July 1989; *First Followup Report*, USITC Publication 2268, March 1990; *Second Followup Report*, USITC Publication 2318, September 1990; *Third Followup Report*, USITC Publication 2368, March 1991.

Figure 4
U.S. trade with the World by product sector, 1990



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

free-trade agreement.³ Other areas of some bilateral progress were textiles and intellectual property rights. A U.S. embargo on Mexican tuna resulted from the major bilateral irritant of the year.

Taiwan remained the fifth-largest trading partner of the United States in 1990. With U.S. imports from Taiwan decreasing and U.S. exports increasing, the U.S. bilateral trade deficit reached its lowest point in 5 years. Some progress was made during the year in bilateral negotiations on intellectual property rights protection, distilled spirits, and beef. Progress on Taiwan's "Trade Action Plan," introduced in 1989, was limited, however, as the tariff reductions scheduled under the Plan for 1990 failed to be approved by the Taiwan legislature.

Although progress in certain, specific areas (e.g. beef, exchange rates, intellectual property rights, and telecommunications) can be cited, U.S. trade relations with Korea in 1990 were not altogether harmonious. The United States accused the Government of Korea of operating an "anti-import campaign" to discourage Korean consumers from purchasing imported items. Official trade statistics, however, show that U.S. exports to Korea were the highest in 5 years, and U.S. imports from Korea were the lowest since 1987.

A 1990 economic stabilization program in which trade liberalization played a major role significantly lessened the tension that has come to characterize U.S. trade relations with Brazil in the recent past. U.S. retaliatory sanctions imposed in 1988 were lifted during the year, and a U.S. investigation into Brazilian trading practices that could have resulted in other retaliatory action was suspended following the trade policy reforms undertaken by the Brazilian Government. While U.S. concern over intellectual property rights (particularly as they affect the pharmaceutical industry) continues, a Brazilian promise to introduce legislation recognizing international patents added to the improvement in bilateral relations in 1990.

The European Community

The Economic Situation in 1990

The EC's Gross Domestic Product (GDP) grew by an estimated 3 percent in real terms in 1990, compared with 3.3 percent in 1989.⁴ The real GDP growth rates of individual member states ranged from a low of 0.9 percent in Denmark to a high of 4.5 percent in Ireland. The slowdown has been attributed to internal factors, the Gulf crisis, the depreciation of the U.S. dollar, and deteriorating growth in the United States.⁵

³ Canada was included in the initiative early in 1991, with the goal of negotiating a three-country, continent-wide, North American Free-Trade Agreement (NAFTA).

⁴ Except where indicated, figures presented in this section are preliminary estimates taken from the EC's 1990 Annual Report. European Community News, "EC Commission Releases Annual Forecast," Dec. 7, 1990.

⁵ Ibid.

Overall EC growth continues to be driven largely by investment growth.⁶ During the first half of the 1980s investment growth was very low or even negative and the EC's economy was led primarily by exports.⁷ However, in more recent years, investment has been strong. Total investment in constant prices increased an estimated 4.4 percent in 1990 compared to 1989. Specifically, investment in the construction sector rose 3.6 percent and investment in equipment increased 5.3 percent in 1990 compared to 1989. The growth in total real investment for EC member states in 1990 ranged from negative rates in 2 member states, Denmark (-2.6) and the United Kingdom (-1.2), to 10.2 percent in Ireland and 10.0 percent in Luxembourg.

Inflation (as measured by the deflator of private consumption) increased slightly from 4.9 percent in 1989 to 5.1 percent in 1990. This increase was largely due to a surge in oil prices during the fall.⁸ Inflation rates ranged from double digits in Greece and Portugal to below 3 percent in the Netherlands, Denmark, West Germany, and Ireland.

Strong GDP growth over recent years has contributed to a decline in the EC's unemployment rates. In 1990, total employment in the EC grew an estimated 1.7 percent. The rate of unemployment declined slightly from 8.9 percent in 1989 to 8.5 percent in 1990. Nine of the 12 EC member states experienced a decline in unemployment in 1990 compared to 1989 levels. Ireland and Spain recorded the highest unemployment rates of 16.5 percent and 15.8 percent, respectively. Luxembourg registered the lowest unemployment rate in the EC at 1.7 percent, followed by Portugal with 4.4 percent.

The EC's current account is estimated to have swung from a surplus of 0.2 percent of GDP in 1989 to a deficit of 0.3 percent of GDP in 1990.⁹ The trade surplus of the former West and East Germany combined fell 20.2 percent in 1990 compared to the combined surplus in 1989. The united Germany overtook the United States as the world's export leader.

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 11 shows that the value of two-way trade between the United States and the EC rose over 10 percent in 1990 to \$183.9 billion from \$166.6 billion in 1989. In 1990, the EC was the number one destination for U.S. exports and ranked second as a source of U.S. imports, following Canada. The EC market increased its share of U.S. merchandise exports from 23.6 percent in 1989 to 24.8 percent in 1990. The share of total U.S. merchandise imports

⁶ "European Industry 'Faces Future With Confidence,'" *Financial Times*, July 16, 1990, p. 4.

⁷ "Favorable Trends in U.S. Trade Expected to Continue in 1990," *Business America*, Apr. 23, 1990, p. 6.

⁸ "Consumer Prices: EEC Inflation Rate in 1990," *European Report*, No. 1647 (Jan. 24, 1991), sec. II, p. 2.

⁹ Statistics on the EC's trade with the world in 1990 will not be available until the fall.

Table 11
U.S. merchandise trade with EC, by SITC Nos. (Revision 3), 1988-90
(Thousands of dollars)

SITC section no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals	3,767,194	3,423,876	3,721,335
1	Beverages and tobacco	1,595,859	1,764,092	2,663,483
2	Crude materials, inedible, except fuels	6,411,798	6,588,444	6,307,491
3	Mineral fuels, lubricants and related material	2,304,899	2,731,792	3,724,002
4	Animal and vegetable oils, fats, and waxes	190,465	146,067	162,614
5	Chemicals and related products, n.e.s.	8,318,321	9,757,770	10,509,66
6	Manufactured goods classified chiefly by material	4,632,163	5,067,116	5,576,705
7	Machinery and transport equipment	33,875,612	40,192,606	44,897,866
8	Miscellaneous manufactured articles	8,041,490	10,128,748	11,489,275
9	Commodities & transactions not classified elsewhere in SITC	2,167,825	2,724,195	4,007,077
Total all commodities		71,305,625	82,524,708	93,059,526
U.S. imports				
0	Food and live animals	2,006,359	1,945,114	2,079,649
1	Beverages and tobacco	2,420,421	2,401,270	2,483,583
2	Crude materials, inedible, except fuels	1,114,352	1,084,898	1,032,586
3	Mineral fuels, lubricants and related materials	3,692,141	3,637,211	4,486,507
4	Animal and vegetable oils, fats, and waxes	169,186	192,010	254,828
5	Chemicals and related products, n.e.s.	8,897,435	8,988,470	9,504,611
6	Manufactured goods classified chiefly by material	13,536,330	13,291,474	13,264,779
7	Machinery and transport equipment	36,563,056	35,922,770	39,326,294
8	Miscellaneous manufactured articles	12,496,147	13,046,276	13,999,036
9	Commodities & transactions not classified elsewhere in SITC	3,140,778	3,515,858	4,367,075
Total all commodities		84,036,204	84,025,352	90,798,948

Note.—Data before 1989 are estimated.

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

from the EC also increased in 1990, to 18.5 percent from 18.0 percent in 1989.

The United States registered a merchandise trade surplus with the EC in 1990 for the first time since 1982. Although bilateral trade grew significantly in both directions, U.S. exports to the EC continued to expand more rapidly than U.S. imports from the EC, increasing 13 percent in 1990 compared to only 8 percent for U.S. imports. The United States recorded trade surpluses with 8 of the 12 EC member states. The larger U.S. trade surpluses were \$7.3 billion with the Netherlands, \$5.4 billion with Belgium, \$2.3 billion with the United Kingdom, and \$1.8 billion with Spain. The United States registered trade deficits with Germany (\$10.4 billion), Italy (\$4.9 billion), Denmark (\$399 million), and Luxembourg (\$79 million). In 1990, the United Kingdom was the largest market for U.S. exports in the EC, and Germany ranked as the largest source of U.S. imports in the EC.

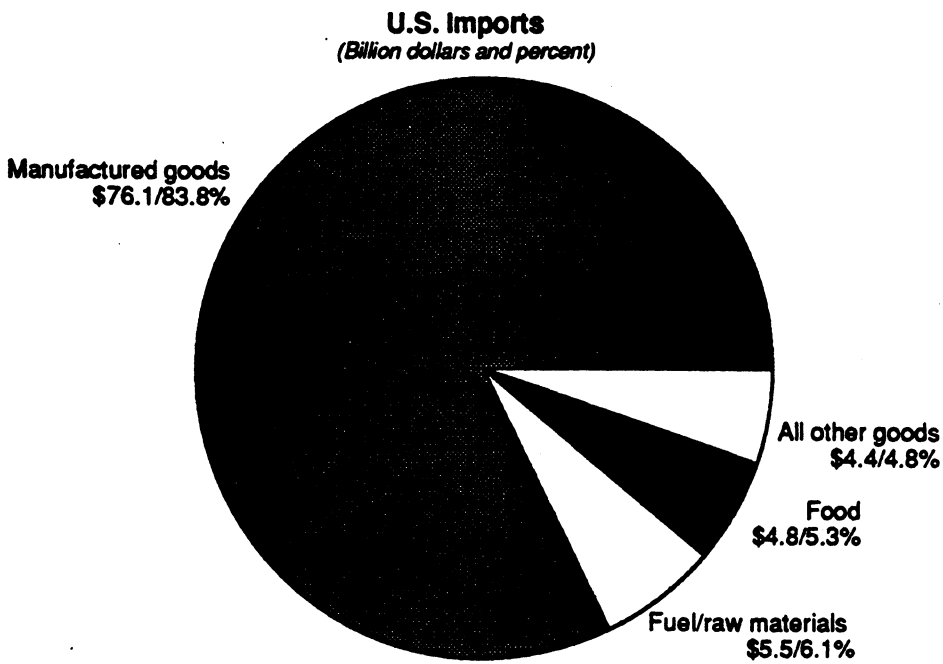
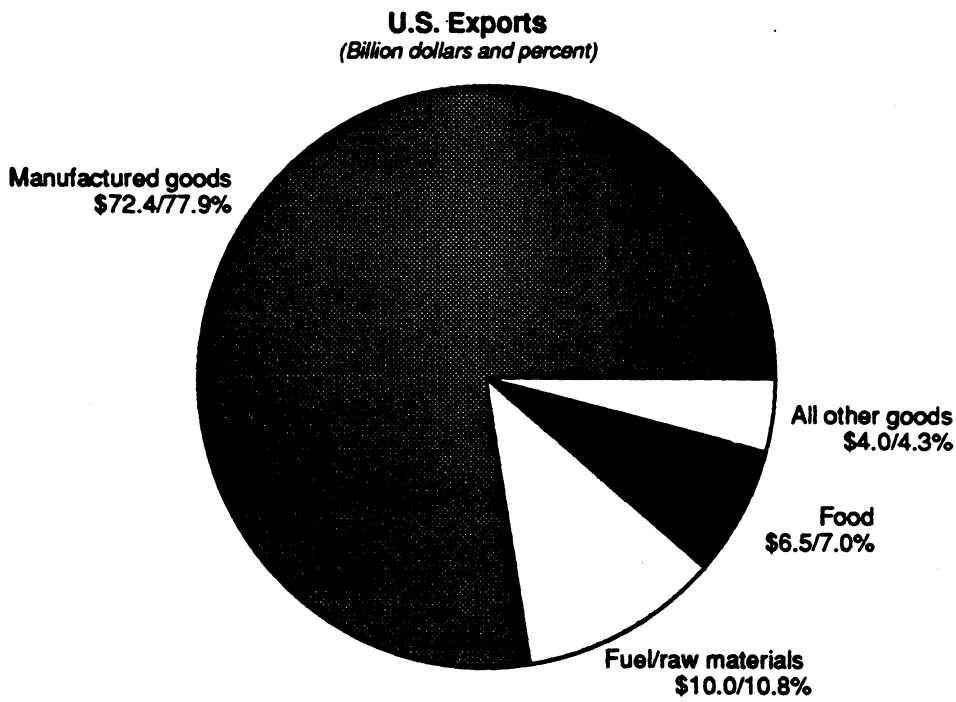
Manufactured goods constituted the largest share of both imports and exports with the EC, accounting for more than three-fourths of both categories (see fig. 5).

Appendix table A-5 shows that the leading U.S. exports to the EC in 1990 consisted of airplanes and other aircraft with an unladen weight exceeding

15,000 kg (\$7.2 billion), parts and accessories of automatic data processing machines and units (\$4.2 billion), parts of airplanes or helicopters (\$3.2 billion), bituminous coal, not agglomerated (\$2.3 billion), turbojet and turbopropeller parts (\$2.3 billion), cigarettes containing tobacco (\$1.8 billion), and digital processing units with storage units, input units, and/or output units (\$1.6 billion). These products accounted for nearly 25 percent of total U.S. exports to the EC. With the exception of digital processing units, U.S. exports of all of the other products increased in 1990 compared to 1989.

Table A-6 shows that the leading U.S. imports from the EC in 1990 were passenger motor vehicles with cylinder capacity exceeding 1,500 cc but not 3,000 cc (\$5.3 billion), oil other than crude from petroleum and bituminous minerals (\$2.7 billion), passenger motor vehicles with cylinder capacity exceeding 3,000 cc (\$2.6 billion), turbojets of a thrust exceeding 25 kN (\$2.0 billion), crude oil from petroleum and bituminous minerals (\$1.6 billion), turbojet and turbopropeller parts (\$1.4 billion), parts of airplanes or helicopters (\$1.2 billion), and jewelry and parts of precious metal other than silver (\$1.1 billion). These products accounted for almost 20 percent of total U.S. imports

Figure 5
U.S. trade with the EC by product sector, 1990



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

from the EC. With the exception of jewelry, U.S. imports of all of the other products increased in 1990 compared with 1989.

Major Policy Developments Affecting Trade

Internal Market

The EC's plan to create a single internal market by January 1, 1993, continued to make progress in 1990.¹⁰ As of July 18, 1990, the EC Commission had tabled all of the 282 measures that comprise the internal market program as outlined in the EC Commission's 1985 White Paper.¹¹ As of January 7, 1991, the EC Council had formally adopted 184 of these measures, or 65 percent of the proposals.¹² Implementation of the measures by individual member states will play a key role in determining whether or not the program is completed on time. As of January 10, 1991, only 24 of the 120 directives for which the implementation deadline had passed had been fully transposed by all member states into national law.¹³ The delay is generally attributed to a lack of member-state administrative organization.¹⁴

In addition to the EC 1992 plan described in the White Paper, the EC Commission continued to pursue important flanking and followup policies that are considered part of a broader process to integrate the EC's internal market more completely. Two of the most important areas are efforts to realize economic and monetary union (EMU) and deepen political cooperation. EMU envisions a single currency, a common Community monetary policy, coordination of national economic policies, establishment of a European central bank, and irrevocably fixed exchange rates. Achieving political union will require defining the respective roles of the EC and its member states on such questions as common citizenship, foreign policy, security/defense issues, and further development of EC-wide political institutions such as the European Parliament. Two intergovernmental conferences were convened on December 15, 1990 to negotiate amendments to the Treaty of Rome, the governing instrument of EC law, to make the institutional changes necessary to achieve EMU and political union.¹⁵ The goal of both conferences is to ratify new treaties on EMU and political union before the end of 1992.¹⁶

The U.S. administration strongly supports the EC 1992 process and believes that open and non-

discriminatory implementation of the program will benefit both the EC itself and the Community's major trading partners, including the United States.¹⁷ U.S. officials now anticipate higher growth, less red tape, and fewer technical barriers, all of which will benefit U.S. firms. However, there remain sources of concern, such as U.S. access to the EC's new product testing and certification procedures, and local content requirements in public procurement and programming on EC television. The United States is carefully monitoring the program to ensure that single market benefits not only to EC countries, but their trading partners as well.¹⁸

As the EC's internal market process nears reality, third countries are seeking closer economic and trade ties with the Community. Some countries—such as Turkey, Austria, Malta, and Cyprus—have already formally applied to the EC for membership. Others, such as Sweden, have shown a strong interest in pursuing future EC membership. The six nations of the European Free Trade Association aim to form a more structured partnership with the Community by negotiating a European Economic Area (EEA) that would enter into force on January 1, 1993, concurrently with the EC's single market initiative.¹⁹ The purpose of the EEA is to enable, to the greatest possible extent, the free movement of goods, persons, services, and capital.²⁰ The countries of Central and Eastern Europe are also forging closer economic and trade ties with the EC, although EC membership will be delayed until they can meet certain conditions of a market economy and democratic principles.²¹

German Reunification

On July 1, the economic, monetary, and social union between the two Germanies was established and a transitional customs union was formed between East Germany and the EC.²² The former East Germany began allowing free entry of goods from the EC and adopted the EC's trade policies toward third countries with respect to common tariffs, customs laws, and all other commercial policy measures. The EC, in turn, lifted tariffs and quantitative restrictions on East German industrial goods, and as of August 1 lifted similar restrictions on agricultural goods, as long as they meet EC standards.

¹⁰ These developments are described in detail in USITC, *The Effects of Greater Economic Integration Within the European Community on the United States—Third Followup Report* (Investigation No. 332-267), USITC Publication 2368, March 1991.

¹¹ EC Commission data base Info 92, July 25, 1990.

¹² EC Commission data base Info 92, June 14, 1991.

¹³ EC Commission, Comstat 5 III A 2, Jan. 10, 1991.

¹⁴ EC Commission Communication Com (90) 473, Oct. 5, 1990.

¹⁵ "European Council, Rome, December 14/15, 1990 Inter-Governmental Conferences on Political Union and Economic and Monetary Union, Rome, December 15, 1990," *European Report*, No. 1639 (Dec. 19, 1990), special supplement.

¹⁶ *Ibid.*

¹⁷ For more background, see USITC, *Operation of the Trade Agreements Program*, 41st Report, 1989, USITC Publication 2317, September 1990, p. 93.

¹⁸ *Ibid.*

¹⁹ BNA, "European Economic Space: Talks are Deadlocked, Swiss Trade Minister Says," 1992: *The External Impact of European Unification*, Nov. 2, 1990, p. 5.

²⁰ "EEC/EFTA: Joint Declaration Calls for Launch of EEC Negotiations," *European Report*, No. 1550 (Dec. 18, 1989), sec. 5, p. 8.

²¹ Corrado Pirzio-Biroli, Acting Head of the EC Delegation in Washington, DC, speaking at "Strategic Issues of the 1990s," a conference sponsored by the International Club and the Center for Strategic and International Studies, Jan. 19, 1990.

²² For more background, see USITC, *Effects of EC Integration*, USITC Publication 2318, September 1990, p. 1-14.

On October 3, formal political unification of West and East Germany took place. East Germany automatically integrated into the EC and became subject to the bulk of EC legislation. The EC's regional policy, competition policy, fisheries policy, as well as about 80 percent of the EC's single market measures (including those on the free movement of capital, people, and financial services), applied immediately following formal unification on October 3.²³ Other areas are subject to transitional arrangements, most of which the EC intends to discontinue by the end of 1992.²⁴ Areas subject to transitional measures include the EC's Common Agricultural Policy, the energy sector, the environment sector (including air and water quality standards), and certain other single-market standards. Existing trade relations between East Germany and its former trading partners in Eastern and Central Europe will be maintained for a transitional period.²⁵

Industrial Policy

On October 30, the EC Commission issued a working paper that develops an EC approach to industrial policy, the first attempt ever to define an industrial policy at the EC level.²⁶ The proposal aims to help EC industry meet the challenges of future competition. The paper advocates an industrial policy that facilitates the efficient functioning of markets, particularly the structural adjustment of industry, by fostering a competitive, market-oriented economy. The paper rejects the strategy of certain member states to create "national champions."²⁷

The EC's industrial policy focuses on a three-stage approach the EC should take to promote structural adjustment. Stage one cites the prerequisites required for structural adjustment. One such prerequisite is a competitive environment, which the EC Commission proposes to enhance by implementing a more flexible competition policy and by controlling state aids.²⁸ Other prerequisites cited in the paper include a stable economic environment, high level of education, economic and social cohesion between the member states, and a high level of environmental protection. The second stage addresses catalysts that encourage industry to undertake adjustment. The EC Commission cites two important catalysts for the Community: completion of the internal market, which aims to increase the competitiveness of EC industry, and an open and vigilant external trade policy. Finally, stage three cites policies that would accelerate the adjustment process. According to the paper, the goal of stage three

²³ "German Unity Effective Tonight; Long-Term Gains Seen for EC," *Journal of Commerce*, Oct. 2, 1990.

²⁴ *Ibid.*

²⁵ GATT, *Focus*, No. 77, December 1990, p. 6.

²⁶ EC Commission, "Industrial Policy in an Open and Competitive Environment," October 1990.

²⁷ *Ibid.*

²⁸ For a discussion of the EC's competition policy, see USITC, "Competition Policy and Company Law," ch. in *Effects of EC Integration*, USITC Publication 2204, July 1989.

is to develop the technological capacity of the EC by promoting an effective research and development policy, enhancing the performance of small and medium-sized enterprises (SMEs), and strengthening training, among other things.²⁹ The paper concludes that an industrial policy should encourage the permanent adaptation to industrial change, should be implemented through the creation of a favorable economic environment, and should increasingly rely on horizontal measures to approach industrial problems at the sectoral level. The Council of Industry Ministers unanimously approved the EC Commission's industrial policy concept at a meeting on November 26.³⁰

Agriculture

The EC's Common Agricultural Policy (CAP), outlined in the Treaty of Rome, established a common market in agricultural commodities, with five major objectives: to increase productivity, to ensure a fair standard of living in the agricultural sector, to stabilize markets, to guarantee food supplies, and to provide food to consumers at reasonable prices. The CAP uses a variety of mechanisms, including price supports, to meet these objectives. Because the CAP shields EC farmers from market forces, it has generated growing surpluses and had a depressing effect on world market prices of certain agricultural commodities. As a result, tensions with some of the EC's trading partners, including the United States, have risen. Furthermore, the CAP has placed a heavy financial burden on the EC's budget.

Efforts to curb the rising cost of the CAP led the EC Commission to propose a farm support package for the 1990/91 marketing year that would once again freeze or cut most support prices.³¹ The EC's Council of Agriculture Ministers debated the EC Commission's proposals and eventually approved a package that was estimated to remain within the guidelines set for the farm budget.³² The new set of support prices would cut prices in European Currency Units (ECU)³³ by an estimated 1.1 percent and would raise prices by an estimated 0.3 percent in national currency terms.

The approved farm package reduced the support prices of certain fruits and vegetables, certain table wines, certain dairy products, beef and veal, pigmeat, and durum wheat. To win approval among the Agriculture Ministers for the price freeze, the EC Commission pledged to reduce delays in making

²⁹ For a discussion of the EC's R&D and SME policies, see USITC, *Effects of EC Integration—Third Followup*, USITC Publication 2368, March 1991, and USITC, *Effects of EC Integration—Second Followup*, USITC Publication 2318, September 1990.

³⁰ "Industrial Policy: Twelve Votes in Favour of New Concept Proposed by the Commission," *European Report*, No. 1633 (Nov. 27, 1990), sec. IV, p. 6.

³¹ "Farm Prices: 1990/91 Proposals Set Another Price Freeze and Cuts for EEC Farmers," *European Report*, No. 1550 (Dec. 20, 1989), sec. IV, p. 3.

³² "Farm Prices: Council Finally Agrees on Another Price Freeze," *European Report*, No. 1582 (Apr. 26, 1990), sec. IV, p. 12.

³³ The 1990 annual average exchange rate of the ECU in U.S. dollars was 1 ECU = \$1.2560.

payments for cereals, dairy products, and beef.³⁴ Also, the EC Commission's original proposals for "green currency rates"—at which the ECU support prices are translated into national currencies—were adjusted to soften the effect of the price freeze in national currency terms.

In June 1990, the EC Commission released a preliminary report assessing the effectiveness of the major farm reform plan initiated in 1988.³⁵ The report concluded that the 1988 "stabiliser package" did not alter the amount of land used in production but did cause a shift in the commodities produced. Production of certain products, such as cattle and oilseeds, declined, but production in other sectors, such as sheepmeat, increased. The report estimates that in the milk and beef sectors, in which EC production accounts for a substantial share of world production, the stabiliser package contributed to a rise in world market prices. The report also claims that the stabiliser mechanisms achieved their budgetary saving goal and did not block increases in farm income, which rose by 1.3 percent in 1988 and 9.5 percent in 1989.³⁶ Finally, the review suggests that more progress needs to be made on structural policies to aid EC farmers, such as the land set-aside scheme.

Despite the positive conclusions of the report, the outlook for EC agriculture deteriorated as the summer wore on. Rising agricultural surpluses, particularly in beef and butter, and weak international markets that increase the cost of subsidy payments under the CAP, posed new budgetary problems for the EC.³⁷ Pressure to reform the CAP, prompted by internal budgetary concerns as well as the Uruguay Round, led the EC Commission in late 1990 to announce its intention to propose a farm reform package early in 1991.³⁸ Some of the likely proposals are a redistribution of the support from large farmers to smaller farmers, an increased emphasis on environmentally friendly farming, a mandatory land set-aside program, and a general tightening of price supports.³⁹

United States-EC Bilateral Trade Issues

Overview

The year 1990 was a relatively quiet one for U.S.-EC trade relations outside of issues related to the Uruguay Round. The EC's 1992 program remained a

³⁴ "Farm Prices: Council Finally Agrees on Another Price Freeze," *European Report*, No. 1582 (Apr. 26, 1990), sec. IV, p. 12. Also, see Bridget Bloom, "Mixed Reactions to EC Price Package," *Financial Times*, May 1, 1990.

³⁵ For more background, see USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, p. 80.

³⁶ A preliminary report by the Statistical Office of the European Community (Eurostat) estimates that EC farm income decreased by 2.8 percent in 1990.

³⁷ For example, see Tim Dickson, "Agriculture Surpluses Spark New EC Budget Crisis," *Financial Times*, Sept. 3, 1990.

³⁸ For example, see David Gardner, "Brussels Prepares for CAP Overhaul," *Financial Times*, Jan. 4, 1991.

³⁹ For example, see "Agriculture: What Measures Does MacSharry Have Up His Sleeve?" *European Report*, No. 1638 (Dec. 15, 1990), sec. IV, p. 7.

principle source of U.S. interest and concern, but fears of a "Fortress Europe" that would block U.S. exports and investment in the EC have largely subsided. A second annual survey of U.S. industry and Government leaders shows increased optimism regarding the impact of 1992 on the United States, on EC member states, and on Eastern Europe, as well as the world in general.⁴⁰ The EC 1992 process has already led to faster economic growth in the EC and increased demand for U.S. products, thus greatly benefiting U.S. suppliers.⁴¹

Most of the sources of the bilateral trade friction unrelated to the Uruguay Round were not new in 1990. Issues related to health standards continued to plague bilateral relations. Bans on meat produced with the aid of growth hormones as well as on an engineered hormone called BST, which enhances milk production in cattle, remained in effect throughout the year. At the end of 1990, the EC banned U.S. pork and beef products allegedly because they were processed in unsanitary facilities.

A dispute that originated when Spain joined the EC in 1986 flared up in the fall when the EC threatened to end an agreement that compensated the United States annually for lost sales of corn and sorghum to Spain. The dispute was temporarily resolved at yearend. Negotiations to settle the dispute over subsidies to Airbus Industrie were active throughout the year but remained unresolved at the end of 1990.

On November 20, the United States and the EC adopted a declaration, based on common values and goals, to strengthen bilateral cooperation in a wide variety of fields.⁴² The declaration sets out the principles and framework for regular U.S.-EC consultations and cooperation in economic, educational, scientific, and cultural areas as well as in transnational issues, such as terrorism, drugs, the environment, and proliferation of nuclear weapons. The two sides confirmed a commitment to "promote market principles, reject protectionism and expand, strengthen and further open the multilateral trading system." The EC adopted a similar declaration with Canada on the same day.⁴³ Together they are referred to as "The Transatlantic Declarations."

Third Country Meat Directive

The EC's Third Country Meat Directive requires foreign meat producers to comply with certain technical standards in order to export to the EC. EC reluctance to certify certain U.S. meat plants

⁴⁰ KPMG Peat Marwick, "The New Europe: The Reshaping of Global Business: An American Perspective," September 1990.

⁴¹ For more information on the EC 1992 process and its implications for U.S. industry, see USITC, *Effects of EC Integration—Third Followup*, USITC Publication 2368, March 1991.

⁴² *European Community News*, "EC and U.S. Reinforce Transatlantic Partnership," Nov. 27, 1990.

⁴³ "EEC/Canada/US: Transatlantic Declarations Signed," *European Report*, No. 1632 (Nov. 24, 1990), sec. V, pp. 3-9. The EC announced its intention in February 1991 to sign a similar declaration with Japan.

erupted into a bilateral dispute in 1987 but was later resolved when the EC delayed implementation of the directive until April 1988 to give U.S. firms time to bring their meat plants into compliance with EC requirements.⁴⁴ The bilateral issue appeared resolved until October 1990 when EC inspectors deleted most U.S. meat producers from the list of certified plants.

In October, the EC informed the United States that it would effectively ban U.S. pork imports on November 1 and U.S. beef imports on January 1, 1991, because poor hygiene in U.S. meat plants posed a health hazard to EC consumers.⁴⁵ U.S. officials rejected the EC claim, saying that there was no scientific basis for prohibiting U.S. imports.⁴⁶ The U.S. administration urged the EC to postpone implementation of the ban until GATT talks were complete, but the ban was implemented on schedule.⁴⁷

On November 28, the National Pork Producers Council and the American Meat Institute filed a complaint with the Office of the United States Trade Representative (USTR) to demand retaliation under section 301 of the Trade Act of 1974. The petition alleges that the EC's actions violate the GATT and discriminate against U.S. exports. The petitioners claim that the inspection requirements for U.S. meat exports are not the same as those for meat produced and consumed in individual EC member states and that the requirements are not fully enforced in plants shipping across national boundaries within the EC. The USTR had until January 11, 1991, to determine whether or not to accept the petition.⁴⁸

Moratorium on Dairy-Enhancing Hormone, BST

In September 1989, the EC Commission instituted a ban on the use of the dairy-enhancing hormone bovine somatotropin (BST) until December 31, 1990.⁴⁹ The purpose of the ban was to provide time to conduct scientific studies of BST and consultations with third countries to determine whether BST should be authorized for use in the EC.⁵⁰ Of particular concern to

⁴⁴ For more background, see USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, p. 88, and USITC, *OTAP, 39th Report, 1987*, USITC Publication 2095, July 1988, p. 4-8.

⁴⁵ "EC Close to Ban on US Meat Sales," *Financial Times*, Oct. 25, 1990.

⁴⁶ USTR, "Hills Initiates Investigation of European Community Meat Rules," Jan. 10, 1991.

⁴⁷ "U.S. Pork Producers Call for Retaliation Against Planned EC Ban on U.S. Imports," *International Trade Reporter*, Oct. 31, 1990, p. 1641.

⁴⁸ On Jan. 10, 1991, the USTR initiated an investigation of the EC's inspection requirements in response to the petition. Because bilateral discussions are under way, the USTR delayed dispute settlement for up to 90 days. According to the USTR, if consultations do not resolve the issue, the United States will refer the matter to GATT dispute-settlement proceedings and will thereafter determine what action to take under sec. 301. See USTR, "Hills Initiates Investigation of European Community Meat Rules," Jan. 10, 1991.

⁴⁹ For more background, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 94.

⁵⁰ *Ibid.*

the United States is that the EC will judge BST not only on the traditional criteria of safety, quality, and effectiveness, but also with consideration of socioeconomic factors. The United States opposes the introduction of socioeconomic factors in approving new substances (the so-called fourth criterion), on the grounds that only scientific criteria are relevant.⁵¹

The EC Council had intended to render a decision by December 31, 1990, but the ban was extended until December 31, 1991.⁵² The extension will provide more time for the EC Commission to submit its report on the consequences of approving the use of BST.⁵³

Meat Hormone Ban

The EC's ban on the sale of red meat from animals treated with growth-promoting hormones entered into effect for the United States on January 1, 1989.⁵⁴ On the same day, the United States imposed retaliatory duties on a variety of imports from the EC. The EC's ban remains in effect. The level of retaliation has been modified by the USTR and is estimated at about \$92.5 million.⁵⁵ Efforts to resolve the issue in the GATT continued to be unsuccessful.

On November 13, 1990, the EC's Court of Justice upheld the hormone ban.⁵⁶ The case was heard in response to a complaint filed by the European Federation of Animal Health, which claims that the ban is not based on scientific evidence. However, the Court declared that there was no proof that the hormones were harmless and that the EC Council has discretionary powers to act in the interest of EC consumers.

Enlargement-Related Farm Trade Dispute

When Spain joined the EC in 1986, it was required to adopt the EC's system of variable import levies, which significantly raised Spanish tariffs on corn and sorghum.⁵⁷ The United States threatened to retaliate for lost sales to Spain, but in January 1987, U.S. and EC officials concluded an agreement. The compensation settlement required the EC to ensure that Spain import 2 million metric tons of corn and 300,000 metric tons of sorghum from non-EC suppliers over each of the succeeding 4 years. The agreement also specified that in July 1990 both sides would determine what action was necessary after the agreement lapsed on December 31.

⁵¹ *Ibid.*

⁵² "Agriculture: BST Moratorium Extended Until End of 1991," *European Report*, No. 1650 (Feb. 6, 1991), sec. IV, p. 3.

⁵³ Although the EC's Committee for Veterinary Medicinal Products agreed in March 1991 that BST does not risk the health and safety of consumers and animals, the moratorium on the use of BST remains in place until the end of 1991. See "BST: EEC Veterinary Committee Gives Favourable Opinion," *European Report*, No. 1664 (Mar. 28, 1991), sec. IV, p. 6.

⁵⁴ For more background, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 93.

⁵⁵ USTR, *Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974*, (July-December 1990).

⁵⁶ "Hormones: Court of Justice Upholds Validity of EEC Hormone Ban," *European Report*, No. 1630 (Nov. 16, 1990), sec. IV, p. 1.

⁵⁷ For more background, see USITC, *OTAP, 39th Report, 1987*, USITC Publication 2095, July 1987, p. 4-7.

After meeting in July and September, the EC refused to extend the agreement.⁵⁸ As a result, on November 15, 1990, the USTR self-initiated an investigation to determine whether the EC's policy would be actionable under section 301 of the Trade Act of 1974.⁵⁹ The United States threatened to retaliate on January 1, 1991, by imposing duties on imports of EC products, including certain cheeses, vegetable products, nuts, wines, and spirits. However, on December 21, the EC agreed to extend the agreement through 1991.⁶⁰ U.S. and EC officials also agreed to seek a permanent solution by September 30, 1991. As a result, the USTR terminated its investigation.⁶¹

Airbus

U.S. and EC negotiators met throughout 1990 to settle a dispute over U.S. claims of unfair subsidization of Airbus Industrie, a European aircraft manufacturing consortium, but the dispute remained unresolved at yearend.⁶² Although U.S. producers continue to benefit from strong worldwide demand for aircraft, the U.S. Government and industry oppose Airbus support, which they claim places U.S. firms at a disadvantage.⁶³ Unlike their European competitors, U.S. producers must bear the full market risks for new aircraft development and production, thereby limiting their profit margins and ability to invest in new technologies for future competition.⁶⁴ EC officials counter that U.S. firms benefit from military contracts, which act as indirect subsidies.⁶⁵

Airbus Industrie is a public/private corporation co-owned by Aerospatiale of France, Deutsche Airbus of the Federal Republic of Germany, British Aerospace of the United Kingdom, and Construcciones Aeronauticas (CASA) of Spain. (Spain owns less than 5 percent of Airbus.) 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, are inconsistent with the Agreement on Trade in Civil Aircraft, one of the Tokyo Round codes. Specifically, articles 4 and 6 prohibit unfair inducements for potential purchasers and trade-distorting subsidies, respectively.⁶⁶

In a related matter, the U.S. Government continued to express concern over an exchange-rate-guarantee scheme devised by the German Government in the context of privatizing Messerschmitt-Bolkow-Blohm

⁵⁸ USTR, *Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974*, (July-December 1990).

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

⁶² For more background, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 96-97.

⁶³ *Ibid.*

⁶⁴ USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, p. 78.

⁶⁵ USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 96-97.

⁶⁶ *Ibid.*

(MBB) and its wholly owned subsidiary, Deutsche Airbus.⁶⁷ Efforts to privatize MBB through a Daimler-Benz-MBB merger were made conditional on the German Government's ability to cover the financial risks of current and future Airbus projects. One element of the support plan was the Government-financed exchange-rate-guarantee scheme, which covers Airbus sales until the year 2000. The German Government uses this mechanism to offset adverse exchange-rate fluctuations between the German mark, in which production costs are incurred, and the U.S. dollar, the currency of the civil aviation market.⁶⁸ U.S. officials claim that in 1990 the German Government distributed 390 million deutschmarks under the guarantee scheme, which undermines the international balance-of-payments adjustment process.⁶⁹ The United States has questioned the consistency of this practice with the GATT Subsidies Code.⁷⁰

In September 1990, the Department of Commerce released a study concluding that past, present, and future Airbus programs are unlikely to be commercially viable; i.e., earning a positive rate of return taking into account the cost of capital.⁷¹ The report also claimed that Airbus member companies have received or are committed to receive about \$13.5 billion in direct government support. U.S. officials are concerned that the success of the Airbus program could lead the EC to form other, similar heavily subsidized consortiums that could disadvantage certain U.S. high-technology industries.⁷² According to the report, the U.S. market share of orders for large commercial aircraft decreased from 87 percent in 1980 to about 64 percent in 1989, whereas Airbus' market share grew from about 7 percent in 1980 to 27 percent in 1989.⁷³

Bilateral negotiations reopened in 1990 following a breakdown of negotiations in mid-1989.⁷⁴ Both the EC and the United States presented new proposals during the spring of 1990.⁷⁵ The EC agreed to prohibit production subsidies and limit development subsidies on aircraft over 100 seats. However, disagreement continued over the permissible level of development subsidies and the timeframe for implementation.⁷⁶ As a result, the United States threatened to file a complaint under the GATT Subsidies Code over the German

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ USTR, "United States Requests GATT Panel on German Subsidies to Airbus," Feb. 14, 1991.

⁷⁰ *Ibid.*

⁷¹ Gellman Research Associates, Inc., for the U.S. Department of Commerce, *An Economic and Financial Review of Airbus Industrie*, fact sheet, Sept. 4, 1990.

⁷² "Making Air Waves; Turbulence," *Seattle Times*, Sept. 20, 1990.

⁷³ Gellman Research Associates, Inc., for the U.S. Department of Commerce, *An Economic and Financial Review of Airbus Industrie*, fact sheet, Sept. 4, 1990.

⁷⁴ For more information on developments in 1989, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 96-97.

⁷⁵ U.S., EC Appear Optimistic That Airbus Agreement Can Be Reached," *Inside U.S. Trade*, special report, Apr. 20, 1990.

⁷⁶ *Ibid.*

Government's exchange-rate subsidy plan should the Airbus issue not be resolved by July 31.⁷⁷ U.S. officials postponed the deadline until September 30,⁷⁸ and then postponed it indefinitely when broader progress on Airbus negotiations emerged.⁷⁹ Consultations continued through the end of the year, but disagreements remained over the size of the cut in development supports, the terms and conditions under which government support is repaid, transparency requirements, the size of the aircraft covered by the agreement, and the GATT-consistency of the German exchange-rate-guarantee scheme.⁸⁰ An EC offer to cut development supports from over 70 percent to 45 percent of development costs was rejected by the United States, which supports a limit of 25 percent.⁸¹

Canada

The Economic Situation in 1990

Because of the close linkages between the U.S. and Canadian economies and the much greater size of the U.S. economy, the Canadian economy generally is strongly influenced by developments in the U.S. economy. However, the economic downturn that began in 1990 started earlier in Canada than in the United States, and analysts expect it to last longer.⁸² During the second quarter, gross domestic product (GDP) in Canada declined at an annual rate of 1.6 percent. When this negative trend continued in the third quarter (-0.3 percent), a recession was officially born. The fourth quarter decline was 1.0 percent.⁸³ Real GDP growth was only 1.5 percent for the year,⁸⁴ while industrial production declined by 2.7 percent.⁸⁵ The capacity utilization rate dropped to a six-year low in 1990. The rate for the year was 83.3 percent; the rate stood at 86.7 and 88.1 percent respectively in 1989 and 1988.⁸⁶

⁷⁷ In 1989, the United States requested consultations with the EC under the Subsidies Code to discuss the exchange-rate subsidy plan but postponed further action when negotiations made progress. "U.S. and EC Expecting GATT Showdown Soon on German Airbus Support Scheme," *Inside U.S. Trade*, July 27, 1990.

⁷⁸ "U.S. Postpones Airbus Deadline After Last-Minute EC Counter Offer," *Inside U.S. Trade*, Aug. 3, 1990.

⁷⁹ Nancy Dunne, "US Withdraws Threat Over Airbus," *Financial Times*, Sept. 28, 1990.

⁸⁰ For example, see "U.S., EC Progress on Airbus Dispute, but Agreement Still in Question," *Inside U.S. Trade*, Dec. 21, 1990.

⁸¹ Negotiations collapsed in early 1991 after the EC rejected the most recent U.S. offer, which included a proposal to limit development subsidies to 25 percent of development costs. On Feb. 14, 1991, the United States requested a dispute-settlement panel under the GATT Subsidies Code to examine the German exchange-rate-subsidy mechanism. For example, see "U.S. Challenges German Subsidy Program in GATT After Airbus Talks Collapse," *Inside U.S. Trade*, Feb. 15, 1991.

⁸² Mary Williams Walsh, "The Hard Times Are Even Harder North of Border," *Los Angeles Times*, Feb. 24, 1991, p. D1; "This Time, Canada Got the Blues Before the U.S.," *Economic Trends*, *Business Week*, Oct. 15, 1990, p. 20.

⁸³ U.S. Department of State, Ottawa, no. 1370, Feb. 28, 1991.

⁸⁴ U.S. Department of Commerce, *Business America*, Apr. 22, 1991, p. 8.

⁸⁵ "Canadian Economic Outlook," *Infometrika, Ltd.*, Ottawa, May 1991.

⁸⁶ The rate in the fourth quarter of 1990 was 80.8 percent. U.S. Department of State, Ottawa, no. 1838, Mar. 21, 1991.

Canadian unemployment reached 9.7 percent—a 5-year high—during the year.⁸⁷ Particularly hard hit was the manufacturing sector, in which production is generally on a smaller scale than in the United States and efficiencies of scale may be more difficult to attain. In the recessionary climate of adjustment and rationalization, the effects in Canadian manufacturing were pronounced.⁸⁸ The unemployment rate for the year averaged 8.1 percent.⁸⁹

Real interest rates in Canada climbed during the year and remain considerably above comparable levels in the United States. At times during 1990 there was a disparity of 5 percentage points between comparable United States and Canadian real rates. This difference, coupled with the persistent Canadian budget deficit, has made policymakers more wary of continuing inflationary pressures. The Canadian prime rate in 1990 for 90-day commercial paper was 13.03 percent, and the long-term corporate rate was 11.91 percent.⁹⁰

Construction—a traditional barometer of healthy economic activity—fell by 15 percent last year,⁹¹ in large part due to continued high interest rates. Both residential and factory construction declined, and housing sales dropped to an 8-year low.⁹²

Despite what some observers feel is the world's tightest monetary policy,⁹³ inflation in Canada has not abated. The effect of the oil price increase in the autumn was augmented by the anticipated effect of the new goods and services tax in 1991. The average increase in consumer prices for the year was 4.8 percent,⁹⁴ down slightly from the 5.0 percent registered in 1989.⁹⁵

Canada has traditionally been considered a resource-rich country with an advantage in this sector. However, recently productivity growth in Canada has been eclipsed by growth in the United States, and this resource-based edge has eroded. To stem this erosion, analysts assert Canada will have to increase spending for research and development oriented toward improving manufacturing productivity and finding new ways of processing raw materials and adding value to them.⁹⁶ The situation is not helped by rising unit-labor costs in Canada.⁹⁷

The Canadian dollar remained high during the year—trading at about 86 U.S. cents.⁹⁸ Such a strong

⁸⁷ Walsh, "Hard Times North of Border."

⁸⁸ *Ibid.*

⁸⁹ "Canadian Economic Outlook," *Infometrika Ltd.*

⁹⁰ Walsh, "Hard Times North of Border."

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ Peter Morici, cited in Walsh, above.

⁹⁴ "Canadian Economic Outlook," *Infometrika, Ltd.*

⁹⁵ U.S. Department of State, *Briefing Book* prepared for for the 1991 Canada-United States Interparliamentary Group, May 1991 (hereafter, *Briefing Book*), "Economic Fact Sheet."

⁹⁶ Morici, cited in Walsh, above.

⁹⁷ There is an estimated 42-percent difference in the growth in unit-labor costs in the manufacturing sector between Canada and the United States. The Royal Bank of Canada, *Econoscope*, vol. 15, No. 1, p. 18.

⁹⁸ The average for 1990 was 85.71 U.S. cents, up from 84.45 in 1989. U.S. Department of State, Ottawa, no. 876, Feb. 6, 1991.

Canadian dollar has directly affected Canadian exports in international markets, and at a time of restructuring, has worsened the impact of the recession⁹⁹ In a country where 40 percent of private sector output is exported, any change in international competitiveness will be deeply felt.¹⁰⁰

Canada and the United States are each other's most important trading partners, and in both volume and value, have the largest trading relationship in the world. About three-fourths of Canada's exports go to the United States, and two-thirds of Canadian imports come from the United States.

In 1981, Japan replaced the United Kingdom as Canada's second-largest trading partner. In 1983, the value of Canada's trade with Asia surpassed that of its trade with the EC.¹⁰¹ The shift to the Pacific Rim is still an orientation of Canadian trade ventures today. This orientation will greatly affect Canadian development in the future, particularly in the area of immigration. Canada has made significant overtures to wealthy residents of Hong Kong who want to emigrate because of the 1997 turnover of the colony to the People's Republic of China.¹⁰²

The overall level of Canadian foreign trade declined in 1990, and manufacturing was particularly affected. The progressive reduction in tariffs as a result of the FTA has lessened the degree of protection afforded certain Canadian industries and has opened up these sectors to more competition from U.S. firms.

Canada had a current account deficit of \$15.9 billion in 1990, a record year. More than two-thirds of Canada's overall trade is with the United States. The next most important trading partners are the EC (18 percent share) and Japan (5 percent).¹⁰³

Merchandise Trade with the United States

The U.S. merchandise trade deficit with Canada declined imperceptibly from 1989 to 1990; in rounded numbers it remained at \$13.0 billion. Following robust increases in both imports and exports in 1989, trade flows in 1990 reflected the decline in both economies. Exports to Canada increased slightly faster than did

⁹⁹ "The Bank of Canada is expected to pursue a cautious monetary policy throughout 1991 in an effort to control inflation and maintain price stability." *Business America*, Apr. 22, 1991, p. 8.

¹⁰⁰ "Since the first quarter of 1986, the Canadian dollar has risen by about 21% against the U.S. dollar. Although currency appreciation is not the same as a tariff increase in the strictest sense, it is clear that the 2% tariff reduction since the FTA came into effect pales into insignificance when compared with the loss of competitiveness resulting from dollar appreciation." Royal Bank of Canada, *Econoscope*, p. 7.

¹⁰¹ Two-way trade with Asia represents only about 3 percent of total Canadian trade—and trade with Japan accounts for half of that exchange.

¹⁰² Canada receives more immigrants from Asia, particularly from Hong Kong and Vietnam, than from any other part of the world. *Business International*, "North America Into the Year 2000," Oct. 3, 1988, p. 305.

¹⁰³ U.S. Department of State, "Background Notes—Canada," January 1991, p. 1.

imports from Canada. Despite the downturn in the Canadian economy, U.S. shipments increased by 4.3 percent, to a level of \$78.2 billion. Thus, in 1990 Canada accounted for approximately 21 percent of total U.S. exports. Table 12 shows U.S. trade with Canada by SITC category. Manufactured products accounted for nearly 85 percent of the U.S. goods shipped to Canada (see fig. 6). The machinery and transportation equipment sections (SITC sec. 7) constitute the major area of bilateral trade between the United States and Canada. A large portion of this commerce is trade in motor vehicles and parts and is governed by a 1965 bilateral agreement that provides for duty-free treatment for imports of specified automotive products. An indication of the degree of integration between the Canadian and U.S. automotive sectors is the similarity of traded items flowing in both directions across the border.

The leading products exported to Canada from the United States included parts of motor vehicles, automobiles, and circuits. These leading products represented about 22 percent of the total of U.S. exports to Canada in 1990 (table A-7).

U.S. imports from Canada increased slightly (3.6 percent) during the year, hitting a level of \$91.2 billion. Manufactured items represent almost 71 percent of the goods imported from Canada. In terms of overall U.S. purchases, Canada accounts for an 18-percent share. Among the leading items imported from Canada in 1990 were automobiles, motor vehicle parts, crude oil, newsprint, coniferous wood, and natural gas. The top 10 imported items account for 43 percent of overall imports from Canada. Of particular note in the imported items is the shift between 1989 and 1990 to larger autos. This shift represents a return to the Canadian sales pattern of 1988. (See table A-8.)

Major Policy Developments Affecting Trade

Constitutional Crisis

In recent years Canada has experienced a constitutional crisis related to the place of the French-speaking province of Quebec in the Canadian federal structure. An impasse was reached in June 1990 on this issue when two of the 10 provinces failed to approve the Meech Lake Accord.¹⁰⁴

¹⁰⁴ By way of background, the Canadian constitution of 1982 was drawn up with the approval of all of the Canadian Provinces except Quebec. In order to secure Quebec's acceptance of the Constitution, in 1987 Prime Minister Mulroney and the 10 Provincial premiers drafted the Meech Lake Constitutional Accord. [Robertson, James, *The 1987 Constitutional Accord*, Background, BR-166E, Library of Parliament, Ottawa, June 4, 1987.] The accord would have amended the Constitution to designate Quebec a "distinct society" within Canada, entitling it to special consideration in protecting its French linguistic and cultural heritage. [See, for example, "Developments in Canada's Constitution: An analysis of the Meech Lake Accord," Department of Economic Research, Toronto Dominion Bank, January 1990.] Parliament and eight of the Provinces approved the accord; the deadline for full ratification by all 10 Provinces was June 23, 1990. Manitoba and Newfoundland withheld approval of the accord. In an attempt to break the impasse, proposals were made to reopen the accord to amendments, among

Table 12
U.S. merchandise trade with Canada, by SITC Nos. (Revision 3), 1988-90

(Thousands of dollars)

SITC				
no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals	1,759,993	1,902,959	3,764,648
1	Beverages and tobacco	65,950	83,038	125,874
2	Crude materials, inedible, except fuels	1,935,327	2,288,497	2,923,638
3	Mineral fuels, lubricants and related materials	1,447,357	1,678,317	2,154,800
4	Animal and vegetable oils, fats, and waxes	37,302	47,010	57,524
5	Chemicals and related products, n.e.s.	3,750,653	4,210,236	6,050,164
6	Manufactured goods classified chiefly by material	5,545,050	5,865,041	9,822,800
7	Machinery and transport equipment	32,853,593	33,194,049	42,746,260
8	Miscellaneous manufactured articles	4,090,894	4,325,923	7,508,083
9	Commodities & transactions not classified elsewhere in SITC	16,757,071	21,382,400	3,064,167
Total all commodities		68,243,191	74,977,469	78,217,958
U.S. imports				
0	Food and live animals	3,180,013	3,515,355	3,755,819
1	Beverages and tobacco	511,175	548,983	654,845
2	Crude materials, inedible, except fuels	7,072,457	7,855,915	7,335,834
3	Mineral fuels, lubricants and related materials	6,696,260	7,741,886	9,810,313
4	Animal and vegetable oils, fats, and waxes	73,033	89,130	92,340
5	Chemicals and related products, n.e.s.	3,838,515	3,927,606	4,282,363
6	Manufactured goods classified chiefly by material	15,447,998	16,697,375	15,774,898
7	Machinery and transport equipment	36,253,116	39,123,230	40,753,015
8	Miscellaneous manufactured articles	3,639,889	3,600,183	3,588,667
9	Commodities & transactions not classified elsewhere in SITC	3,966,165	4,887,988	5,150,214
Total all commodities		80,678,621	87,987,651	91,198,308

Note.—Data before 1989 are estimated.

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

The perception that the constitutional difficulties underlie more serious problems has affected investment in Canada.¹⁰⁵ Reports of a flight of foreign capital, coupled with Prime Minister Mulroney's low approval rating, have led to speculation as to possible long-term damage to the country's economy.

Ontario is the most important Canadian Province in terms of the volume of trade with the United States, and Quebec is second. Quebec's top traded products in 1990 were as follows:

¹⁰⁴—Continued

them special recognition on women's and native people's rights. Quebec refused to consider any deviations from the terms of the original accord, maintaining that it would consider changes only after Meech Lake was fully ratified. [See, for example, Simpson, Jeffrey, "The Two Canadas," *Foreign Policy*, Number 81, Winter 1990-91, pp. 71-86; also Tonra, Ben, "Canada's Identity Crisis: A Background Review," Washington: Center for Strategic and International Studies, CSIS Policy Papers on the Americas, Vol. II, Report No. 1, Feb. 5, 1991.]

¹⁰⁵ Business investment fell by 6.6 percent in 1990. Royal Bank of Canada, *Econoscope*, p. 8.

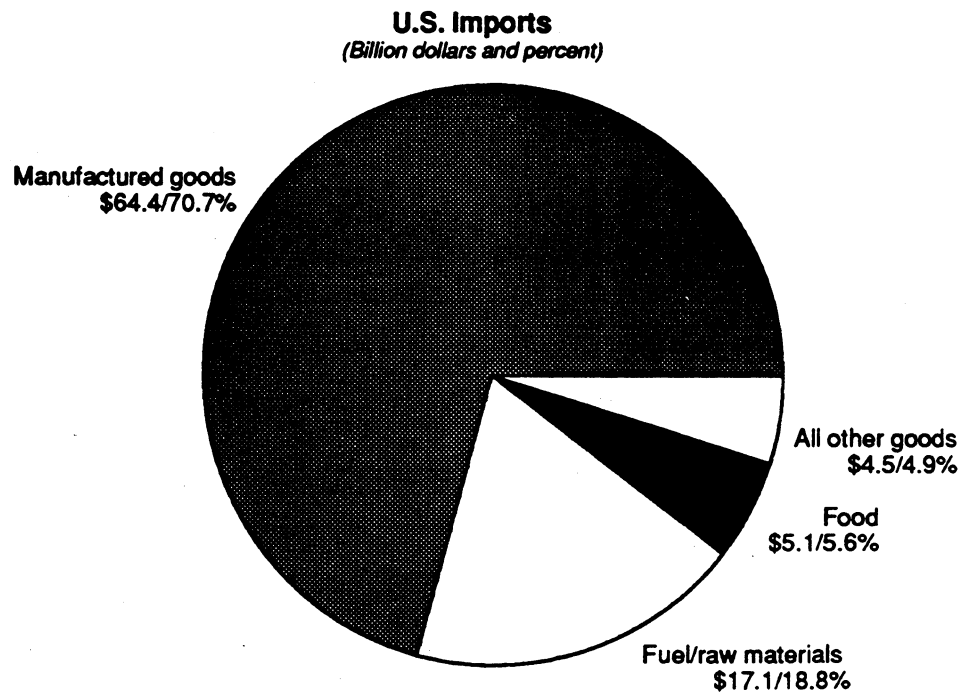
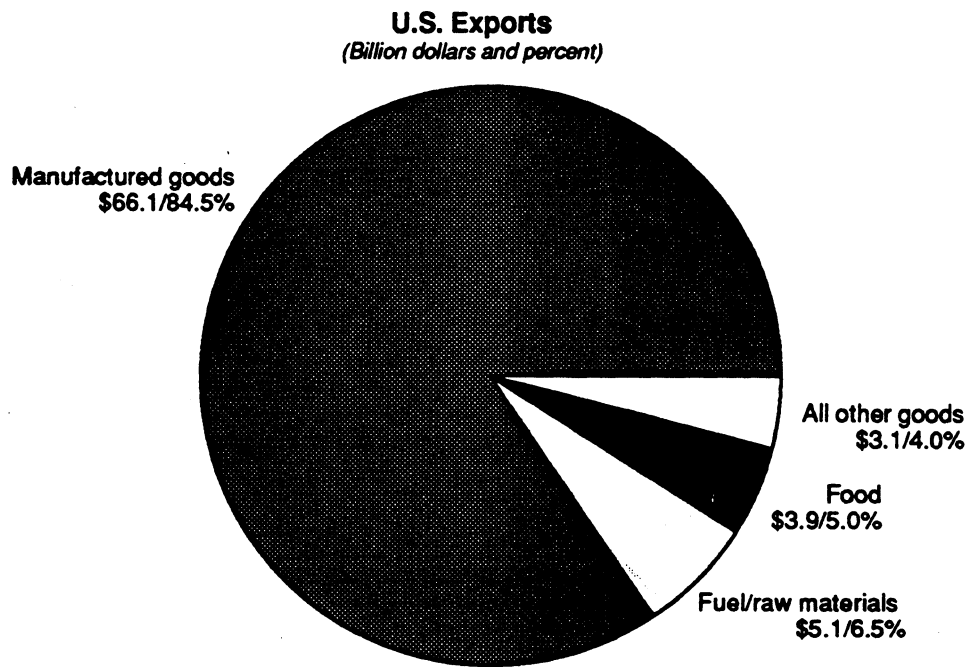
Exports	Imports
Newsprint paper	Passenger automobiles and chassis
Aluminum	Crude petroleum
Passenger automobiles and chassis	Electronic tubes and semiconductors
Telecommunications and related equipment	Telecommunications and equipment related
Aircraft engines and parts	

In two of the categories of leading traded items (autos and telecommunications equipment), the same products are significant in both directions.

At yearend the question of Quebec's continued association with the rest of Canada was the subject of ongoing study by the Federal Government and the Provincial government, as well as by the leading political party in the Province.¹⁰⁶

¹⁰⁶ In early 1991 at least three separate commissions or study groups have come forward with or are developing suggestions for resolution of the Quebec/national unity issue. These include: the "Allaire Report," issued January 29, 1991 by Quebec's ruling Liberal Party; the Report of the Commission on the Political and Constitutional Future of Quebec (better known as the Belanger-Campeau Report), issued on March 27, 1991; the report of a Federally appointed group (the Spicer Commission) established to canvass the country and hold nationwide hearings is expected later in 1991. The latter is to develop recommendations

Figure 6
U.S. trade with the Canada by product sector, 1990



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

Canadian Goods and Services Tax

On December 17, 1990, the broad-based goods and services tax (GST), proposed by the Mulroney government in 1989, was formally enacted.¹⁰⁷ Implementation of the 7-percent value added tax on January 1, 1991, concluded a key structural reform of Mulroney economic policy. Replacing the existing Federal manufacturers excise tax, the GST applies to a wider range of Canadian goods and services. The rationale for the GST was its provision of a more equitable and stable system of revenue collection, designed to attack mounting deficits, maximize global competitiveness, and improve the welfare of lower and middle-income Canadians.¹⁰⁸ Advocates argued that although the tax would have negative effects, such as increased inflation, in the transition period, it would still produce significant long-term benefits.

Features of the GST

The GST is administered at a uniform rate of 7 percent on virtually all goods and services. Although a wider range of goods and services will be subject to the tax than previously was the case, the lower rate of 7 percent is expected to generate the same revenue as the preexisting manufacturers tax.¹⁰⁹ The price of some goods and all services, formerly tax free, will increase because of the GST. The tax on other goods, however, has been reduced from 13.5 percent to 7 percent.¹¹⁰ Although the ultimate burden of the tax is expected to fall principally on the consumer, the tax will be collected by each business or individual along the production and distribution chain.¹¹¹ So as to avoid an amplifying effect, businesses will be allowed to claim credits for GST paid.¹¹² Since the GST is a consumption tax, exports will be "zero-rated," removing the bias of the manufacturers excise tax in favor of imports. Zero-rated goods are exempt from the GST tax yet are eligible for input tax credits on any taxable materials and services used in the production process. Other "zero-rated" goods include basic groceries, medical devices, prescriptions, agricultural and fish products, international freight, transportation services, and investments. Merchandise imports will be taxed at the same rate as Canadian-made products on the duty-paid-value of the good.¹¹³

¹⁰⁶—Continued

on the future of Canada and proposals for constitutional "reconfederation."

¹⁰⁷ *International Trade Reporter*, Jan. 2, 1991, p. 32.

¹⁰⁸ "New Canadian Consumption Tax To Make Exports More Competitive, Minister Says," *International Trade Reporter*, Aug. 16, 1989, p. 1072.

¹⁰⁹ *Business America*, Apr. 22, 1991, p. 9.

¹¹⁰ Including goods such as autos, home appliances, and computers. See "Canada's New Goods and Services Tax Has Implications for U.S. Exporters," *Business America*, Aug. 13, 1990, p. 12.

¹¹¹ To offset the impact of the tax on lower and middle-income Canadians, the Government will offer tax credits available in four equal installments during the year. Official estimates report that 37 percent of households will actually see their tax burden reduced. OECD, *Economic Survey, Canada 1989/90*, p. 75.

¹¹² "Canada's GST Is No Party," *Northeast International Business*, March 1990, p. 9.

¹¹³ The duty-paid value is equal to the customs value plus import duties.

Although the tax was originally proposed at 9 percent, the House of Commons Finance Committee recommended that it be reduced by 2 percentage points to lessen the inflationary impact.¹¹⁴ At the 7-percent rate, the GST is expected to result in a one-time inflationary rise of 1.25 percentage points.¹¹⁵ The 2-percentage-point drop was also expected to reduce the impact on consumer prices by half.¹¹⁶ The most important task reportedly facing monetary and fiscal authorities will be to contain the second round inflationary effects of the GST.¹¹⁷ In the long term, investment is considered likely to benefit from the newly imposed tax. Since full GST credit will be available on capital equipment used in domestic operations, investment will be cheaper for companies in Canada than before.

Opponents of the GST view the tax as an additional burden on the Canadian people, since some items that were formerly tax free will be included in the GST umbrella.¹¹⁸ Opponents also argue that the tax is regressive, and that the tax credits available for low and middle-income Canadians are not indexed to inflation. Consumer advocates assert that businesses will take advantage of the confusion over the tax and raise prices by more than the tax increase or will avoid passing on tax savings. Some unions threatened to boost wage demands, to compensate for lost purchasing power.¹¹⁹ It has also been argued that the terms of the GST are inconsistent, with too many exemptions being allowed before the Government is able to adequately assess how the tax would affect the Canadian economy.¹²⁰

The Government contends that the GST is a more efficient and effective revenue-collecting mechanism, vital to the performance of the Canadian economy.¹²¹ The GST is not, however, intended to provide the Government with additional revenue. Replacing the old tax, the GST rearranges the tax burden without increasing it.¹²² The tax is expected to enhance savings and investment, thereby improving the productive capacity of the Canadian economy, and dampen spending.

¹¹⁴ *International Trade Reporter*, Dec. 6, 1989, p. 1610.

¹¹⁵ Economic Intelligence Unit, *Country Report on Canada*, No. 1, 1990, p. 9.

¹¹⁶ *International Trade Reporter*, Dec. 6, 1989, p. 1610.

¹¹⁷ OECD, *Economic Outlook*, December 1990, p. 88.

¹¹⁸ Cliff Massa III and David Raboy, "The Canadian Value-Added Tax: Does Anybody Care?" *Tax Notes*, Oct. 23, 1989, p. 485.

¹¹⁹ Malloy, Michael T. and Urquhardt, John, "Canada's Mulroney, at Low Point in Popularity, May Have to Pack the Senate to Get Tax Passed," *The Wall Street Journal*, Sept. 26, 1990, p. A 13.

¹²⁰ The major points of both sides of the Canadian public debate on the GST are outlined in *Policy Options Politiques*, July/August 1990, pp. 3-10.

¹²¹ Official estimates place efficiency gains at a 2-percent increase in GDP, which is more than one-half the estimated gain accruing from free trade with the United States. OECD, *Economic Survey, Canada 1989/90*, p. 81.

¹²² Michael H. Wilson, "Our Record Speaks for Itself," *Wall Street Journal*, Jan. 10, 1990, p. A 11.

Effects on the United States

The significance of the Canadian GST to the United States has been stated as follows by one bilateral commentator: "With harmonization of European value-added tax in 1992, and a modest Japanese value-added tax already in place, American businesses will face border tax adjustments in countries which are responsible for more than 60% of all US trade within the next two years."¹²³ The GST is not expected to put U.S. exporters at a serious disadvantage.¹²⁴

U.S. companies currently doing business in Canada or contemplating it will have to make the adjustments required by a new tax regime. Since the old system did not effectively tax imports, Canadian importers of U.S. goods will be subject to higher taxes under the GST. Whereas some industries will experience an overall tax increase, others will enjoy a tax reduction from 13.5 percent to 7 percent.¹²⁵ The manufacturing sector is likely to benefit, whereas services, formerly exempt, could be adversely affected because of GST-induced price increases. U.S. companies that purchase from Canada should be helped by the GST, because of reduced prices due to the rebate of GST at the border.¹²⁶

Inter-Provincial Trade Barriers

While Canada is increasing trade ties with the United States under the regular annual reduction of duties according to the FTA, considerable nontariff impediments to trade between Canadian Provinces still exist.¹²⁷ Since the inauguration of the free-trade agreement in 1989, Prime Minister Mulroney has promoted domestic trade liberalization as being in the national interest and has embarked on a campaign to eliminate inter-Provincial trade barriers. Two years later, although some progress has been made towards structural reform, a mechanism to eventually eliminate inter-Provincial barriers has not yet been put into place.

The barriers remain a major obstacle to the full realization of the economic benefits available from the FTA. In a report released on September 14, 1990, the Organization for Economic Cooperation and Development (OECD) reemphasized the inhibiting nature of such barriers.¹²⁸ Delay continues to plague

¹²³ Massa & Raboy, "The Canadian Value-Added Tax . . ." p. 488.

¹²⁴ *Business America*, Apr. 22, 1991, p. 9.

¹²⁵ *Ibid.*, p. 25.

¹²⁶ The Canadian Manufacturers Association has estimated that the GST will increase Canadian exports between \$1.25 and \$2 billion annually over the next 2 years. Clyde H. Farnsworth, "Canada's New Tax on Sales To Aid in Trade With U.S.," *New York Times*, Jan. 20, 1991.

¹²⁷ Leo Ryan, "Interprovincial Trade Barriers Are Coming Down," *Journal of Commerce*, Dec. 13, 1990, p. 9A.

¹²⁸ "Although some progress has been made in reducing the scope for discriminatory provincial procurement procedures, barriers to inter-provincial trade (certification and licensing procedures, restrictions on trade in agricultural products and alcohol) remain significant. These barriers reduce economic efficiency and welfare." Organization for Economic Cooperation and Development, *Economic Survey*, Canada 1989/90, Paris, 1990, p. 87.

the signing of a nationwide agreement as the Federal and Provincial Governments disagree on fundamental elements of cooperation. As yet, no constitutional guarantee exists for the free movement of goods inter-Provincially.

At least 300 types of domestic barriers exist in Canada.¹²⁹ Two hundred barriers are estimated to affect agricultural products alone.¹³⁰ Government procurement policies are particularly significant. Even when bids are competitive, Provincial governments afford preferential treatment to local (i.e. provincial) suppliers. In the Maritime Provinces, for example, tenders are restricted to the Province when there are no more than three Provincial suppliers. All Provincial governments afford a 5- to 10-percent premium for local suppliers as well.¹³¹ Limitations are also placed on the movement of certain products between Provinces, whereas local suppliers tend to be supported by industrial and Provincial subsidies. Provincial liquor boards ensure that beer produced in a given Province is not sold outside of that Province.¹³² National marketing boards¹³³ also control inter-Provincial trade through licensing, often restricting out-of-Province supplies. Other support programs, such as packaging standards, can similarly distort the movement of goods. For example, certain soft drinks are limited because of varying bottle-size regulations. Fresh tomatoes packaged in imperial-size containers in Quebec cannot be marketed in Ontario, where metric containers are standard. Twelve major barriers cited in a report produced by the Council of Maritime Premiers in early November included government procurement contracts, liquor board practices, highway construction tenders, product safety and labeling requirements, supply management boards, crown corporation policies, professional services, direct grants and subsidies, loan boards, regional development incentives, trucking regulations, and Provincial advertising contracts.¹³⁴

Provincial regulatory policies and programs serve to inhibit the economic integration of the Canadian

¹²⁹ *Ibid.*

¹³⁰ Royal Bank of Canada, *Econoscope*, p. 24.

¹³¹ OECD, *Economic Survey*, Canada 1987/88, p. 75.

¹³² The issue of the distribution and pricing practices with regard to the sale of U.S. beer sold in Canada has come under closer scrutiny in the United States. For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

¹³³ Groups of producers in Canada make up more than 100 marketing boards, which control the marketing of products. These boards operate under authority delegated by Provincial governments. Canadian marketing boards often strive for Provincial self-sufficiency, disregarding comparative advantage. In addition, quotas for certain agricultural commodities are not transferable between Provinces, thus fragmenting the domestic market. OECD, *Economic Survey*, Canada 1988/89, p. 105.

The functioning of marketing boards may include price negotiation, designation of sales agents, establishment of production and trade quotas, and the setting of transport allowances. See also Agriculture Development Branch, Agriculture Canada, *Directory of Agricultural Marketing Boards in Canada 1988*, Ottawa, 1988.

¹³⁴ "U.S.-Canada Report on Free Trade," a private newsletter, Nov. 5, 1990, p. 2.

economy, frustrating not only the competitive position of Canadian businesses, but the economic welfare of the Canadian people as well.¹³⁵ As a result, higher costs are passed on to private as well as government consumers. Canadian supporters of the free-trade agreement argue that the lack of integration within the Canadian economy diminishes the potential benefits of the free-trade agreement.¹³⁶ Those who oppose the elimination of Provincial protectionism cite fears of unemployment as a result of possible loss in market share. Supporters, however, note the long-term benefits of such liberalization.

Discussions on the elimination of inter-Provincial trade barriers throughout 1990 were slow paced and tended to focus on sector-specific issues. An agreement on beer, for example, is ready to be enacted as soon as Provinces that make up at least 80 percent of the Canadian market endorse it.¹³⁷ This agreement would allow beer to move between Provinces by December 1991, but discriminatory pricing would remain until January 1995.

At their annual meeting in Winnipeg on August 15, 1990, 9 out of the 10 Provincial premiers agreed to remove inter-Provincial trade barriers on Provincial Government purchasing.¹³⁸ The agreement, scheduled to be signed at the end of October, required the removal of impediments to government purchases and the elimination of preferential treatment for suppliers within a Province. The premiers considered this to be the first significant step towards the eventual elimination of Provincial protectionism. By the end of November, however, only eight Provinces had signed the agreement.¹³⁹ On December 16, Prime Minister Mulroney announced that the Federal Government would consider extending Provincial powers in return for an agreement on the elimination of all inter-Provincial barriers.¹⁴⁰

United States-Canadian Bilateral Trade Issues

Overview

The United States-Canada Free-Trade Agreement (FTA) continued to be the centerpiece of bilateral relations during 1990.¹⁴¹ While the phase in of bilateral duty reductions continued on schedule, the notion of wider trading blocs was gaining greater acceptance. In the North American context, this concept was given increased prominence by the joint announcement in June 1990 of the presidents of Mexico and the United States to enter into negotiations toward a separate FTA.¹⁴²

In September 1990, Canada announced (with the acquiescence of the United States and Mexico) that it would participate in trilateral consultations leading to a decision on whether or not it would become a party in the negotiations toward a North American FTA (NAFTA).¹⁴³

The Canadian Government has indicated that it is interested in a broad agreement encompassing intellectual property rights, all goods and services, investment, and a range of issues similar to those under consideration in the Uruguay Round. Two-way trade between Canada and Mexico is only about \$2 billion, compared with the \$169 billion between the United States and Canada, and shipments from Mexico represent only 1.3 percent of Canada's total imports.¹⁴⁴

Canada's desire to expand its economic ties with Mexico, though important, may well be secondary to its desire to participate in any North American dialogue on trade. Canadian trade analysts have stated that Canada wishes to preserve its rights under the United States-Canada FTA¹⁴⁵ and address unanswered longer term questions (such as future energy flows of natural gas and oil as well as trade in automobiles and parts).¹⁴⁶

Thus, 1990—the second year of the FTA—may be viewed as a year of stabilizing and reinforcing the economic ties established in the bilateral agreement. That year also served as a period for examining the possibility of broadening the trade pact into a hemispherewide pact.

¹⁴¹ A more complete discussion of the bilateral agreement follows later in this section.

¹⁴² The evolution of the United States-Mexican negotiations is discussed separately in the section on Mexico, below.

¹⁴³ The three Governments announced in early 1991 that the goal of a North American FTA would be pursued.

¹⁴⁴ U.S. Department of State Telegram, Sept. 25, 1990, Ottawa, message reference No. 07862. Mexico ranked as Canada's 17th-largest trading partner in 1988.

¹⁴⁵ Drew Fagan, "Canada Joins Trade Talks," *Globe and Mail*, Sept. 25, 1990, p. B1.

¹⁴⁶ Canada's role in the United States-Mexican FTA negotiations and the effects of Canadian participation are discussed in USITC, *The Likely Impact on the United States of a Free Trade Agreement with Mexico*, USITC Publication 2353, February 1991.

¹³⁵ Cited in a report released by the Council of Maritime Premiers after a November meeting in Charlottetown, P.E.I., "U.S.-Canada Report on Free Trade," *ibid.*

¹³⁶ Strategico Inc., "Making It Work," p. 19.

¹³⁷ The provinces of New Brunswick, Nova Scotia, and Manitoba reportedly refused to approve the agreement. Corcoran, Terence, "Canadian Community Stalls Free Trade," *Globe and Mail*, Nov. 10, 1990.

¹³⁸ "Canadian Premiers Reach Agreement on Freeing Interprovincial Trade," *International Trade Reporter*, Aug. 22, 1990, p. 1310. It is noteworthy that purchases of construction materials and services were not covered by the agreement.

¹³⁹ Nova Scotia declined to sign the deal until a successor to former Premier John Buchanan was appointed. *International Trade Reporter*, Jan. 2, 1991, p. 27.

¹⁴⁰ On Dec. 19, 1990, Quebec Premier Robert Bourassa stated that Quebec would acknowledge the Provincial agreement on government procurement on the basis of a series of identical bilateral accords with each Province. The separatist position of Quebec throughout inter-Provincial discussions has contributed significantly to the delay in barrier elimination. "Quebec Sets Conditions on Deal to Lift Barriers to Freer Interprovincial Trade," *ibid.*

United States-Canada Free-Trade Agreement

Given the great deal of interest in the U.S.-Canada FTA, particularly north of the border, indicators of the agreement's impact were being sought even after only 2 years of a scheduled 10-year tariff reduction plan.

Since the two countries first announced their intent to enter into negotiations towards a free-trade agreement, interest in the agreement has always been greater in Canada than in the United States. Over three-fourths of Canada's trade is with the United States, whereas only a little less than one-fifth of U.S. trade is with Canada, and the Canadian economy is more heavily dependent on exports.

Most experts agree that 2 years is too short a time to provide a definitive reading of the FTA's effects. Although duties on some items were eliminated as soon as the FTA went into force, most of the tariff reductions resulting from the pact are spread out over a 10-year period, with small decreases taking place each year. Thus, the effects of these duty reductions are not likely to be dramatic or felt immediately. One of the successes of the FTA is the accelerated duty reductions that have already been implemented. These are reductions over and above those agreed to in the text of the pact itself. Already tariffs have been eliminated on over 400 products, accounting for \$6 billion in bilateral trade.¹⁴⁷ Other changes instituted under the FTA may be more significant than duty reductions. Liberalization of rules governing trade in services, investment, etc., may have a more profound effect on future trade flows. The current recession in Canada has further complicated attempts to isolate the effects of the FTA. Plant closings and labor movements are attributed to either the economic slowdown or the FTA, often depending on the political position of the person or group making the argument.¹⁴⁸

Two Canadian analyses of the FTA have appeared recently. Royal Bank of Canada study¹⁴⁹ asserts that any assessment of the effect of the FTA is made more difficult by the onset of recession in Canada and that the recession is made worse by high real interest rates and a high exchange rate, both of which are the result of Canada's deficit problem. Despite these factors, the study found that for the industries in Canada experiencing difficulty, "the FTA has not been a major contributor to those problems." The report addresses the problem of plant closings: "There is no clear proof as yet that Canada is, on balance, losing manufacturing jobs and investment because of free trade." The review found that although the FTA dispute-settlement process

¹⁴⁷ These reductions are the result of the first round of accelerated tariff elimination negotiations, which went into effect on Apr. 1, 1990. The second round of such talks has generated over 500 petitions from private industry in both countries. For further information on accelerated duty reductions, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 99.

¹⁴⁸ "Year Two of the Canada-U.S. Free Trade Agreement—Making It Work," Strategico, Inc., Ottawa, December 1990.

¹⁴⁹ "Free Trade Agreement: Second-Year Review," *Econoscope*, vol. 15, No. 1, February 1991.

had contributed to a "more orderly review of trade disputes," the GATT system had failed to improve dispute rulings, and there was more room for improvement on AD and CVD rules.

The second Canadian assessment was provided by a private sector company.¹⁵⁰ The report finds that, given the increasingly intense environment of international competition, the breakdown or stalemate in the Uruguay Round talks, and the entry of Mexico into the free-trade arena with the United States, the FTA is "more important than ever." The implementation of the pact can be improved upon and Government policies can be put into effect to more directly support the free-trade initiative, according to Strategico. The report hedges on the economic impact of the FTA¹⁵¹ but concludes that a well-grounded FTA does provide the basis "for a strong recovery and the development of . . . increased potential."

In approving the FTA, Congress required a biennial report on the agreement's effectiveness beginning after the first 2 years of its operation. That report was issued by the White House in January 1991.¹⁵² The President reported that implementation of the FTA had proceeded smoothly during the first 2 years of the agreement. The number of disputes that arose during the period was "remarkably few," according to the report.¹⁵³ The report cited as "disappointing" the fact that Canada would not agree to increase the content requirements under the Auto Pact, even though most members of the Select Panel on Automotive Trade, established by the FTA, had recommended such a move. In short, the report was a positive assessment of the first 2 years of operation of the bilateral agreement.¹⁵⁴

There are still several areas of unfinished business under the agreement. These areas include subsidies, government procurement, agriculture, automobiles, and standards. Since some of these issues were under discussion multilaterally in the Uruguay Round, it is unlikely that there will be any bilateral progress until it is determined what, if any, progress is likely on the GATT front. Observers on both sides of the border argue that as more and more companies become "North

¹⁵⁰ Strategico study, above.

¹⁵¹ The Strategico study states—

The only honest, if unsatisfying, conclusion is that it is premature to reach any final judgments about the economic impact of an agreement that will take eight more years to implement. What we are seeing today is much more heavily influenced by the unfavourable circumstances of excessively high interest rates and an uncompetitive Canadian dollar which results in a significant shift in advantage away from Canadian producing centres and toward centres in the U.S.

¹⁵² *Ibid.*

¹⁵³ USTR, *The United States-Canada Free-Trade Agreement, Biennial Report*, January 1991.

¹⁵⁴ The report goes on to state, "Those disputes that did arise generally concerned issues that pre-dated the FTA and for which the FTA did not change the substantive trading rules." p. 1.

¹⁵⁵ "The provisions for binational review of final determinations under national anti-dumping and countervailing duty laws have been implemented in a responsible manner, and likewise helped reduce points of bilateral friction." U.S. Department of State, *Briefing Book*, "U.S.-Canada Free Trade Agreement."

American," the issues that are currently seen as "problems" will gradually fade away.

The main Canadian concerns about the effects of the FTA have been about plant closings in Canada. The Strategico report responds directly to the lists of layoffs attributed to the FTA and published by the Canadian Labour Congress (CLC). A recent CLC list, according to the private study, included as much as 25 percent of the layoffs in industries not even covered by the FTA. The CLC list, according to the Strategico report, overlooks what would be considered "normal" layoffs. The report states that "the [CLC] suggestion that the jobs have emigrated to the U.S. is hard to square with the substantial layoffs in that country."¹⁵⁵

Two dispute-settlement mechanisms are established under the provisions of the FTA. The first, under chapter 18, is for disputes regarding the interpretation or application of provisions of the FTA other than those affecting financial services, antidumping (AD), and countervailing duty (CVD) cases. The second, under chapter 19, is for binational panel review of antidumping and countervailing duty cases. Both procedures establish binational panels to resolve the disagreement.¹⁵⁶

Two panels have been convened in the first 2 years of the FTA under chapter 18, and they involved Canadian restrictions affecting salmon and roe herring and U.S. minimum size requirements for lobsters.¹⁵⁷ Both of these panels ruled in favor of the United States.¹⁵⁸

The AD/CVD dispute-settlement process has resulted in 15 cases filed in the first 2 years of the FTA, with 10 of those resolved by the end of 1990.¹⁵⁹ In most cases the panel decisions were unanimous.¹⁶⁰ The amount of trade under dispute (i.e., contested under the FTA dispute-settlement mechanism) is small—less than one-half of 1 percent of the value of bilateral trade. Most cases under dispute have involved agricultural commodities. Agriculture in general and agricultural support programs in particular accounted for most of the work of the binational Secretariats established to oversee the settlement of United States-Canadian trade disputes.

¹⁵⁵ Strategico study, above, p. 4.

¹⁵⁶ For a more complete description of the dispute-settlement process under the FTA, see USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, pp. 99-100.

¹⁵⁷ U.S. Department of State, *Briefing Book, "U.S.-Canada Free Trade Agreement."*

¹⁵⁸ USTR, *The United States-Canada Free-Trade Agreement, Biennial Report*, p. 32.

¹⁵⁹ Action was completed on 8 cases in 1990. One case, concerning induction motors, was initiated by the United States. It was later dropped. Seven cases were initiated at the request of Canada. The products included were: red raspberries, paving equipment (2 cases), salted codfish, and steel rails (3 cases).

¹⁶⁰ The decision of a binational panel may itself be reviewed by an Extraordinary Challenge Committee. This procedure was not invoked during the first 2 years of the FTA's operation. However, such a challenge did take place in a case involving pork from Canada in early 1991. See below.

The Canadian private sector report states, "... the management of disputes under the agreement has been remarkably successful and fair to both parties and the agenda of outstanding irritants between the two countries is less troublesome than at almost any time in the past."¹⁶¹

Canadian Pork

In July 1989, the International Trade Administration (ITA) of the Department of Commerce determined that producers and exporters in Canada of fresh, chilled, or frozen pork were being provided benefits that constitute subsidies within the meaning of the countervailing duty law; and in September 1989, the USITC determined that an industry in the United States was threatened with material injury by reason of imports of subsidized fresh, chilled, or frozen pork from Canada.¹⁶² Among the issues that the agencies addressed in the investigation were whether the industry concerned consisted of only pork producers (i.e., packers/processors) or both producers and live swine growers; and the extent to which a subsidy to a primary product may be passed along in the production process. Binational Panel proceedings were brought challenging the determinations of both agencies.

In August 1990, after a statistical discrepancy was discovered in the data on which at least part of the ITC's determination was based, the case concerning the ITC's determination was remanded to the Commission by a binational dispute-settlement panel. This was the Commission's first remand proceeding under the United States-Canada FTA. After making the correction, which resulted in a change to the data on Canadian pork production, and receiving additional information, the Commission reanalyzed the evidence and reaffirmed its prior determination.¹⁶³

The Commerce Department determination on pork from Canada was also the subject of a separate binational panel proceeding. By yearend that panel had affirmed in part a determination of the ITA in that it had properly applied U.S. law in counting subsidies to swine producers as subsidies to pork producers. The panel, however, remanded the case to the ITA to reconsider several Canadian subsidy programs as part of the countervailing determination.¹⁶⁴

¹⁶¹ Strategico Inc., "Making It Work," p. 2.

¹⁶² The affirmative decision was made by three Commissioners. Two others found in the negative, and a sixth Commissioner did not participate. USITC, *Fresh, Chilled, or Frozen Pork From Canada* (investigation No. 701-TA-298 (Final)), USITC Publication 2218, September 1989.

¹⁶³ Between the time of the Commission's original injury determination and the remand, two Commissioners, who took opposing views in the original determination, left the ITC. The new decision was 2-1 in favor of threat of injury, as opposed to 3-2 in favor of threat originally. See USITC, *Fresh, Chilled or Frozen Pork From Canada* (investigation No. 701-TA-298 (Final)), USITC Publication 2330, October 1990.

¹⁶⁴ "Status Report of Cases," United States-Canada Free-Trade Agreement, Binational Secretariat, U.S. Section, Jan. 30, 1991.

The ITA Determination on Remand was ordered to be reviewed by the binational panel on Jan. 3, 1991. In a March 1991 decision, the panel affirmed in part the ITA remand determination and again remanded the case to ITA for further reconsideration of two provincial support programs.

While the Commerce and Commission determinations were being reviewed bilaterally under the terms of the FTA, a related consultation was also being pursued multilaterally in the General Agreement on Tariffs and Trade (GATT), where Canada had taken the case after the original determination of the Department of Commerce found countervailable subsidies of Canadian pork.¹⁶⁵ The central issue in the GATT consultation was the question of a pass-through of a benefit from one level of production to another. The Commerce Department had found that Canadian pork producers benefited (and the ITC subsequently found U.S. pork producers were threatened with injury) because of subsidies paid to pig farmers at the primary production level in Canada.¹⁶⁶ A GATT panel was formed, and the panel subsequently issued a finding that supported the Canadian contention. The GATT panel found that the U.S. countervailing duties on pork from Canada were being levied in a manner that was inconsistent with GATT rules.¹⁶⁷ At yearend the issue was still awaiting resolution in the GATT; the United States had not accepted the GATT panel report.¹⁶⁸

¹⁶⁵ The GATT consultation concerned the International Trade Administration (ITA)—Commerce determination and not the ITC findings.

¹⁶⁶ See separate discussion in chapter 2, above, under "Dispute Settlement" heading, "Panels and Followups Examining U.S. Measures."

¹⁶⁷ The GATT panel report states, "The U.S. may impose a countervailing duty on pork only if a subsidy has been determined to have been bestowed on the production of pork; the mere fact that trade in pork is affected by the subsidies granted to production of swine is not sufficient." However, the panel also made clear that it had not made a finding that the countervailing duty should not have been levied at all. The panel noted that its mandate led it to rule merely that the subsidy determination in the case was not in conformity with the GATT article in question, art. VI: 3.

¹⁶⁸ Meanwhile, the binational panel that reviewed the ITC case in the summer of 1990 returned to the issue and remanded the case yet again to the Commission in January 1991. This is the first instance of a case being remanded for a second time under the bilateral trade pact. The language of the panel's second remand was unusually blunt: "The Panel has found that the ITC's failure to follow its own notice was an error of law and that the majority Commissioners' findings of a threat of imminent material injury are not supported by substantial evidence." ["Memorandum Opinion and Order Regarding ITC's Determination on Remand," Jan. 22, 1991, p. 37.] The Commission was given 3 weeks to report back to the binational panel. It did so on February 12, 1991, when it unanimously determined that there was no injury or threat thereof to a domestic industry in the United States. The Commission majority opinion said: "Notwithstanding this determination, this Second Panel Decision violates fundamental principles of the United States-Canada Free-Trade Agreement and contains egregious errors under U.S. law. Had this decision come from the Court of International Trade, . . . we would have directed counsel to appeal it to the Court of Appeals for the Federal Circuit . . . thus, we will not change our practice or procedure to conform with [certain] aspects of the Panel opinion . . ." [USITC, *Fresh, Chilled, or Frozen Pork from Canada*, Views on Second Remand in investigation No. 701-TA-298 (Final), USITC Publication 2362, February 1991, pp. 3-4.]

"We disagree with what we consider to be the Panel's faulty disposition of the appeal in this investigation. However, because we are bound by the Panel's determination that there is no substantial evidence of any likelihood of product shifting, or of causation, we determine that a domestic industry is not materially injured . . . Due, however, to the number of legal errors and violations of the FTA contained in the Panel's Second Remand Decision, we will not, in future investigations, regard as

The Economic Situation in 1990

Japan's economy continued to expand in 1990, with real GNP growing by 5.6 percent, compared with 4.8 percent in 1989. This was the 4th straight year of growth since late 1986.¹⁶⁹ Domestic demand continued to fuel economic growth. Plant and equipment spending grew by 13.7 percent in real terms and accounted for 19.7 percent of nominal GNP. Consumer spending grew at an annual rate of 4.0 percent. Japan's per capita GNP of \$21,020 was the highest of the major industrialized countries.

Japan's worldwide merchandise trade surplus decreased by 18.5 percent, from \$64.3 billion in 1989 to \$52.4 billion in 1990.¹⁷⁰ This level represented a continuing decline in Japan's trade surplus since 1987. Some analysts suggested that the decline would not have been as large if the costs of Japan's oil imports had not risen as a result of the Gulf War. Japan's oil imports increased by 112 percent in value during 1990.¹⁷¹ Japan's exports reached an estimated \$287.0 billion in 1990, representing an increase of 4 percent over the 1989 level of \$275.2 billion. Japan's imports, meanwhile, expanded faster, at 10 percent, partly as a result of the weak dollar, which made imports cheaper. Japan's current account surplus declined from \$57.2 billion in 1989 to an estimated \$35.8 billion in 1990, or by 37.4 percent. The decrease was mainly attributed to changes in the services account (increased Japanese tourists traveling abroad) and transfer payments (primarily Japan's contributions in the Persian Gulf), along with the decline in its merchandise trade surplus.¹⁷²

In 1990 there was some debate over whether fundamental market shifts were occurring in Japan following precipitous drops in the Tokyo Stock Exchange. During the first 3 weeks of the year, the bond and stock markets responded to a December 1989 rise in the discount rates, to uncertainties about the strength of the yen, and to inflation worries.¹⁷³ The

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persuasive or follow the procedural or substantive decisions contained in this Decision." [Ibid., p. 27.]

On March 29, 1991, the United States requested the first extraordinary challenge under the FTA. A binational extraordinary challenge committee of three judges heard the case, and on June 14, 1991 dismissed the U.S. request on the grounds that the standards for an extraordinary challenge had not been met. The committee's opinion affirms the January 22 order of the binational panel.

¹⁶⁹ *Japan Economic Institute Report*, Jan. 11, 1991, p. 1.

¹⁷⁰ Exports are reported on an f.o.b. basis and imports are recorded on c.i.f. basis. *Japan Economic Institute Report*, Feb. 8, 1991, p. 3.

¹⁷¹ "Japanese Trade Surplus Fell 13 Percent in December; Oil Price Rise Cited," *Wall Street Journal*, Jan. 9, 1991.

¹⁷² *Japan Economic Institute Report*, Nov. 16, 1990, pp. 4 and 5.

¹⁷³ *Japan Economic Institute Report*, Jan. 26, 1990, pp. 1 and 2.

market rebounded in late March and continued to rally until Iraq's invasion of Kuwait on August 2. The stock market then suffered some of the biggest single-day losses in its history, dropping 22 percent during August 20-24. By the end of August, individual confidence in the market had weakened given the 39-percent decline in the Nikkei¹⁷⁴ since the beginning of the year.¹⁷⁵ Some analysts claimed that these events marked a bursting of the "speculation bubble" in Japan; others noted that the stock market decline was a rational adjustment of stock prices to the rise in interest rates.¹⁷⁶

The yen ended 1990 stronger than in 1989, after surviving a major slide during the first 4 months of the year. Following the stock market drop and the rise in interest rates, the yen dropped to a 3-year low of ¥159.8 = \$1.00 in April. The yen then regained strength throughout the remainder of 1990, even in the face of changing interest rates, and finished the year at a monthly average of ¥133.7 = \$1.00. The 1990 annual average for the yen of ¥144.8 = \$1.00 represented a depreciation of only 4.7 percent since 1989.¹⁷⁷

A survey of 379 major Japanese manufacturers indicated that sales and profits of these companies had reached the highest level in 16 years at the end of FY 1989 (Mar. 31, 1990). The sales-profit ratio for these companies rose to 6 percent in 1990. This rise was attributed in part to streamlining of operations and expansion of capital. Toyota Motor Corp. was Japan's most profitable company as of March 31, 1990, with pretax profits of ¥569.8 billion (\$3.75 billion), followed by Nomura Securities, with ¥488.8 billion, and NTT, with ¥484.7 billion.¹⁷⁸

Japan's consumer price index reached a 9-year high in 1990, rising by 3.1 percent over 1989. Higher service costs, rising fuel costs, and higher prices for fresh vegetables and fruit contributed to the rise in the CPI during 1990. The 1990 rise in the CPI was the highest since 1981, when it rose by 4.9 percent.¹⁷⁹

In 1990, Japan's unemployment rate was estimated to remain the same as that of the previous year at 2.2 percent.¹⁸⁰ A survey conducted by the Economic Planning Agency stated that 7 out of 10 Japanese companies faced labor shortages, mostly for technical or sales staff and skilled workers. Small and medium-sized firms were particularly affected by the labor shortage. Increased labor costs led some firms to

raise prices, but reportedly most chose to absorb the costs through improved productivity.¹⁸¹ Japan's labor force is expected to grow by only 0.7 percent per year until 1995 and then decline after 2000 because of the declining birthrate and population of working age men. The labor supply is predicted to be 65.8 million workers in 1995, leaving a shortage of about 520,000 workers. The Government of Japan plans to cope with the shortage by improving productivity and bringing more women and older citizens into the workforce.¹⁸²

Industrial production rose 4.6 percent during 1990. Japan's personal savings rate rose by a record 15.7 percent during the second quarter of 1990, totaling 185.6 trillion yen. Japan's net long-term capital flows declined in 1990 to \$43.5 billion, compared with \$89.2 billion in 1989, as Japanese institutional investors became more cautious in their overseas financial holdings. Japanese purchases of foreign bonds fell to \$29 billion in 1990, compared with \$94 billion in 1989. Capital inflows were severely affected by sharp drops in stock prices on the Tokyo Stock Market, as investors withdrew \$13.3 billion in stocks during 1990. With yields rising in Japan's bond market, overseas investors invested \$17.0 billion in these instruments. Direct investment inflows to Japan were only \$1.8 billion in 1990, compared with Japan's \$47.9 billion in direct investment overseas.

Japanese investment in the United States reached \$104.4 billion as of March 31, 1990, including \$32.5 billion invested in JFY1989 alone.¹⁸³ By contrast, the cumulative value of U.S. direct investment in Japan as of March 31, 1990, was \$7.9 billion.¹⁸⁴ During JFY1989, Japanese investment in the U.S. manufacturing sector totaled \$15.4 billion, compared with \$18.2 billion in JFY1988. This represented 727 cases of new investment totaling \$1.6 billion in JFY1989. The majority of Japanese investment in the U.S. manufacturing sector is in the auto industry. At the end of 1989, the Japanese owned 7 auto and truck manufacturers and 180 parts suppliers in the United States. Japan's real estate investments in the United States amounted to \$24.6 billion in 1989. The largest Japanese investments were in New York, Los Angeles, Honolulu, and Chicago.¹⁸⁵

Merchandise Trade With the United States

The U.S. merchandise trade deficit with Japan declined by 13.0 percent to \$42.7 billion in 1990 from \$49.1 billion in 1989. The value of imports from Japan fell by 3.3 percent from \$91.8 billion in 1989 to \$88.8 billion in 1990 (table 13). Imports of manufactured goods from Japan (SITC secs. 5, 6, 7, and 8) totaled \$86.9 billion and accounted for 98 percent of U.S. imports from Japan in 1990 (see fig. 7). The largest

¹⁷⁴ Tokyo's 225-share stock market average.

¹⁷⁵ *Japan Economic Institute Report*, Aug. 31, 1990, pp. 7 and 8.

¹⁷⁶ See "When the Music Stopped," *Far Eastern Economic Review*, Dec. 13, 1989, pp. 41-44.

¹⁷⁷ The yen lost ground against European currencies in 1990, for example losing 6.2 percent against the deutsche mark and 11.4 percent against the British pound. The yen gained against the Korean won, the Taiwan dollar, and Hong Kong dollar but fell against the Singapore dollar. These currencies tend to be more closely tied to the U.S. dollar. *Japan Economic Institute Report*, Jan. 18, 1991, pp. 2 and 3.

¹⁷⁸ FBIS, *Daily Report: East Asia*, Nov. 30, 1990, p. 7.

¹⁷⁹ FBIS, *Daily Report: East Asia*, Jan. 28, 1991, p. 13.

¹⁸⁰ *Japan Economic Institute Report*, Jan. 11, 1991, pp. 1-3.

¹⁸¹ EPA study and other information on unemployment cited in "Businesses Hard Hit by Labor Shortages," *Journal of Japanese Trade and Industry*, September/October 1990, p. 7.

¹⁸² *Japan Economic Institute Report*, July 6, 1990, p. 9.

¹⁸³ Japan's Fiscal Year (JFY) is Apr. 1 through Mar. 31 of the following year.

¹⁸⁴ *Japan Economic Institute Report*, July 20, 1990, p. 11.

¹⁸⁵ "Japan's Buying Binge," *USA Today*, Jan. 9, 1990.

Table 13
U.S. merchandise trade with Japan, by SITC Nos. (Revision 3), 1988-90
(Thousands of dollars)

SITC section no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals	6,740,484	7,283,424	7,323,076
1	Beverages and tobacco	971,005	1,387,231	1,839,113
2	Crude materials, inedible, except fuels	6,419,223	7,232,707	6,877,590
3	Mineral fuels, lubricants and related materials	1,451,287	1,509,649	1,454,548
4	Animal and vegetable oils, fats, and waxes	72,687	67,535	67,854
5	Chemicals and related products, n.e.s.	3,981,584	4,663,893	4,581,762
6	Manufactured goods classified chiefly by material	2,844,761	3,712,407	3,725,479
7	Machinery and transport equipment	9,547,804	11,460,290	14,301,567
8	Miscellaneous manufactured articles	3,477,766	4,782,880	5,184,408
9	Commodities & transactions not classified elsewhere in SITC	534,964	664,256	783,039
Total all commodities		36,041,575	42,764,273	46,138,436
U.S. imports				
0	Food and live animals	336,525	301,713	303,088
1	Beverages and tobacco	42,312	29,951	31,904
2	Crude materials, inedible, except fuels	164,711	180,485	165,006
3	Mineral fuels, lubricants and related materials	127,197	140,359	89,489
4	Animal and vegetable oils, fats, and waxes	14,881	17,875	19,185
5	Chemicals and related products, n.e.s.	2,364,142	2,367,382	2,387,213
6	Manufactured goods classified chiefly by material	7,188,681	7,160,446	6,599,900
7	Machinery and transport equipment	69,712,076	72,045,273	68,733,657
8	Miscellaneous manufactured articles	8,244,872	8,542,897	9,144,734
9	Commodities & transactions not classified elsewhere in SITC	915,089	1,055,385	1,360,103
Total all commodities		89,110,486	91,841,766	88,834,279

Note.—Data before 1989 are estimated.

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

category of manufactured imports was passenger vehicles with engines of between 1,500 cc and 3,000 cc, which fell from \$20.9 billion in 1989 to \$19.4 billion in 1990 but continued to account for 22 percent of total manufactured imports from Japan. (See table A-9 for leading items exported to Japan.)

There continued to be strong demand for computer and related products in the United States, including high levels of imports of input or output units for automatic data processing machines (\$3.1 billion); parts and accessories for automatic data processing machines (\$2.7 billion); digital monolithic integrated circuits (\$2.3 billion), and storage units for automatic data processing machines (\$2.3 billion). Imports of television cameras increased in value by 7 percent in 1990 over 1989. Other product categories that exhibited increases included video games used with televisions (14 percent), parts and accessories of motor vehicles (5 percent), photocopiers (3 percent), and sound reproducing apparatus (7 percent). Table A-10 contains information on the leading items imported into the United States from Japan.

As noted above, U.S. imports of autos with engines of between 1,500 cc and 3,000 cc from Japan fell for the 2d year in a row. This decline was primarily a result of falling demand in the United States, increased

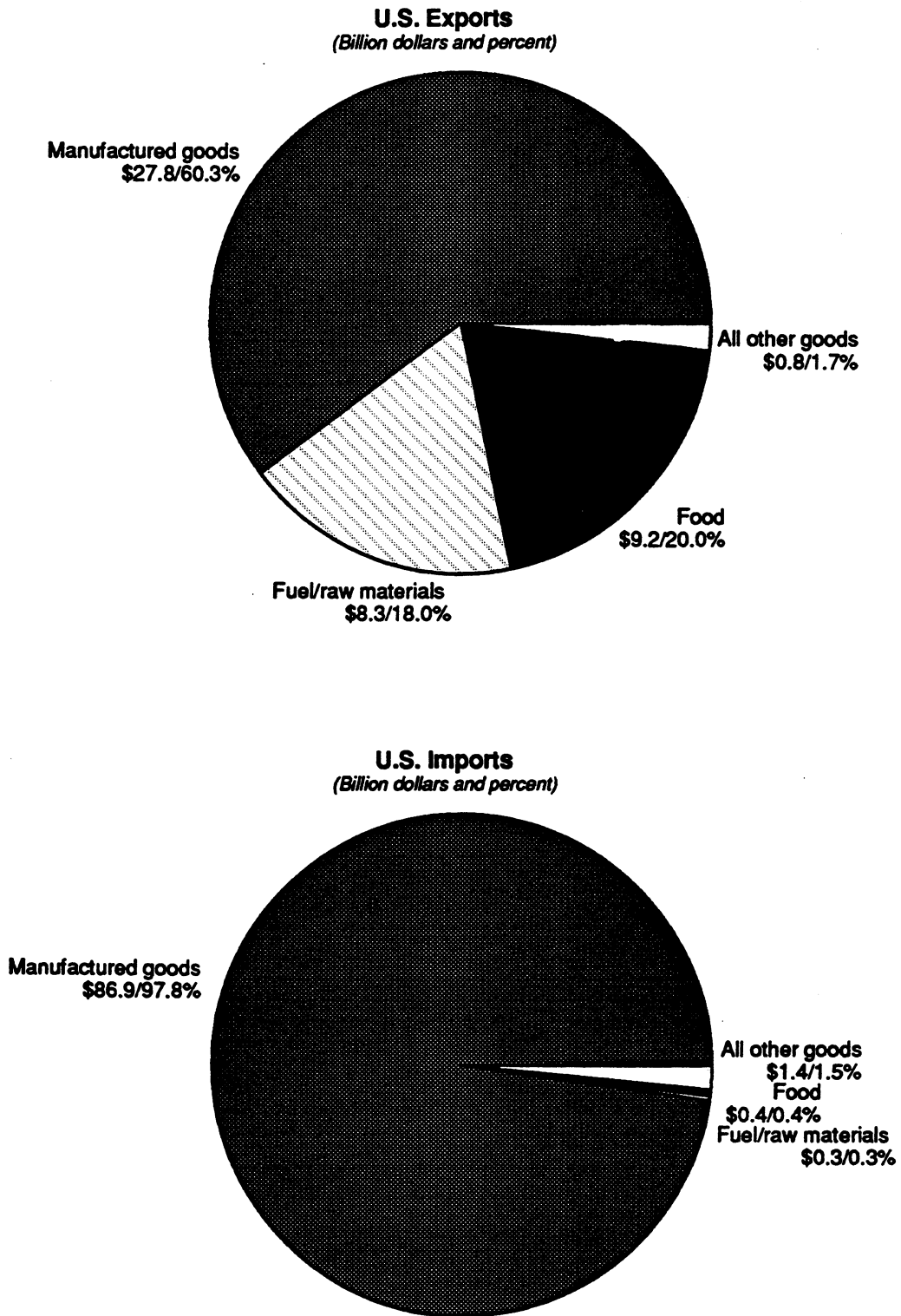
production of Japanese cars at transplants in the United States, and concerns about potential political backlash in certain vehicle lines.¹⁸⁶ U.S. imports of miscellaneous auto parts from Japan increased slightly, from \$1.3 billion in 1989 to \$1.4 billion. However, total auto parts imports from Japan decreased in 1990 partly because of a decline in purchases by U.S. automakers and partly because of increased sales by Japanese parts producers in the United States to Japanese auto transplants. Imports of video recorders, 35 mm cameras, and telegraphic apparatus (telecommunications equipment) declined in 1990 as lower priced consumer electronic products from the East Asian Newly Industrialized Economies (NIEs) continued to replace Japanese products in these areas.

Total U.S. exports to Japan rose by 7.9 percent from \$42.8 billion in 1989 to \$46.1 billion in 1990. The increase in U.S. exports was attributed largely to the weakened U.S. dollar, which made U.S. exports to Japan cheaper. In addition, the strong Japanese economy pulled in more imports in 1990. U.S. exports

¹⁸⁶ Despite the decline in imports from Japan, Japanese nameplates managed to win 28 percent of the U.S. auto market in 1990 compared, with 23.1 percent in 1988. *Japan Economic Institute Report*, May 18, 1990, p. 9, and *Wall Street Journal*, January 1991.

Figure 7

U.S. trade with the Japan by product sector, 1990



of manufactured goods (SITC secs. 5, 6, 7, and 8) reached \$27.8 billion, or 60 percent of total U.S. exports to Japan during 1990 compared with \$24.7 billion, or 58 percent in 1989.

The leading U.S. export to Japan in 1990 was airplanes, which increased from \$657 million to \$2.1 billion primarily due to Japanese commercial airliners' purchases of Boeing aircraft. During 1990, 28 aircraft were delivered to Japan including Boeing 747s and Boeing 767s to JAL and ANA. The second-largest export category to Japan was corn, which increased by 5 percent over the previous year, to \$1.6 billion in 1990. Other leading U.S. exports to Japan that showed an increase during 1989-90 were parts and accessories for ADP machines (26 percent), cigarettes (51 percent), digital processing units (29 percent), and parts of airplanes or helicopters (8 percent). U.S. exports of soybeans declined to \$818 million following a 3-year high of \$1.0 billion in 1988. Exports of unwrought aluminum also fell to \$752 million, following 3 years of gains. Shipments of enriched plutonium from the United States continued to rise, from \$542 million in 1989 to \$599 million in 1990, reflecting the emphasis Japan continues to place on nuclear energy sources. Exports to Japan of paintings, drawings and pastels have grown by 350 percent since 1988, to \$576 million in 1990. This growth reflected Japanese investors' increased purchases of artwork from overseas in recent years. Table A-9 lists leading U.S. exports to Japan in 1990.

Major Policy Developments Affecting Trade

During 1990, there were few new major domestic policy initiatives in Japan with the exception of proposals relating to land reform and other Structural Impediments Initiative (SII) topics. However, there were several noteworthy developments in the areas of monetary policy, financial market liberalization, and industrial policy that were likely to have indirect effects in other markets.

Monetary Policy

In March 1990, the Bank of Japan raised the official discount rate by a full percentage point, to 5.25, the highest level since 1983. The bank's action was taken in response to fears of inflation and despite the Ministry of Finance's opposition. While inflation rates were low at that time, there were concerns that the weak yen and increasing labor shortages could result in higher inflation rates. It was hoped that raising the discount rate would help strengthen the yen and encourage Japanese investors to keep their money at home. However, the yen continued to fall, and on March 22, the Tokyo Stock Exchange lost 3.1 percent of its value in one day.

At a previously scheduled meeting between U.S. Treasury Secretary Nicholas Brady and Finance Minister Ryutaro Hashimoto the next day, the two countries pledged coordination on monetary issues and stressed the need for currency stability. The Bank of

Japan and the New York Federal Reserve Board reportedly provided \$10 million for currency stabilization during the month of March. The United States and the EC were concerned that high interest rates in Japan could spill over into their markets.¹⁸⁷ The Bank of Japan's tight monetary policy remained in effect throughout the year as the central bank continued to place top priority on containing inflationary pressures in the wake of the rise in oil prices.

Financial Market Liberalization

Some measures were taken during 1990 to further deregulate Japan's financial markets, such as opening Tokyo Stock Exchange membership to foreign firms, allowing foreign financial firms to conduct trust business, partial deregulation of interest rates, liberalizing money markets, and reforming the sale of Japanese Government bonds. However, at meetings of the United States-Japan Working Group on Financial Markets during May 1990 and January 1991, the United States continued to press Japan to quicken the pace of liberalization. In particular, the United States has called for faster deregulation of interest rates paid on time deposits, steps towards introducing market-determined rates for nontime deposits, improvements in the availability of money market instruments, and looser restrictions on pension fund and trust management business. The United States has also requested that Japan provide greater access for Japanese investors to overseas financial markets and introduce greater transparency in its process for making financial regulations.¹⁸⁸

In a December 1990 report on the foreign treatment of U.S. financial firms abroad, the U.S. Department of the Treasury said that the Japanese banking industry was "difficult to penetrate and the slow pace of liberalization and deregulation has provided domestic banks with an unfair advantage over U.S. banks." The report noted that while Japan had taken some steps to liberalize its financial markets, regulated interest rates, lack of transparency or clear interpretation of regulations, and keiretsu¹⁸⁹ ties continue to make it difficult for U.S. firms to operate in Japan.¹⁹⁰

¹⁸⁷ *Japan Economic Institute Report*, Mar. 30, 1990, p. 3.

¹⁸⁸ *Japan Economic Institute Report*, Feb. 8, 1991.

¹⁸⁹ Keiretsu, or corporate groups solidified through a variety of formal and informal practices, are a unique feature of the Japanese economy. In general, keiretsu members are linked through stable cross-shareholding, networks of debt capital, exchange of personnel, common traditions, and corporate assets. Although there are conflicting definitions of keiretsu, in general they can be organized into two groups: (1) intermarket or horizontal keiretsu (firms from a broad range of commercial and industrial fields) which are descended from the prewar zaibatsu and are typically organized around a major bank, trading company, insurance company, and large manufacturing company; and (2) intramarket or industrial keiretsu (firms representing successive stages of production or closely connected industries) which are usually organized around a large, independent company and its subsidiaries and affiliates. For further information on keiretsu, see USITC, *Phase I: Japan's Distribution System and Options for Improving U.S. Access*, USITC Publication No. 2291, June 1990, pp. 48-61.

¹⁹⁰ "U.S. Study Finds Japan, Korea Have Unfair Banking Barriers," *Journal of Commerce*, Dec. 12, 1990.

Land Tax Reform

The total book value of Japanese land is about twice that of the United States, although Japan's total area is only one-quarter as large.¹⁹¹ Japan's residential land prices rose by 13 percent for the year ending July 1, 1990, with some prices surging by 100 to 200 percent in the suburbs of major cities.¹⁹² With average condo prices in Tokyo reaching \$686,000 in 1990 and two-bedroom apartments in many areas climbing to over \$1 million, the cost of owning a home is beyond the reach of most Japanese people and has led to wide gaps between the "haves and have nots" in Japanese society.¹⁹³ Japan's skyrocketing land prices were on the SII negotiating agenda in 1990 and have been of concern to U.S. business people who view land prices as raising the costs of doing business in Japan.¹⁹⁴

Following the sharp decline in the stock market in early 1990 and forecasts of a subsequent steep drop in land prices, the Government of Japan began to take more of an interest in land tax reform.¹⁹⁵ A large drop in real estate prices would severely affect large Japanese companies and banks that have used land holdings as collateral to buy stocks and engage in speculative land purchases. As of March 1990, the total amount of real estate loans outstanding for major Japanese banks was \$300 billion.¹⁹⁶ While some real estate companies did experience financial losses, the predicted "real estate" crash did not occur. Instead, average land prices rose by 17 percent during the year ending January 1, 1990.¹⁹⁷

As a result of the reported land price rise, in March the National Land Agency released a study suggesting that the Japanese Government take immediate action to implement price freezes and restrictions on land transactions.¹⁹⁸ The Ministry of Finance also issued administrative guidance requesting that banks and financial institutions restrict lending to real estate companies. The Government also continued to tackle the issue of land tax reform.¹⁹⁹

On December 6, 1990, Japan's ruling Liberal Democratic Party (LDP) adopted a land tax reform package that created a new landholding tax that would be assessed as of January 1, 1992. The tax rate will be based on the assessed value of land for inheritance tax purposes, minus ¥1 billion or ¥30,000 for each square

meter or whichever results in a lesser tax payment. The official assessment of land value used in calculating inheritance taxes generally represents only 50 to 60 percent of the actual market value of the land. The tax would start at 0.2 percent in 1992 and would rise to 0.3 percent after 1993. The minimum taxable value of land was raised from ¥500 to ¥1 billion.²⁰⁰

Many analysts predicted that the December tax package would have little impact on land prices in Japan because of loopholes in the law. The new law was expected to affect only 50,000 corporate and individual taxpayers.²⁰¹ The new taxes would apply to land worth ¥1 billion or more. Small and medium-size businesses (capitalized at ¥100 million or less) would only have to pay taxes on properties valued at ¥1.5 billion or more. Urban farmland would continue to be exempt from inheritance taxes under the law. The new tax rate would not apply to land of 1,000 square meters or less owned by private citizens or to land valued at less than ¥30,000 per square meter. In addition, land owned by central or local governments that was used for public purposes such as hospitals, schools, and public utilities would be exempt from the tax.²⁰²

The tax package outlined in December was substantially weakened from an earlier proposal by a Government advisory body because of concerns among LDP members about raising taxes before local elections in April 1991.²⁰³ The Land Tax Subcommittee first proposed a tax of 0.5 percent in an October report.²⁰⁴ The report also called for the elimination of tax shelters for farmland in urban areas and for raising inheritance taxes on land. However, strong opposition emerged from Keidenren (Federation of Economic Organizations), which said elimination of these tax shelters would pose a high tax burden on major Japanese corporations with large landholdings.²⁰⁵ Other diverse groups opposed the landholding tax including the Japan Chamber of Commerce and Industry, the Japan Iron and Steel Federation, farmers' organizations, the Ministry of Home Affairs, and opposition political parties.²⁰⁶

United States-Japanese Bilateral Trade Issues

Overview

During 1990, agreements were reached on Super 301 issues and on broader structural barriers to trade under the Structural Impediments Initiative.²⁰⁷

¹⁹¹ See Elaine Kurtenbach, "Japanese Are Facing Up to Land Inflation and Soaring Costs for Real Estate," *Washington Post*, Apr. 21, 1990, and USITC, *Phase I: Japan's Distribution System and Options for Improving U.S. Access*, USITC Publication 2291, July 1990, p. 45.

¹⁹² See FBIS, *Daily Report: East Asia*, Oct. 25, 1990, p. 8.
¹⁹³ "Steps to Rein In the High Cost of Land in Japan," *Washington Post*, Jan. 1990, p. 8.
¹⁹⁴ See USITC, *Phase I: Japan's Distribution System and Options for Improving U.S. Access*, USITC Publication 2291, June 1990, pp. 45-47.
¹⁹⁵ "Steps to Rein In the High Cost of Land in Japan," *Washington Post*, Jan. 1990, p. 8.

¹⁹⁶ Marcus W. Brauchli and Masayoshi Kanabayashi, "Land Prices in Japan Are Getting So Steep the Nation Is Jittery," *Wall Street Journal*, Mar. 23, 1990.
¹⁹⁷ FBIS, *Daily Report: East Asia*, Mar. 23, 1990.
¹⁹⁸ FBIS, *Daily Report: East Asia*, Oct. 25, 1990.
¹⁹⁹ FBIS, *Daily Report: East Asia*, Mar. 23, 1990.
²⁰⁰ "Land-Tax Plan Aims to Cut Real Estate Prices," *Japan Economic Journal*, Dec. 14, 1990, p. 3 and FBIS, *Daily Report: East Asia*, Dec. 27, 1990.
²⁰¹ "Land-Tax Plan Aims to Cut Real Estate Prices, *ibid.*"
²⁰² "Japan Land Tax Eyed With Some Skepticism," *Washington Post*, Dec. 11, 1990; FBIS, *Daily Report: East Asia*, Dec. 6, 1990, p. 8; and "Land-Tax Plan Aims to Cut Real Estate Prices."
²⁰³ FBIS, *Daily Report: East Asia*, Dec. 27, 1990.
²⁰⁴ FBIS, *Daily Report: East Asia*, Dec. 6, 1990.
²⁰⁵ FBIS, *Daily Report: East Asia*, Oct. 25, 1990.
²⁰⁶ *Ibid.*
²⁰⁷ For background information on SII, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 105-106.

Congress introduced legislation on reciprocity in financial markets, held hearings on Japanese investment in the United States, and exerted pressure on the administration to show progress on SII and other bilateral issues.

In 1990, the gap between public perception and accomplishment in United States-Japanese trade may have widened. On the one hand, a sense of progress or cooperation accompanied compromises or settlements on issues such as supercomputers, satellites, wood products, amorphous metals, steel, or telecommunications. However, concerns by the U.S. public and Congress over Japanese intransigence during the Uruguay Round negotiations, increasing Japanese investment in the United States, and Japan's seeming immobility during the Persian Gulf War may have overshadowed any reservoir of goodwill created through concessions from both sides on individual bilateral issues.²⁰⁸

During the first few months of 1990, the Government of Japan attempted to ensure that Japan would not be designated a priority country for a second time under the Super 301 provisions of the Omnibus Trade and Competitiveness Act of 1988.²⁰⁹ Three "trade liberalization priorities" had been named with respect to Japan in 1989—supercomputers, satellites, and forest products.²¹⁰ Despite negotiations during 1989, disagreements remained in all three sectors at the beginning of March 1990. Congress was also pushing for some demonstration of progress during several public hearings before the April 30 deadline for action set out in the law. A meeting between President Bush and Prime Minister Kaifu on March 2 and March 3 highlighted the importance of reaching agreements and helped jumpstart talks on the Super 301 issues and SII.²¹¹

By the beginning of April, agreements in principle had been reached in supercomputers and satellites (see details below) but it appeared that the discussions on wood products might not reach a successful conclusion in time to avoid designation under Super 301. Then, in a surprise move on April 25, the United States and Japan reached a compromise on this issue as well, giving USTR Hills enough evidence to announce on April 27 that Japan would not be designated. However, Ambassador Hills did announce that the U.S. expected substantial progress in the SII negotiations by the time the final report was issued in July and on other bilateral trade issues.

Structural Impediments Initiative (SII)

SII, the broad-based talks initiated in July 1989 to address "structural barriers" in the United States and

²⁰⁸ See, for example, Robert J. Samuelson, "The Japan Problem," *Washington Post*, Apr. 10, 1991; "Due Credit," *Journal of Commerce*, Apr. 10, 1991; "A Japan That Actually May Say No," *Los Angeles Times*, Apr. 4, 1991; and Barry Hillenbrand, "In Search of a Triumph," *Time*, Apr. 3, 1991, p. 42.

²⁰⁹ For a discussion of Japan's designation as a priority country in 1989, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 1-5.

²¹⁰ *Ibid.*, pp. 108-109.

²¹¹ *Japan Economic Institute Report*, Mar. 1, 1991, p. 3.

Japan, was the subject of numerous press reports and public scrutiny during 1990.²¹² Following months of intensive debate, an interim report on the SII negotiations was released in mid-April.²¹³ While the report demonstrated that Japan was ready to make commitments in areas such as retail distribution, exclusionary business practices, and public works spending, there were many details that had yet to be negotiated. Although some congressional leaders appeared skeptical of the report, USTR Hills stated that it was "a good blueprint, sufficient to call a down payment"²¹⁴ and therefore met the criteria she had set forth as a measure for success of the negotiations in October 1989. On May 23 and 24 and again on June 12, the United States stepped up the pressure on Japan to fulfill its commitments made in the April report.²¹⁵ Three days later, Foreign Minister Nakayama and Secretary of State Baker attempted to give the talks some added impetus and resolve issues such as the level of Japanese public spending and a followup mechanism.²¹⁶ Finally, following 4 days of marathon talks and the personal intervention of Prime Minister Kaifu and President Bush,²¹⁷ on June 28 the two countries released a final joint report on the yearlong negotiations.²¹⁸

Some type of commitment was reached on all of the major original negotiating topics. The United States sought action on Japan's savings and investment patterns, land policy, distribution system, exclusionary business practices, keiretsu relationships, and pricing mechanisms. Japan's agenda items had included U.S. saving and investment patterns, corporate investment activities, corporate behavior, Government regulation, research and development, export promotion, and workforce education and training.²¹⁹

The most significant results of the SII negotiations from the U.S. viewpoint were Japanese commitments to spend 430 trillion yen (\$2.8 trillion) on public works projects during JFY1991 through 2000; to review and reform Japan's land tax policies; to pursue more vigorous enforcement of the Antimonopoly Act, including stronger criminal enforcement and increased penalties for violations of the law; to take measures to loosen keiretsu relationships such as restrictions on cross-shareholding and strengthened monitoring of keiretsu transactions; to provide a schedule for the elimination of price differentials; and to conduct further joint Department of Commerce-Ministry of International Trade and Industry price surveys.

²¹² For background information on SII, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 105-106.

²¹³ "Interim Report and Assessment of the U.S.-Japan Working Group on the Structural Impediments Initiative," Office of the U.S. Trade Representative, Apr. 5, 1990.

²¹⁴ As quoted in *Japan Economic Institute Report*, Apr. 13, 1990.

²¹⁵ *Japan Economic Institute Report*, Mar. 1, 1990, pp. 6-7.

²¹⁶ *Ibid.*, p. 7.

²¹⁷ *Ibid.*, p. 8.

²¹⁸ *Joint Report of the U.S.-Japan Working Group on the Structural Impediments Initiative*, Office of the U.S. Trade Representative, June 28, 1990.

²¹⁹ *Ibid.*

One area of particular interest to U.S. negotiators was improvements to Japan's distribution system, including greater deregulation and stronger antitrust enforcement. In this area, the Government of Japan agreed to take steps to implement a 24 hour import clearance system; to improve its import infrastructure, including increased airport capacity; and to loosen laws and regulations regarding the distribution of liquor, pharmaceuticals, trucking, and use of toll-free telephone services. In the retail sector, the Government of Japan agreed to take measures towards liberalizing the Large Scale Retail Store Law and to increase the transparency of the approval process for large stores. U.S. negotiators hoped that this would make it easier for foreign firms to establish retail operations in Japan and to increase competition among retailers. A followup mechanism was also included in the final report on SII by which the two countries would hold meetings over the next 3 years to review progress and problems with implementation of the commitments, including the issuance of an annual report.²²⁰

Under SII, the United States committed to reducing the Federal budget deficit; to urge Congress to enact the Savings and Economic Growth Act of 1990 with the aim of promoting private savings and investment; to support enactment of the Cooperative Production Act of 1990, which would clarify antitrust laws governing the treatment of joint production ventures; to support the Product Liability Coordinating Committee (PLCC) Act to reform product liability laws; to reaffirm its commitment to open and nondiscriminatory direct investment; to ensure nondiscriminatory treatment of Japanese investors under the United States-Japan Tax Treaty; to support increased research and development funding for FY1991; to work towards further implementation of the metric system; and to hold a joint United States-Japanese labor symposium on Japanese resource-development policies.²²¹

The SII negotiations were praised by some policymakers and businessmen as being a refreshing change in U.S. negotiating policy by adopting a broad-based or systemic approach to United States-Japan trade problems. In addition, SII was viewed as beneficial in raising the consciousness of Japanese consumers about the price differentials in the two countries and about the benefits of increasing competition in the economy. However, there was skepticism that the commitments under SII would lead to short-term reductions in the bilateral trade imbalance or that fundamental problems facing U.S. exporters, such as Japanese corporate and consumer attitudes, would be changed as a result of SII. In addition, political opposition in Japan to carrying out some of the SII commitments, such as changes to the Large

²²⁰ *Joint Report of the U.S.-Japan Working Group on the Structural Impediments Initiative*, June 28, 1990, and *Structural Impediments Initiative (SII) Key Elements of SII Joint Report*, June 28, 1990.

²²¹ *Structural Impediments Initiative (SII), Key Elements of SII Joint Report*, June 28, 1990.

Scale Retail Store Law or increased antitrust enforcement, cast some doubts on whether the SII commitments would be fully implemented.²²² A meeting of the SII working group was held in October 1990 to review implementation of the agreement.

Super 301 Topics

Supercomputers

On March 23, 1990, following months of negotiations, the United States and Japan reached an agreement for Japan to open its public sector market for supercomputers.²²³ Japan's government procurement practices in supercomputers were designated a priority practice under section 301 of the 1988 Omnibus Trade and Competitiveness Act.²²⁴ The United States had complained for years that Japan's government entities buy only Japanese-made machines and that Japanese manufacturers offer discounts of up to 80 percent off the listed price, in part because of limited procurement budgets of Japanese Government ministries and universities. The United States had been dissatisfied with the level of sales of U.S. supercomputers in Japan despite Japanese commitments to adopt transparent, nondiscriminatory procurement procedures under a 1987 agreement.²²⁵

Under the new agreement, the Government of Japan was expected to base purchasing decisions for supercomputers on performance as well as price. Although discounting was permitted under the agreement, the U.S. hoped that the emphasis on price would diminish. In a June 15 letter to USTR Hills from the Ambassador of Japan, the Government of Japan announced that it was revising the procedures for procurement of supercomputers under the 1987 agreement. The new procedures were said to "provide further transparency and ensure non-discriminatory, competitive opportunities for the introduction of supercomputers in the public sector" and would cover procurements by GATT-covered Japanese entities as of May 1, 1990. The Government of Japan also announced that it would "make maximum efforts" to obtain sufficient budget funds in the JFY1990 budget to ensure fair and competitive bids for supercomputers in the public sector.²²⁶

In a letter of response to the Government of Japan, Ambassador Hills welcomed the revised procedures and also indicated that the United States would like to

²²² For further information on reactions to the SII negotiations, see USITC, *Phase I and II of Japan's Distribution System and Options for Improving U.S. Access*, USITC Publication 2327, October 1990.

²²³ "Procedures to Introduce Supercomputers," attachment to letter from Ryohei Murata, Ambassador of Japan to Carla A. Hills, United States Trade Representative, June 15, 1990.

²²⁴ See USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, pp. 109-10 and USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, p. 109.

²²⁵ For information on the 1987 supercomputer agreement, see USITC, *OTAP, 39th Report, 1987*, USITC Publication 2095, July 1988, p. 4-28.

²²⁶ Ryohei Murata, Ambassador of Japan, letter to Ambassador Hills dated June 15, 1990.

plan for the first annual review of the procedures in June 1991, in accordance with the Government of Japan's suggestion that periodic reviews be held.²²⁷ As of February 1991, there had been three public sector procurements of foreign supercomputers in Japan since the June agreement. Two were awarded to Japanese firms and one was awarded to a U.S. company. At the end of 1990, U.S. negotiators continued to be concerned about discounting of supercomputers and were monitoring the Japanese budget discussions for signs of commitment to the June agreement.^{228 229}

Satellites

The United States has criticized the Government of Japan's stated objective of developing an indigenous or self-sufficient satellite industry, including Japanese prohibition on the procurement of foreign satellites by Japanese Government agencies.²³⁰ On April 3, the United States and Japan reached an agreement in principle to allow foreign firms to bid on public procurements of all long-life satellites for nonresearch use.²³¹ Under the agreement, foreign suppliers would be permitted to bid on commercial use applications such as those used for communications, broadcasting, or weather tracking. The agreed-upon procedures for satellite procurement were finalized in an exchange of letters on June 15, 1990.²³² The agreement followed a series of discussions since May 1989 when Japan's satellite procurement policies were designated a priority practice under Super 301.²³³ Under the agreement, the Government of Japan committed to procuring "non-R&D satellites on an open, transparent and non-discriminatory basis." The procedures regarding satellite procurement also applied to Nippon Telegraph and Telephone (NTT) procurements, which were classified under the agreement as "any entity whose satellite procurement procedures are subject to direct or indirect government control."²³⁴

A major issue that arose in conjunction with the satellite negotiations was the distinction between commercial and research and development (R&D) satellites. The definition of research satellite was important as it applied to Japan's planned CS-4 communications' satellite, which had been scheduled for launch in 1995 and had been developed with

NTT and Government financing. The United States had argued that these satellites were commercial oriented whereas the Japanese claimed that the satellites were for research and development. Under the agreement, the Government of Japan would take measures to alter the CS-4 project so that it would be classified as a research satellite and fall outside of the agreement. The CS-4 would be developed "for the purpose of the in-space validation of technologies new to Japan" in accordance with the definition of R&D in the agreement.²³⁵

As of December 1990, there had been no procurements of foreign satellites by the Government of Japan under the agreement. However, on January 30, 1991, NTT publicly announced technical specifications for two satellites and on February 27, 1991, a technical meeting was held with interested U.S. suppliers.^{236 237}

Forest Products

Japan is the largest market for wood products from the United States. Following the designation of Japanese policies and practices that restrict wood products under Super 301, six bilateral negotiating sessions were held between August 1989 and April 1990.²³⁸ During the negotiations, the United States requested tariff cuts on processed products, especially plywood, and reclassification of laminated wood products. Other subjects of discussion were Japan's building and fire codes, product standards and certification procedures, which the United States claimed served to inhibit U.S. exports.²³⁹ Although some progress was made, a complete agreement on these issues remained elusive during these meetings. Finally, in a last-minute effort to avoid having Japan's barriers to wood products designated a second time under Super 301, on April 25 the two countries reached an agreement in principle aimed at increasing Japan's imports of forest products, especially finished wood products.²⁴⁰

Under the United States-Japan Wood Products Agreement that was finalized on June 15, 1990, tariff cuts on value-added wood products that the U.S. had requested would be handled within the context of the Uruguay Round negotiations in accordance with Japanese demands.²⁴¹ In return, Japan agreed to

²²⁷ Carla A. Hills, United States Trade Representative, letter to Ryohei Murata, Ambassador of Japan, June 15, 1990.

²²⁸ U.S. Department of Commerce, telephone interview with USITC staff, Mar. 13, 1991.

²²⁹ For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

²³⁰ See, for example, testimony of Deputy USTR S. Linn Williams before the Senate Committee on Commerce, Oct. 4, 1989.

²³¹ "Policies and Procedures Regarding Satellite R&D/Procurement," letter from Ryohei Murata, Ambassador of Japan, to Ambassador Carla A. Hills, June 15, 1990.

²³² *Ibid.*
²³³ For background information, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 109.

²³⁴ "Policies and Procedures Regarding Satellite R&D/Procurement," June 1990, and *Japan Economic Institute Report*, Apr. 20, 1990, pp. 11-13.

²³⁵ "Procedures for the Procurement of Non-R&D Satellites," June 1990. In a June 15 letter to Ambassador Hills, the Government of Japan indicated that it would like to see discussion of research satellite procurement in a multilateral forum such as the OECD. Ryohei Murata, Ambassador of Japan, letter to Carla A. Hills, United States Trade Representative, June 15, 1990.

²³⁶ FBIS, *Daily Report: East Asia*, Feb. 27, 1990.

²³⁷ For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

²³⁸ Statement of Ambassador Carla A. Hills, May 25, 1989.

²³⁹ For further information on forest products, see USITC, *OTAP, 41st Report, 1989, September 1990*, USITC Publication 2317, p. 108.

²⁴⁰ *Japan Economic Institute Report*, Apr. 20, 1990, p. 12.

²⁴¹ As of March 1991, Japan's Uruguay Round negotiators had agreed to lower tariffs on plywood, particle board, and a full range of processed wood products; however, they had rejected the U.S. zero-for-zero offer to eliminate tariffs.

eliminate certain building code regulations and fire standards that reduce the use of imported wood products.²⁴² Japan also agreed to reclassify certain glue-laminated lumber and laminated veneer lumber from high duty classifications of 15 percent (laminated lumber) or 20 percent (laminated veneer lumber) to 3.9 percent. Procedures for the acceptance of U.S. test results relating to product quality and safety would also be modified.²⁴³ The United States has long-argued that Japan's product standards should be based on internationally recognized and performance-based standards. In accordance with its commitments under the agreement in December 1990, the Government of Japan granted a U.S. manufacturer of structural panel products permission to apply the Japan Agricultural Standard (JAS) mark to its plywood.

A schedule of followup meetings was included under the agreement with the Ministry of Construction and the Ministry of Agriculture and Fisheries. Two committees were set up under the agreement to monitor implementation. The Japanese Agricultural Standards Technical Committee and the Building Experts Committee met during 1990 to discuss and interpret various aspects of the agreement.^{244 245}

Beef and Citrus Agreement

In 1988, the United States and Japan signed an agreement to phase out Japan's import quotas on beef and fresh oranges by April 1, 1991, and on orange juice by 1992.²⁴⁶ Since the 1988 United States-Japan Beef

²⁴² Additional details of the agreement follow. The Government of Japan agreed: (a) to add performance-based standards to its building codes in cases where prescriptive building standards are currently required. With regard to wood fire doors, in particular the Government of Japan announced its intention to introduce new testing methods for the acceptance of wood fire doors; (b) to expedite the recognition of new products and systems within a three-month period and to incorporate JAS and JIS standards into the building standards in an expeditious manner; (c) that open certification or general approval of new building materials and systems is desirable and that "closed certification or approval of new products or systems only for specific applications or by specified firms should be avoided, except where the new products or systems are of such a technologically unique or complex nature to warrant such treatment"; (d) that there should be "expeditious acceptance of test results and data compiled by the relevant bodies of other countries in the building standards' approval and certification system, even when test methods differ. . ."; (e) to "take all necessary and appropriate actions to ensure application of all the modifications to the building standards required to implement" actions set forth in the agreement; (f) to cooperate with the U.S. government and other interested parties to "resolve disputes and problems related to the recognition, incorporation, approval and certification of wood products or building systems as quickly as possible" . . . and (g) to adopt and revise JAS standards, including providing for equivalency in testing. "Measures to be Taken by the Government of Japan Relating to Wood Products (Measures)," June 1990.

²⁴³ *Japan Economic Institute Report*, May 4, 1990.

²⁴⁴ Information provided by the U.S. Department of Commerce, April 1991.

²⁴⁵ For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

²⁴⁶ For background information on the beef and citrus agreement see USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, pp. 106 and 107.

and Citrus Agreement was signed, opportunities for U.S. beef sales in Japan have increased, and total Japanese beef imports are expected to reach 410,000 to 440,000 tons in JFY1991. However, there are remaining concerns about continued high retail beef prices in Japan and the high import tariff rate of 50 percent that is scheduled to remain in effect when the transition period for the agreement ends on March 31, 1994.

Under the 1988 agreement, the role of Japan's Livestock Industry Promotion Corporation (LIPC) in the importation of imported beef was to cease as of April 1, 1991. However, the LIPC would be allowed to continue subsidizing livestock and red-meat-related projects and continue operating price-stabilization programs. Once the LIPC's involvement in beef importation ends, an import surcharge on fresh, chilled, and frozen beef would rise from 25 to 70 percent. Some import duties on certain processed beef products have already risen to 70 percent, resulting in sales losses by U.S. exporters.

Currently, LIPC purchases imported beef from a group of importers, marks up the price, and sells it to wholesalers under a simultaneous-buy-sell system.²⁴⁷ As of August 1990, 21 new importers and 158 new buyers had participated in tenders under a new simultaneous-buy-sell system established under the agreement.²⁴⁸ Although some direct imports of beef are occurring, traditional Japanese beef importers apparently continue to control beef distribution through long-established channels and relationships with customers.²⁴⁹ Once beef quotas are eliminated on April 1, 1991, it is unclear whether wholesaler and distributor markups on imported beef will gradually decrease, resulting in lower wholesale and retail prices.²⁵⁰

The Government of Japan has implemented most of the provisions of the 1988 agreement regarding citrus. However, in 1990, the United States continued to urge Japan to reduce its duties on fresh oranges (40 percent in season and 20 percent out of season) in connection with the Uruguay Round negotiations. In addition, the United States was concerned about Japan's imposition of a quota system on imports of orange juice for hotel use because of limited participation by importers in the quota system.²⁵¹

²⁴⁷ The simultaneous-buy-sell system allows buyers and sellers to negotiate cuts, specifications, and delivery dates. The amount of quota beef that is handled under this system was scheduled to increase by 15 percent per year, to 60 percent of the beef quota.

²⁴⁸ Based on information provided by the U.S. Department of Agriculture, April 1991.

²⁴⁹ "FTC Investigators Raid Trading Houses Over Beef Cartel," *Kyodo News Service*, July 26, 1989.

²⁵⁰ "Variety's the Name in the Beef Selling Game," *Japan Economic Journal*, Feb. 2, 1991, and "Japan Ends Beef Quota But Keeps Prices High," *San Francisco Chronicle*, Apr. 2, 1991.

²⁵¹ Information provided by U.S. Department of Agriculture, April 1990.

Other Bilateral Issues

Kansai/major projects

Two years after signing an agreement with Japan to allow for greater participation by U.S. firms in Japan's construction market,²⁵² the United States continued to express concerns that Japan was not fulfilling its promises to open that market to foreign firms. The agreement was designed to give U.S. firms an opportunity to participate in 14 designated projects, worth \$16.7 billion. Since the agreement was reached in May 1988, 26 foreign companies have obtained construction licenses and have won approximately \$230 million in contracts, but they continue to experience difficulties in winning contracts on Japanese projects. During 1990, USTR continued its 2-year review of the agreement mandated by the Omnibus Trade and Competitiveness Act of 1988.²⁵³

A dispute developed in July when the Kansai International Airport Corporation awarded a contract for the Kansai airport Automated Guideway Transit (AGT) system (people-mover system) to two Japanese firms that bid \$22 million more than the U.S. competitor for the project, AEG-Westinghouse Transportation Systems, Inc. The United States claimed that Westinghouse, which has an 80-percent share of the world market for people-mover systems, should have won the contract since the winning team (Niigata Engineering Co. and Sumitomo Trading Co.) had never built a people-mover system and its bid did not meet the technical specifications for the project.²⁵⁴ During bilateral talks held in August, the United States asked the Government of Japan to provide a full explanation of the pricing, specifications, and bidding procedures followed in awarding the contract. In a letter dated October 19, 1990, the U.S. Department of Commerce informed the Japanese Ministry of Foreign Affairs that it believed that irregularities in procurement procedures had occurred in awarding the people-mover contract and set a deadline of January 15, 1991, to resolve the "procedural problems in the AGT procurement."²⁵⁵

Pressure for a resolution of the issue increased during a visit to Japan in November when Senator Frank Murkowski stated that he was dissatisfied with Japan's progress in allowing for greater foreign access under the agreement and threatened retaliation under

²⁵² "Fact Sheet: Kansai Airport and Other Major Japanese Public Works Projects," U.S. Department of Commerce, Jan. 13, 1987.

²⁵³ For further information, see USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, pp. 107-108 and USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 100.

²⁵⁴ "Murkowski Accuses Japan of Failing to Honor Its Part of Foreign Construction Agreement," *International Trade Reporter*, Nov. 28, 1990; "Administration Sets Jan. 15 Deadline to Resolve Construction Row With Japan," *Inside U.S. Trade*, Nov. 16, 1990; and "Construction Dispute Sparks U.S.-Japan Trade Clash," *Christian Science Monitor*, Dec. 13, 1990.

²⁵⁵ Full text of letter reproduced in *Inside U.S. Trade*, Nov. 16, 1990, p. 3.

section 301.²⁵⁶ During bilateral talks during December 12 and 14, 1990, in Tokyo, the United States requested that the agreement be broadened to include all public works projects and that a fourth track of procedures be added to cover projects with a design component. Currently, there are tracks for heavy construction, high technology, and architecture/design. The Government of Japan refused to consider the request, indicating that the United States was attempting to introduce major changes to the agreement.²⁵⁷

Semiconductors

In 1990, policymakers and semiconductor manufacturers began to plan for the expiration of the 5-year semiconductor agreement in July 1991.²⁵⁸ The agreement signed in 1986 was intended to end dumping of Japanese semiconductors in the United States and third-country markets and to increase U.S. market access opportunities in Japan for foreign-based firms. In early 1990, the semiconductor manufacturers began meeting with members of the Computer Systems Policy Project, representing 11 computer manufacturers in an attempt to develop a position.²⁵⁹ U.S. semiconductor manufacturers favored extending the agreement. Semiconductor users, by contrast, who had attributed higher prices for DRAMs and EPROMs and shortages of semiconductors to the agreement initially opposed such action.²⁶⁰ However, in October, the two groups reached a unified position that was transmitted to the President in a letter.²⁶¹ The proposal requested that the administration seek a new 5-year agreement that would incorporate a fast-track antidumping mechanism and eliminate the foreign market value (FMV) floor prices on imports of DRAMs and EPROMs from Japan. The proposal suggested that the Japanese be given until December 1992 to meet the 20-percent market share level committed to under the

²⁵⁶ In November 1989, USTR determined that certain practices of the Government of Japan were unreasonable and excluded U.S. firms, but USTR deferred action until May 1990. Senator Murkowski also attached amendments to two appropriations bills that would prohibit Japanese firms from participating in U.S. construction projects if the USTR determines under the current review of the agreement that Japan's market is closed. "Construction Dispute Sparks U.S.-Japan Trade Clash," *Christian Science Monitor*, Dec. 13, 1990. For further information, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 110.

²⁵⁷ See USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, pp. 107-108.

²⁵⁸ For information on the semiconductor agreement and progress under it, see USITC, *OTAP, 38th Report, 1986*, USITC Publication 1995, pp. 4-26 and 4-27; USITC, *OTAP, 39th Report, 1987*, USITC Publication 2095, pp. 4-24 and 4-25; USITC, *40th Report, 1988*, USITC publication 2208, pp. 108-109. See also "Statement by the President," Office of the Press Secretary, Apr. 17, 1987.

²⁵⁹ Another event occurring in early 1990 was the breakup of U.S. Memories, a consortium of seven computer and semiconductor companies that were attempting to cooperate in order to compete with Japanese producers of memory chips. See "Demise of U.S. Memories Could Lead to Chip Cartel," *Journal of Commerce*, Jan. 26, 1990.

²⁶⁰ "U.S. Semiconductor Makers Urge New Pact With Japan," *Financial Times*, October 5, 1990, p. 6.

²⁶¹ Letter is cited in "U.S. Semiconductor Producers, Users Join to Unveil Plan for New U.S.-Japan Accord," *International Trade Reporter*, Oct. 10, 1990, p. 1533.

original agreement.²⁶² The Electronics Industry Association of Japan (EIAJ) strongly opposed the request to extend the agreement, saying that the 1986 agreement did not contain a provision for negotiating a new one and that U.S. manufacturers were already gaining increased market share.²⁶³

Efforts were made in both countries throughout the year to increase the U.S. market share in Japan. In April, MITI urged major Japanese semiconductor users to increase their purchases of imported products and to devise market-access plans.²⁶⁴ In June 1990, the EIAJ and the Semiconductor Industry Association (SIA) formed a task force to assist U.S. firms in marketing automotive semiconductors.²⁶⁵ Industry representative organizations in both countries, the EIAJ, and the SIA also increased their efforts to develop long-term relationships between U.S. suppliers and Japanese users, including entering into design-in arrangements.²⁶⁶

Despite these actions, at the end of 1990, foreign semiconductor firms had gained only 13.5 percent of the Japanese market, compared with 9.3 percent when the agreement was signed in July 1986.²⁶⁷ Although higher than the 10-percent threshold of past years, it was still below the 20-percent market share expected by the United States under the agreement.

In January 1991, the United States presented its request for a new agreement to the Government of Japan.²⁶⁹ However, two major issues emerged, setting the stage of a new year of negotiations: (1) how a new agreement might enable the market-access objectives of the existing agreement to be met and (2) the question of lifting the remaining \$165 million in retaliatory tariffs on U.S. imports of certain Japanese electronics products.²⁷⁰

Automobiles

On January 17, 1990 Japan's Ministry of International Trade and Industry announced that the

²⁶² "Chipping Away: U.S. Access to Japan's Semiconductor Market," *Japan Economic Institute Report*, Nov. 16, 1990, pp. 13 and 14.

²⁶³ "U.S. Chip Makers Get Broad Support for New Trade Accord With Japan," *Journal of Commerce*, Feb. 7, 1991, and "U.S. Semiconductor Producers, Users Join to Unveil Plan for U.S.-Japan Accord," *International Trade Reporter*, Oct. 10, 1990, pp. 1533-1534. In January 1991, preliminary discussions were held in Tokyo during which the United States requested that the agreement be extended. Formal negotiations were expected early in the year. "U.S. Chip Makers Get Broad Support for New Trade Accord With Japan," *Journal of Commerce*, Feb. 7, 1991.

²⁶⁴ *Daily Report: East Asia*, Apr. 20, 1990.

²⁶⁵ *Japan Economic Institute Report*, Mar. 1, 1991.

²⁶⁶ "Chipping Away: U.S. Access to Japan's Semiconductor Industry," *Japan Economic Institute Report*, Nov. 16, 1990, p. 5.

²⁶⁷ Office of the United States Trade Representative, March 1991.

²⁶⁸ Japanese figures showed that the U.S. market share in Japan was 19 percent. See, for example, "Chip Trade Talks Fail to Set Measure for Market Share," *New York Times*, May 30, 1991, p. 5 and "U.S., Japan Close to Chip Trade Pact Setting Targets, Not Quotas, for Sales," *The Wall Street Journal*, May 22, 1991, p. 11.

²⁶⁹ FBIS, *Daily Report: East Asia*, Jan. 28, 1991, p. 10, and "U.S. Officials Press Japan for New Computer Chip Pact," *Washington Post*, Jan. 26, 1991.

²⁷⁰ *Ibid.*

restraints would be unilaterally extended through March 31, 1991.²⁷¹ MITI also indicated that it would consider lifting the export restraints if Japanese exports continued to drop.²⁷² Japanese exports to the United States totaled 1.90 million cars during 1990²⁷³ which was 600,000 units less than the 2.3 million annual restraint level. As such, many analysts claimed that the quota on Japanese auto exports are meaningless and should be eliminated.²⁷⁴ The annual extensions of the restraints are viewed by U.S. producers primarily as a political gesture on the part of the Japanese in an attempt to minimize trade frictions.²⁷⁵ However, half of the U.S. bilateral trade imbalance with Japan is still accounted for by autos. Although the value of imports of passenger cars from Japan declined from \$20.2 billion in 1989 to \$19.5 billion in 1990, production of autos at Japanese transplants, or manufacturing facilities in the United States, increased.²⁷⁶ As of October 1990, Japanese manufacturers had captured 28 percent of the U.S. passenger car market, including imports and transplants.²⁷⁷ With U.S. car producers experiencing a downturn in the demand for their cars (three U.S. companies announced temporary closings of their plants during the first quarter of 1990), the United Auto Workers called for a reduction in the annual restraints on Japanese exports to the United States to 1.3 million units and the initiation of restrictions covering autos from transplants.²⁷⁸ However, U.S. manufacturers all have ties to Japanese firms, including everything from importing parts to selling Japanese cars under their own nameplates, and these ties further complicate the debate over continuing or increasing protection for the U.S. auto industry.

Rice

During 1990, Japan's refusal to lift its ban on rice imports became the focus of pressures from the United States and other trading partners during the Uruguay Round negotiations. Japan's rejection of the U.S. proposal²⁷⁹ for agricultural reform became a symbol of its unwillingness to accept responsibility for leadership in the GATT and other international arenas. The political fallout and trade frictions from Japan's intransigence appeared to outweigh the potential effect

²⁷¹ For background information see, for example, USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, pp. 111-112.

²⁷² "Tokyo Expected to Extend Car Export Limits," *Japan Economic Institute Report*, Jan. 19, 1990, p. 11.

²⁷³ "Japanese Vehicle Exports Fell Last Year With Drop of 8 percent in Shipments to U.S.," *International Trade Reporter*, Feb. 6, 1991, p. 207.

²⁷⁴ Richard Lawrence, "Alice in Auto Wonderland," *Journal of Commerce*, Jan. 16, 1991.

²⁷⁵ "Tokyo Expected to Extend Car Export Limits," *Japan Economic Institute Report*, Jan. 19, 1990, p. 11.

²⁷⁶ Official statistics of the U.S. Department of Commerce.

²⁷⁷ *Ward's Automotive Yearbook, 1991*, (Ward's Communications: Detroit, 1991).

²⁷⁸ "Japan's Renewal of Voluntary Export Curbs Spurs UAW Call for Market Share Agreement," *International Trade Reporter*, Jan. 16, 1991, p. 81.

²⁷⁹ On Oct. 15, 1990, during the Uruguay Round negotiations, the United States proposed a 75-percent reduction in internal support and import barriers over 10 years and a 90-percent reduction in export subsidies. See discussion of Uruguay Round negotiations in ch. 1.

of Japan's liberalization of rice imports on the bilateral trade deficit. According to the U.S. Department of Agriculture, estimates show that Japan will import around 1.5 million tons of milled rice per year by the mid-1990s. If the U.S. Uruguay Round proposal is accepted, U.S. producers will be expected to gain a significant share of that market, according to U.S. industry.²⁸⁰ However, other countries such as Thailand, the world's largest exporter, would be likely to benefit from liberalization as well.²⁸¹ In January, the Japanese Cabinet reaffirmed its commitment to self-sufficiency in rice and its opposition to liberalization of rice imports.²⁸² This position was reiterated by Japan's Minister of Agriculture, Forestry, and Fisheries in February.²⁸³ The U.S. Rice Millers Association, meanwhile, indicated that if the Government of Japan continued to reject negotiations on opening its rice market, the U.S. Government would take some type of counter actions.²⁸⁴ Two previous section 301 petitions filed by the U.S. Rice Millers' Association had been rejected previously.²⁸⁵

The level of tensions over rice liberalization heightened in the spring of 1990 when Japan's Minister of Agriculture Yamamoto and U.S. Secretary of Agriculture Yeutter exchanged sharp comments over the subject. On April 9, Secretary Yeutter indicated that Japan appeared to be breaking its commitment to liberalize its rice policy during multilateral negotiations and that he expected Japan to liberalize its rice market by the end of the Uruguay Round talks.²⁸⁶ A few weeks later, Yamamoto characterized Secretary Yeutter's comments as "meddling in Japan's internal affairs." Secretary Yeutter responded by sending a letter to Minister Yamamoto saying that if it was the position of the Government of Japan that Japan is not prepared to liberalize its rice market in the Uruguay Round, then he erred in rejecting the two Rice Millers' section 301 petitions.²⁸⁷

²⁸⁰ Richard T. Crowder, Under Secretary for International Affairs and Commodity Programs, U.S. Department of Commerce, testimony before the House Committee on Agriculture, Mar. 13, 1991.

²⁸¹ "Not a Rice Day," *The Economist*, Mar. 23, 1990, p. 36.

²⁸² MITI Minister Matsunaga reportedly expressed disagreement by pointing to international pressures for liberalization and indicating that Japan needed to find other arguments than self-sufficiency to explain its ban on rice imports. He later retracted his statements, noting that they expressed his personal views on the subject. *International Trade Reporter*, Jan. 24, 1990.

²⁸³ "Japan Has No Plans to Increase Rice Imports, Senior Official at Agriculture Ministry Says," *International Trade Reporter*, Feb. 28, 1990, p. 296.

²⁸⁴ "Advisory Body Report Will Call for Reforms in Farm Policies, Including Imports of Rice," *International Trade Reporter*, Mar. 21, 1990, p. 402.

²⁸⁵ For background information on the sec. 301 petitions, see USITC, *OTAP, 40th Report, 1988*, USITC Publication 2208, July 1989, p. 107.

²⁸⁶ "U.S. Attacks Japan for Wanting Free Trade but Banning Rice Shipments From Abroad," *Allanta Constitution*, May 22, 1990.

²⁸⁷ See "Yeutter Reacts Strongly to Japanese Farm Minister's Comments on Rice," *Inside U.S. Trade*, May 25, 1990, for text of letter of Secretary Yeutter to Japan's Agriculture Minister Yamamoto.

At the mid-July trade summit in Houston, Texas, Japan maintained its "food security" position on rice and defended its policy of banning rice imports. On August 21, Secretary Yeutter told MITI Minister Muto that the United States would be willing to accept some level of tariff protection on rice imports after a 10-year transitional period and some quotas during the transitional period.²⁸⁸ This was a softening of the previous U.S. position that called for the elimination of tariffs or a reduction close to zero within 3 years. U.S. estimates indicated that the initial tariffs for Japanese rice imports after the quotas were removed would be 700 percent.²⁸⁹ Although it may have appeared that a truce had been worked out on the rice issue as a result of Secretary Yeutter's visit, in September tensions rose again when Yamamoto stated in a speech to the LDP "we can make it through the Uruguay Round" without having to liberalize the rice market "if we put our lives on the line".²⁹⁰ In October, the Government of Japan rejected the U.S. tariffication proposal, saying it would continue to support the proposal it had already put forth, which included a 30-percent reduction in domestic support for farm products over a period of 10 years, except for rice and grains that would be cut by 5.4 percent over 7 years.²⁹¹

Telecommunications

The United States continued to press Japan on opening its market further for telecommunications equipment and services in connection with its annual review of Japan's telecommunications market. The review is required under section 1377 of the 1988 Omnibus Trade and Competitiveness Act of 1988. Although Japan's telecommunications sector was legally deregulated in 1985, there are still more restrictions covering equipment and services in Japan than in the United States. The three major issues discussed during 1990 were sales of digital service units (DSUs), opening Japan's market for network channel terminating equipment (NCTE),²⁹² and various aspects of Japan's telecommunications business law.

During bilateral discussions in March, Japan agreed in principle to change its procedures for sales of DSUs, which provide an interface between the common carrier's digital communications network and a customer's onsite equipment.²⁹³ In Japan, end users could only lease DSUs from NTT because DSUs are considered part of a common carrier's network.²⁹⁴ In

²⁸⁸ "Yeutter to Japanese: U.S. May OK Rice Tariffs for 10-Year Period," *Journal of Commerce*, Aug. 22, 1990, p. 12.

²⁸⁹ *Ibid.*

²⁹⁰ "Japan's Farmers March to Retain Rice Import Ban," *Financial Times*, Sept. 27, 1990, p. 5.

²⁹¹ "Japan Rejects U.S. Proposal for Farm Trade Reforms," *Financial Times*, Oct. 17, 1990.

²⁹² NCTEs are comparable to modems used to transmit data over telephone lines. They allow users of personal computer networks to exchange digitalized data. "U.S. Announces New Trade Pact Set With Japan," *Wall Street Journal*, Aug. 2, 1990.

²⁹³ *Japan Economic Institute Report*, Apr. 13, 1990, p. 9.

²⁹⁴ *Japan Economic Institute Report*, Mar. 2, 1990, p. 9.

the United States, by contrast, DSUs are classified as part of the consumer's equipment and customers purchase DSUs directly from sellers. On April 27, Japan announced that the Ministry of Posts and Telecommunications (MPT) would begin allowing customers to own DSUs. It was expected that more than 90 percent of Japan's NCTE would be opened to direct sales between sellers and users.²⁹⁵

Another issue that the United States continued to pursue with Japan was elimination of the distinction between companies providing General and Special Type II enhanced services or those that provide nationwide enhanced or value-added services and those offering more specialized local or regional services. The two countries agreed to settle these and other remaining issues within 120 days.²⁹⁶ On August 1, the United States and Japan reached an agreement that would allow U.S. companies the right to sell NCTEs directly to Japanese customers.²⁹⁷ The agreement also eliminated several barriers to Japan's international value-added network services (IVANs) market, establishing procedures for U.S. companies that want to provide data transmission services between Japan and other countries, including voice mail, electronic banking, and other communications services. Under the agreement, the approval period for U.S. providers of IVANs was reduced to 30 days from several months and the approval process was made more transparent. In addition, a 20-percent circuit-leasing surcharge levied on foreign VANS by Japan's dominant international carrier, Kokusai Denshin Denwa, was eliminated.²⁹⁸

Nippon Telegraph and Telephone (NTT)

On March 2, 1990, an advisory committee to the MPT, the Telecommunications Council, recommended that NTT be broken up into a long-distance service company, a local service company, and a mobile communications firm.²⁹⁹ In its report, the Council recommended that long-distance service be broken off from NTT by JFY1995 following the completion of the company's digitalized communications network.³⁰⁰ Mobile communications, including cellular phone service and pocket bell service, would become completely privatized after 2 years. Local service would remain under Government regulations.

In its report, the committee indicated that NTT was stifling technological innovation, raising the cost of service to consumers, and suffering from inefficient management. Since Japan's telecommunications

market was liberalized on April 1, 1985, various firms have emerged to challenge NTT's dominant position in nearly every area of Japan's telecommunications market. However, NTT continues to have sales nearly 60 times that of its largest competitors. Despite the advisory council's recommendations, there was strong opposition in Japan among various ministries and private-sector organizations to an AT&T-style breakup.³⁰¹ The depth of political opposition became apparent in April when the LDP rejected MPT's breakup recommendations and decided to delay debate on the issue until JFY1995 when a review would be held.³⁰² The LDP apparently took into consideration the drop in NTT stock prices that had occurred since NTT's privatization and the fact that the Ministry of Finance held approximately 67 percent of NTT shares.³⁰³ In September the Ministry of Finance decided against the scheduled sale of NTT shares.³⁰⁴ This was the second time in 2 years that auctions of NTT's stocks had been canceled.³⁰⁵

Cellular Phones and Third-Party Radio

In March, an MPT study group report suggested that Japanese and U.S. standards for a next-generation digital auto telephone system be unified. The report was a product of the 1989 agreement,³⁰⁶ which called for a joint study to develop a formula for next-generation auto telephones. The report estimated that Japan's market would reach 5.3 million units for auto phones and 2.6 million for handy phones.³⁰⁷

NTT continues to hold a 75-percent market share of the pocket-paging market.³⁰⁸ In May, IDO, (Japanese mobile communications consortia) announced that it would buy 35 million dollars' worth of equipment from Motorola. MPT also announced that it was designating some of Motorola's cellular technology as the standard for Japan's digital cellular system.³⁰⁹

²⁹⁵ *Japan Economic Institute Report*, Mar. 16, 1990, pp. 7-8, and Aug. 17, 1990, pp. 4-11.

²⁹⁶ *Ibid.*

²⁹⁷ See FBIS, *Daily Report: East Asia*, Apr. 2, 1990, p. 5.

²⁹⁸ See FBIS, *Daily Report: East Asia*, Dec. 10, 1990, p. 6.

²⁹⁹ The Government of Japan reportedly was considering offering 500,000 to 800,000 Government-owned shares of NTT at regular intervals between Apr. 1, 1991, and Mar. 31, 1993, which would reduce the Government's holdings to 65.4 percent of total holdings. Another proposal under consideration was replacing the current statutory requirement that the Government own one-third of NTT stock with a flat level of 5.2 million shares. There was also discussion over whether foreigners should be allowed to own NTT stock, a move opposed by MPT. Currently, foreigners can buy NTT shares as long as the title resides with a Japanese agent. *Japan Economic Institute Report*, Nov. 30, 1990, pp. 5-6.

³⁰⁰ For a discussion of the 1989 agreement, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 106.

³⁰¹ See *Daily Report: East Asia*, Mar. 21, 1990.

³⁰² *Japan Economic Institute Report*, Aug. 17, 1990, p. 4.

³⁰³ "Two Motorola Cellular Victories in Japan," *Chicago Tribune*, May 25, 1990, and USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 107.

²⁹⁵ *Japan Economic Institute Report*, Mar. 1, 1991, p. 5.

²⁹⁶ FBIS, *Daily Report: East Asia*, Apr. 2, 1990.

²⁹⁷ "Japan, U.S. Sign Telecommunication Equipment Accord," *Asian Wall Street Journal*, Aug. 6, 1990, p. 4; "Telecom Accord to Aid IVAN Operators," *Japan Economic Journal*, Aug. 11, 1990, p. 13; and "New Telecommunications Pact Initiated," *Japan Economic Institute Report*, Aug. 10, 1990, p. 9.

²⁹⁸ "U.S. Announces New Trade Pact Set With Japan," *Wall Street Journal*, Aug. 2, 1990, and "U.S., Japan Negotiators Settle Dispute," *Wall Street Journal*, Aug. 2, 1990.

²⁹⁹ Under the 1984 law governing the privatization of NTT, a review was to be conducted in 1990.

³⁰⁰ The advisory committee's report is cited in *Japan Economic Institute Report*, Mar. 16, 1990, p. 8.

Mexico

The Economic Situation in 1990

General

In 1990, Mexico's "Pact for Economic Growth and Stability" (PECE) remained in force throughout the year. President Salinas de Gortari put PECE into effect on January 1, 1989, seeking to reactivate the Mexican economy following 2 years of stagnation, and to consolidate the results achieved under the "Economic Solidarity Pact" (PSE) of the previous Mexican administration³¹⁰ Both programs were committed to strict discipline in the area of fiscal policies and monetary measures in an effort to control inflation and to meet Mexico's foreign-debt repayment obligations. Both programs featured price, wage, and exchange-rate controls, allowing intermittent adjustments. Both were instituted by the Government, in cooperation with the business community and labor unions.

PECE was first extended in June 1989 through March 1990. In March 1990, PECE entered its second extension, sustaining previous commitments to austerity, and maintaining the daily 1 peso devaluation of the exchange rate in terms of the dollar.³¹¹ However, officials authorized price adjustments on goods and services supplied by the public sector and an increase of 10.0 percent in the minimum wage rate.

The third extension of the PECE, signed in May 1990, reduced the daily rate of currency devaluation from 1 peso to 80 centavos.³¹² In addition, a moderate increase in the prices of fuels and electricity was provided on the condition that the increase should be absorbed by the private sector and not be passed on to the consumer *via* higher final product prices.

In November 1990, PECE was once again extended through the end of 1991. This phase of the program continued "decreasing devaluation"—a policy of daily devaluations at a declining rate—that is credited with controlling inflation and lowering domestic interest rates. The program also included provisions in favor of lower income groups and made additional price and wage adjustments. Specifically, the principal measures included—

- A reduction in the daily devaluation of the peso in terms of the dollar from 80 centavos to 40 centavos;
- An additional 18.0-percent increase in the minimum wage;³¹³

³¹⁰ For a discussion of PECE and PSE see USITC, *Operation of the Trade Agreements Program (OTAP)*, 40th Report, 1988, USITC Publication 2208, July 1989, pp. 113–114.

³¹¹ The one-peso-per-dollar-per-day devaluation measure became effective as part of PECE on Jan. 1, 1989, replacing the freeze of the peso/dollar exchange rate in the PSE.

³¹² U.S. Department of State telegram, October 1990, message reference No. 29694.

³¹³ This increment is not applicable to contractual salaries, which will be negotiated between the parties involved.

- A decrease in personal income tax rates, benefiting particularly the lower income brackets; and
- An increase in the price of gasoline and electricity.

Unless it is to be extended again, PECE—originally launched for half a year—will have been in effect for 3 years. Successive extensions were made on grounds that the prior phases of the program have attained their objectives.

In 1989—the first year of PECE—Mexican GNP increased by 3.0 percent, and it continued to grow, by 3.9 percent in 1990, despite austerity measures in force both years. In comparison, the gross domestic product (GDP) declined in 1986, and grew only negligibly in 1987 and 1988.³¹⁴ Notably, the 1990 economic growth was the highest since 1981 and exceeds Mexico's 2.1-percent population growth, as President Salinas pointed out on November 1, in his second "Informe" on the state of the Mexican economy.³¹⁵ The President also noted at the time that interest rates have declined, thereby boosting economic activity. The interest rate of the 28-day Treasury Certificate ("cetes") fell from 47 percent in March to less than 27 percent in November.³¹⁶

Mexico's public finances improved markedly in the first 2 years of the PECE. Strict discipline in public spending reduced total public expenditures as a share of GDP from 45 percent in both 1986 and 1987 to 35.9 percent in 1989, and an estimated 32.3 percent in 1990.³¹⁷ By the same token, the budget deficit plummeted from some 16 percent of the GDP in 1986 and 1987 to 5.6 percent in 1989 and an estimated 4.3 percent in 1990. The target for 1991 is a less than 1 percent.³¹⁸ Tax reform and better enforcement of tax laws during the year were helpful in improving Mexico's public finances. Mexico was also able to attract foreign capital and investment, and some domestic "flight" capital returned during the year.

On the other hand, Mexico was not as successful at controlling inflation in 1990 as it was in 1989. The annual average increase in consumer prices, which reached 105.7 percent in 1986 and 159.2 percent in 1987, dropped to 51.7 percent in 1988 under PSE, and to 19.7 percent in 1989 under PECE. In 1990 however, consumer prices were expected to rise by 30 percent. Despite its unwelcome acceleration, especially in the latter part of 1990, the inflation rate still remains substantially below those in the years preceding these two programs.³¹⁹ Yet inflation, and the concomitant

³¹⁴ United Nations Economic Commission for Latin America (CEPAL), *Preliminary Overview of the Economy of Latin America and the Caribbean*, 1990.

³¹⁵ *Latin American Economic and Business Review*, December 1990, p. 4.

³¹⁶ Interest rates in Mexico are still inordinately high compared with those of advanced industrial countries. Rates must, however, remain above the rate of inflation if capital flight is to be prevented.

³¹⁷ Hacienda, *Mexico: A New Economic Profile*, January 1991, pp. 12–14.

³¹⁸ President Salinas, *Second Informe Presidencial* on the state of the economy, Nov. 1, 1990.

³¹⁹ Data on inflation are based on December-to-December years. CEPAL, *Preliminary Overview*, table 5.

decline of real wages, remains a matter of concern, and its reduction to internationally accepted levels continues to be an important Mexican macroeconomic objective.³²⁰

Unemployment is another persistent problem of the Mexican economy. The ratio of unemployment in urban areas was projected at 20.8 percent for 1990, compared with 20.0 percent in 1989, and 21.1 percent in 1988.³²¹ Another concern is that Mexico's trade surplus has gradually disappeared over the last few years. Even though Mexico reduced its external debt substantially,³²² foreign-exchange flows are still of critical importance for the Mexican economy. In addition to funds for debt repayment, the country needs sizable hard-currency revenues to finance its pent-up demand for imported goods.

The Mexican trade surplus began its steady erosion in 1984, reflecting the decline in world oil prices on the export side and, more recently, the effects of Mexican liberalization on the import side. Imports soared in 1988, by 55 percent; in 1989, by 24 percent; and were still climbing in 1990, by a projected 22 percent.³²³ Exports could not match the steep growth of imports, although in the several years prior to 1990 the Mexican Government's very successful export diversification program replaced most lost oil revenues with revenues from manufactured exports. In 1990, a reversal occurred with the ascendance of oil's share in overall exports, as Mexico's oil revenues surged in response to the gulf crisis in the second half of the year. Nonetheless, due to a simultaneous slowdown in the increase of manufactured production and exports, a Mexican trade deficit is projected for 1990, following a year of near-balance in 1989.³²⁴

Foreign Debt

In March 1990, Mexico concluded the first foreign debt agreement under the "Brady Initiative" of March 1989. The Brady plan, named after the architect of the policy, U.S. Treasury Secretary Nicholas Brady, advocates debt relief for developing countries including some measure of debt forgiveness. According to the plan, creditors should have three options: (a) to reduce the principal, (b) to reduce the interest rate, and (c) to provide new loans. Guarantees that debtors will make their payments under the new arrangements were to be provided by the industrial countries' governments, and by international organizations, such as the World Bank and IMF.³²⁵

³²⁰ *Trade and Investment Prospects With Mexico*, paper presented by Rogelio Ramirez de la O Ecanal at a conference on "Trade and Investment Prospects with Mexico" on Jan. 9-11, 1991, p. 6.

³²¹ CEPAL, *Preliminary Overview*, table 4.

³²² See following section.

³²³ IMF, *International Financial Statistics*, and Banco Nacional de Comercio Exterior.

³²⁴ Mexican trade statistics exclude trade generated by the maquiladora industry. If net earnings from the maquiladora are taken into consideration, a small surplus would have been projected.

³²⁵ For more information on the Brady Plan, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican*

Mexico's foreign debt peaked in 1987 at \$107.4 billion, and began to decline thereafter as the Mexican Government and private debtors were able to retire some of the debt. During 1986-88, the Government acquired several billion dollars of debt at a discount in exchange for pesos that, in turn, had to be invested in Mexico. Thus, these so-called "debt-equity swaps" allowed Mexico to buy back its own debt at a discount and to attract foreign investment at the same time. In addition, the U.S. Treasury issued 20-year "zero coupon" (non-interest-paying) bonds to back securities issued by the Mexican Government in exchange for part of Mexico's foreign debt.³²⁶ The agreement reached in March by Mexico with its creditor banks involved \$48 billion of medium-term debt. Among the three options offered in the Brady plan, creditor banks chose predominantly to reduce the interest (second option) and the principal (first option). To extend new loans was the least-favored choice. The Mexican Government estimates that the combined effect of the debt relief extended by creditors reduced Mexico's external debt by September 1990 to some \$84.0 billion, compared with \$95.1 billion in December 1989.³²⁷ As a ratio of GDP, Mexico's external debt declined from 76.6 percent in 1986 to around 60 percent in 1988 and to 40 percent in March 1990.³²⁸

Merchandise Trade With the United States

In 1990, U.S. merchandise trade with Mexico reached an all-time record of \$57 billion, representing a 12.4-percent increase over that in 1989. Trade expanded in both directions, although at a slower rate than the previous year. Despite the unusually large U.S. demand for Mexican petroleum during the year as a result of the Persian Gulf crisis, the U.S. deficit in this trade continued to contract, registering \$2.0 billion for the year.

Mexico maintained its place as both the third-largest single-country market for U.S. exports and third-largest single-country source of U.S. imports. However, despite its ranking right behind Canada and Japan as a U.S. trading partner, Mexico accounted in 1990 for only 7.3 percent of overall U.S. exports and 6.0 percent of total U.S. imports. By contrast, Mexico's dependence on the United States exceeded 70 percent in both directions of its trade.

The balance of U.S. trade with Mexico shifted from a pattern of consistent annual U.S. surpluses to a U.S. deficit for the first time in 1982, when Mexico's debt crisis became manifest. This crisis triggered the

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Relations, April 1990, (Phase I), USITC Publication 2275, pp. 1-5, and USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, p. 114.

³²⁶ USITC, *OTAP, 39th Report, 1987*, USITC Publication 2095, p. 4-35.

³²⁷ Hacienda, *Mexico: A New Economic Profile*, p. 22. This debt total does not include the \$5.8 billion in new loans Mexico incurred and pledged for guarantees on the new bonds issued, since these bonds are counted as Mexican assets.

³²⁸ *Latin American Economy & Business*, December 1990, p. 5.

imposition of rigorous trade controls in Mexico that were designed to generate sizable trade surpluses. In 1983, the United States had a negative merchandise trade balance of \$7.9 billion with Mexico that began to shrink thereafter. The contraction of the U.S. deficit accelerated from 1988, when liberalization began to strongly affect Mexican trade.

Manufactures predominate in United States-Mexican trade, constituting almost 80 percent of U.S. exports to Mexico and two-thirds of U.S. imports (see table 14 and fig. 8). Bilateral agricultural trade is affected by constraints on both sides, many of which are expected to be major issues in possible FTA negotiations.³²⁹ United States-Mexican trade can also be characterized as being largely "inter-industry," i.e., much of trade in both directions takes place in the same large product categories. Machinery and transportation items are the major category on both the U.S. export side (47.1 percent of the total in 1990) and U.S. import side (44.8 percent). Miscellaneous manufactured articles constituted more than 10 percent of U.S. trade flows in both directions. In 1990, bilateral

³²⁹ About 40 percent of agricultural imports from Mexico enter free of duty. The remainder are dutiable at a trade-weighted average of 7 percent. Mexico's trade-weighted duty on U.S. agricultural products averages 11 percent. Also affecting U.S. agricultural trade with Mexico are nontariff barriers, such as U.S. marketing orders, Mexican import-licensing requirements, and both countries' phytosanitary rules.

trade in these two large product categories was fairly balanced.

Manufactured articles classified by material (12.7 percent of U.S. exports and 8.3 percent of U.S. imports) constituted another important SITC category of bilateral trade. In 1990, the balance of this trade favored the United States.³³⁰ An imbalance of bilateral trade in nonfuel crude materials as well as in chemicals also continued to favor the United States. Meanwhile, as in prior years, mineral fuels (specifically crude petroleum) were mainly responsible for the overall U.S. merchandise trade deficit with Mexico. Trade in food products also favored Mexico.

U.S. exports to Mexico amounted to \$27.5 billion in 1990. Their rate of increase, at 13.9 percent, represented a slowdown compared with the 41.4-percent surge of U.S. exports to Mexico in 1988 and their 21.5-percent increase in 1989. The rapid growth of exports to the Mexican market in the last 3 years can be attributed to Mexico's economic and trade liberalization reforms, pent-up demand for foreign goods, and the relative strength of the Mexican peso.³³¹

³³⁰ An important portion of this category is trade in steel products, which is controlled by the voluntary steel restraint agreement (VRA) that is scheduled to expire in March 1992. Trade in textiles, another important portion, is also regulated by a bilateral agreement and the Multifiber Arrangement (MFA).

³³¹ For a discussion of Mexico's import-liberalization and exchange-rate policy, see the following sections.

Table 14
U.S. merchandise trade with Mexico, by SITC Nos. (Revision 3), 1988-90
(Thousands of dollars)

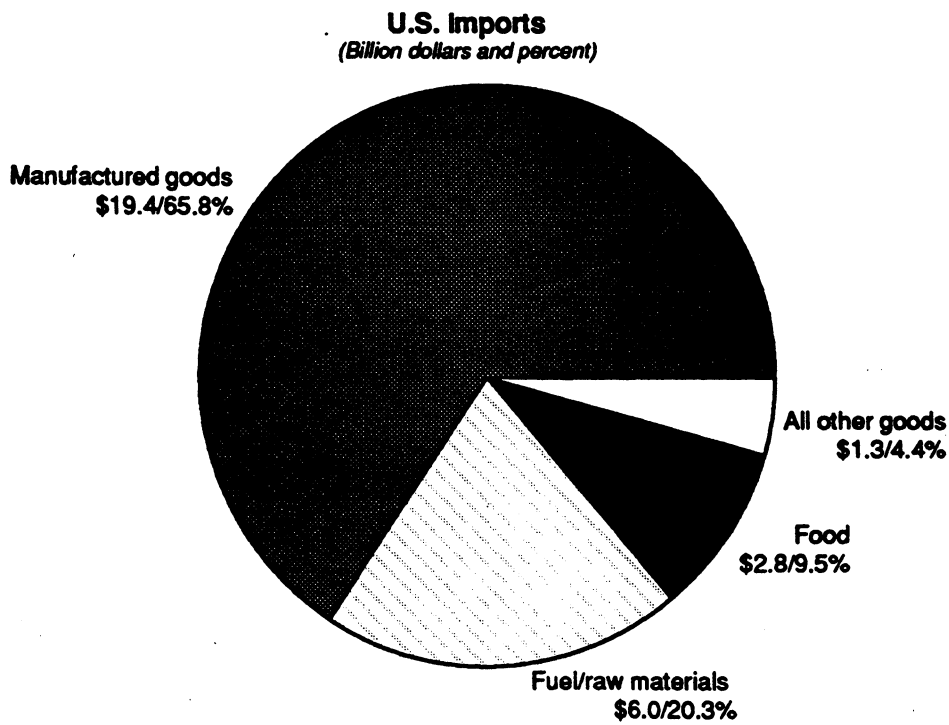
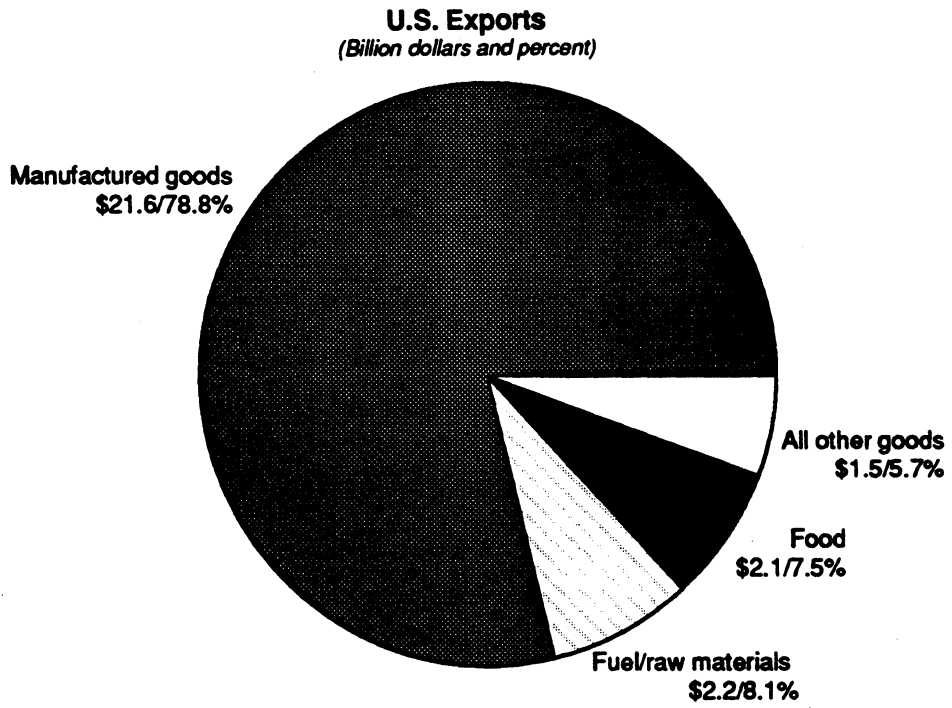
SITC section no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals.....	1,469,950	1,990,452	1,917,947
1	Beverages and tobacco.....	14,091	19,434	23,440
2	Crude materials, inedible, except fuels.....	1,465,070	1,492,799	1,395,064
3	Mineral fuels, lubricants and related materials.....	485,443	712,280	826,113
4	Animal and vegetable oils, fats, and waxes.....	157,455	143,026	120,562
5	Chemicals and related products, n.e.s.....	1,835,663	2,195,143	2,298,156
6	Manufactured goods classified chiefly by material.....	2,268,453	2,961,214	3,488,357
7	Machinery and transport equipment.....	9,443,221	10,812,782	12,938,173
8	Miscellaneous manufactured articles.....	1,907,883	2,469,490	2,894,371
9	Commodities & transactions not classified elsewhere in SITC.....	806,115	1,320,637	1,565,413
Total all commodities..		19,853,345	24,117,255	27,467,595
U.S. imports				
0	Food and live animals.....	1,930,621	2,379,604	2,565,454
1	Beverages and tobacco.....	264,501	256,628	259,762
2	Crude materials, inedible, except fuels.....	502,289	597,161	769,406
3	Mineral fuels, lubricants and related materials.....	3,175,271	4,200,483	5,191,617
4	Animal and vegetable oils, fats, and waxes.....	8,161	13,961	8,649
5	Chemicals and related products, n.e.s.....	549,755	570,256	646,598
6	Manufactured goods classified chiefly by material.....	2,255,105	2,632,168	2,463,605
7	Machinery and transport equipment.....	10,570,511	11,786,584	13,235,230
8	Miscellaneous manufactured articles.....	2,369,980	2,738,135	3,033,724
9	Commodities & transactions not classified elsewhere in SITC.....	990,983	1,381,591	1,331,918
Total all commodities.....		22,617,177	26,556,570	29,505,962

Note.—Data before 1989 are estimated.

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

Figure 8

U.S. trade with the Mexico by product sector, 1990



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

Sales of machinery and transportation equipment, the largest group of U.S. exports to Mexico, continued to rise in 1990. The most significant gains were in exports of auto parts, which remained the leading items of this trade (table A-11). Mexico has been consistently the second-biggest market (after Canada) and the fastest-growing market for U.S. auto parts throughout the 1980s.

In addition to automotive products, aircraft, electrical equipment, office machines, and telecommunications products continued to be major U.S. export items to Mexico in the year under review. U.S. sales of machinery and transportation items were sustained, in part, by Mexico's booming maquiladora industry, which purchases the needed equipment mostly from the United States and buys mostly U.S. components for the finished products it will reexport to the U.S. market after assembly.³³²

Other than machinery and transportation equipment items, exports to Mexico that showed gains of note included refined oil products and grain sorghum. Mexico is the fourth-largest export market for U.S. food products—mostly cereals and soybeans—after Japan, Canada, and the Soviet Union.

In 1990, U.S. imports from Mexico amounted to \$29.5 billion. They were up by 11.1 percent, expanding at a slower rate than in 1989 (17.4 percent). This trade flow can be characterized by the special importance of 3 categories of products: (1) petroleum, (2) subheading 9802.00.60 and heading 9802.00.80 of the Harmonized Tariff Schedule (formerly TSUS items 806.00 and 807.00, respectively),³³³ and (3) imports enjoying duty-free entry under the U.S. program of the Generalized System of Preferences (GSP).

Petroleum continued to be the leading item in this trade. For several years before 1990, the composition of U.S. imports from Mexico shifted away gradually from the dominance of petroleum to a higher portion of manufactured products. This process reflected Mexico's accomplishments in diversifying its exports. In 1990 however, the Persian Gulf crisis necessitated additional U.S. imports of Mexican crude oil, while sharp increases in the world petroleum price raised the value of such imports considerably (table A-12). Mineral fuels accounted for 17.6 percent of total U.S. imports from Mexico in 1990, compared to 15.8 percent in 1989, and 14.0 percent in 1988.³³⁴

U.S. imports of Mexican machinery and transportation equipment—the largest category of this trade as well as of U.S. exports to Mexico—continued to rise in 1990. Imports amounted to \$13.2 billion, up

³³² On Mexico's maquiladora industry see also the discussion of U.S. imports later in this section.

³³³ HTS item 9802.00.60 applies to nonprecious metal articles (1) made or processed in the United States, (2) exported for more processing abroad, and then (3) returned to the United States for further processing. HTS item 9802.00.80 applies to articles that are assembled abroad, in whole or in part of U.S.-made components, and then imported into the United States.

³³⁴ Notably, in 1982, petroleum still accounted for more than half of overall U.S. imports from Mexico.

12.3 percent from 1989. As on the U.S. export side, automotive products, and telecommunications equipment were the top goods in this group. Mexican automobile companies, forced by a 1983 decree to maintain positive trade balances, have accounted for the biggest share of Mexico's export surge in manufactures. Notably, the Mexican automobile industry consists mainly of U.S. or other foreign subsidiaries, such as the big 3 U.S. automakers plus Volkswagen and Nissan.

A large part of U.S. machinery and transportation equipment imports from Mexico, especially of auto parts, telecommunications equipment, and office machinery, enter the United States under HTS 9802.00.60 and 9802.00.80 after further processing or assembly in Mexico from imported inputs. The United States levies duty only on the value added in Mexico; the U.S. content reenters duty-free.³³⁵ Mexico's production units involved in this process had been legally established in 1965 with the sole purpose of further processing foreign material or assembling foreign components. These units, called maquilas,³³⁶ are collectively referred to as the "maquiladora industry." The maquilas are the leading beneficiaries of U.S. duty-free treatment under HTS provisions 9802.00.60 and 9802.00.80.

Mexican authorities established the maquiladora industry in 1965 to create jobs in Mexican territory that borders the United States. The program was later extended to include interior regions of Mexico. Mexican authorities allowed maquilas to be fully foreign owned, although until recently Mexico generally permitted only minority foreign ownership in nonmaquila areas of production. The maquiladora, ranking as Mexico's second-largest industry after oil and related production, continued to thrive in 1990.

U.S. imports under HTS provisions 9802.00.60 and 9802.00.80 have rapidly increased as a share of overall imports from Mexico in the 1980s, peaking in 1988 at 47.7 percent of the total (table 15). In 1990, the percentage of such imports was 44.1.³³⁷ The decline, especially in the past year, is attributed to the effect of the U.S. recession on maquiladora production.³³⁸ In addition to items in the machinery and equipment

³³⁵ Mexico is the leading supplier of all U.S. imports under subheading HTS 9802.00.80 in several categories of machinery and equipment. Mexico's share of all 1989 duty-free imports under this subheading was 53 percent for auto parts, 85 percent for electrical circuit breakers, 88 percent for electrical capacitors, 95 percent for T.V. receivers, 87 percent for electrical appliances, 93 percent for transformers, 37 percent for office machinery and parts. USITC, *Production Sharing: U.S. Imports Under Harmonized Tariff Schedule Subheadings 9802.00.60 and 9802.00.80, 1986-1989*, USITC Publication 2365, March 1991.

³³⁶ 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.

³³⁷ For a further analysis of such imports from Mexico, see ibid., and USITC, Publication 2349, January 1991, pp. 1-15.

³³⁸ *Mexico Update*, Feb. 15, 1991.

Table 15

U.S. imports from Mexico entered under HTS items 9802.00.60 and 9802.00.80 and under GSP provisions, 1986-90

(Values in millions of dollars)

	1986	Percent of total	1987	Percent of total	1988	Percent of total	1989	Percent of total	1990	Percent of total
	value		value		value		value		value	
Total U.S. imports	17,196.4	100.0	19,765.8	100.0	22,617.2	100.0	26,556.6	100.0	29,505.9	100.0
HTS 9802.00.60	89.9	.5	112.3	.6	131.0	.6	181.1	.7	188.3	.6
HTS 9802.00.80	6,366.7	37.0	8,576.4	43.4	10,653.5	47.1	11,766.7	44.3	12,836.3	43.5
Imports under items 9802.00.60 and 9802.00.80	6,456.6	37.5	8,688.7	44.0	10,784.5	47.7	11,947.8	45.0	13,024.6	44.1
Imports under GSP	1,443.4	8.4	1,721.3	8.7	2,192.3	9.7	2,470.8	9.3	2,688.6	9.1

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

category, maquilas supply a major part of apparel and miscellaneous manufactures imported from Mexico. Mexico is the leading source of the duty-free part of U.S. textile, apparel, and footwear imports under HTS subheading 9802.00.80.³³⁹

U.S. imports of Mexican food continued to rise in 1990. The United States predominantly imports from Mexico tropical products and specialty crops, such as coffee, fruits and nuts, and tomatoes. Mexico is the second-largest foreign supplier of agricultural products to the U.S. market after Canada. Tuna and shrimp are also major food import items. Among the leading Mexican food items on the U.S. market, a surge in 1990 of imports of tomatoes and bovine animals should be noted. Conversely, imports of shrimp and coffee from Mexico dropped in the past year.

In 1990, 9.1 percent of U.S. imports from Mexico entered duty free under the U.S. GSP program, for which Mexico is eligible as a developing country (table 15). Major imports from Mexico receiving GSP treatment include furniture; household electrical appliances; float glass; and toys, games, and sporting goods. Products benefitting from GSP have attained their thus far highest share of overall U.S. imports from Mexico in 1988 at 9.7 percent.³⁴⁰

Major Policy Developments Affecting Trade

The Mexican Government's economic liberalization policy continued in 1990, producing new measures or putting earlier ones into effect. Measures with major implications for Mexico's foreign trade and investment and for U.S. interests included exchange-rate regulations, privatization and foreign investment regulations, and automotive regulations. These changes are discussed below.

Foreign Exchange Policy

As mentioned earlier, the third extension of PECE in May 1990 set the peso's automatic daily devaluation rate in terms of the dollar at 80 centavos. This represented a slow-down of the previous 1-peso-a-day devaluation rate that had been in effect from the beginning of PECE, or January 1, 1989. The fourth extension of PECE, in November 1990, currently in effect, slowed the peso's devaluation rate further, to 40 centavos daily.

According to several analysts, this gradual slowdown in the peso's automatic nominal devaluation has led, in effect, to the currency's appreciation in real terms.³⁴¹ Such appreciation made the exchange rate a

³³⁹ *Production Sharing: 9802.00.60 and 9802.0080*, USITC Publication 2365, March 1991.

³⁴⁰ See also "United States-Mexico Bilateral Trade Issues" later in this section.

³⁴¹ For example, according to an article by Christopher Whalen, "Free Traders Ignore Grim Reality in Mexico," *Wall Street Journal*, Apr. 30, 1991, the current exchange rate of some 3,000 pesos per dollar should be readjusted approaching 4,000 pesos per dollar.

factor in eroding Mexico's trade surplus of manufactured products. Although the stronger peso helped to control inflation by making imports cheaper, it also made exports more expensive, thereby jeopardizing the country's policy of export diversification. Still, the stable if overvalued peso is largely seen as the single greatest success of the Salinas Government as it has convinced investors, Mexican and foreign, to bring money into the country.

The official exchange rate of the peso was 2,963 per U.S. dollar on January 2, 1991. This rate compares with 2,683 pesos per dollar a year earlier.

Privatization

Measurable progress in privatizing the Mexican public (parastatal) sector began in 1987.³⁴² Between January 1989 and November 1990, the Mexican Government generated about \$1.6 billion from the sale of public enterprises.³⁴³ Of the 1,155 parastatal units that existed in 1982, 285 remained by the end of 1990.³⁴⁴ Steel-producing units, Mexico's largest insurance company, the Mexican telephone system, commercial banks, and several other parastatal units are presently in the process of privatization.³⁴⁵

In 1990, Mexico returned to a so-called "mixed banking system," which had prevailed before the banks were nationalized in 1982. On May 2, President Salinas requested Congress to repeal the 1982 nationalization of the country's banks and reopen the financial system to private investment. In August, Mexico's Secretary of Finance announced that a special divestiture committee would oversee the sale of Mexico's existing 18 commercial banks, and he outlined the rules that would be applied in the reprivatization process. Notably, foreign investors were to be encouraged to make longer-term investments in the banks but control would be concentrated in Mexican hands for the foreseeable future.³⁴⁶

The privatization process of the banks is reportedly well under way,³⁴⁷ and most state-owned banks will be sold during 1991.³⁴⁸ However, U.S. business sources point out that the ability of foreign banks to establish and maintain operations in Mexico will continue to be restricted under this system unless all barriers to entry are removed.³⁴⁹ The remaining Mexican barriers to

³⁴² For more information on privatization, see USITC, *Review of Trade and Investment Liberalization Measures by Mexico: Phase I*, USITC Publication 2275, Apr. 1990, p. 3-7.

³⁴³ *Hacienda, Mexico: A New Economic Profile*, p. 16.

³⁴⁴ Based on data published by the Mexican Secretary of Finance and Public Credit (SHCP).

³⁴⁵ *Hacienda, Mexico: A New Economic Profile*, p. 15.

³⁴⁶ U.S. Department of State telegram, Aug. 14, 1990, Mexico City, message reference No. 22016.

³⁴⁷ *Hacienda, Mexico: A New Economic Profile*, p. 16.

³⁴⁸ Regulations published in December 1989 opened state-owned banks to domestic and foreign participation. According to these regulations, the Government will retain a 66-percent voting control through "A" shares. The remaining 34 percent of shares can be purchased by Mexican private investors ("B" shares) and/or foreign investors. Thus, foreign investors are permitted to obtain up to 34 percent ownership through nonvoting "C" shares or "certificados de aportacion patrimonial" (CAPs).

³⁴⁹ USITC, *The Likely Impact on the United States of a Free Trade Agreement With Mexico*, USITC Publication 2353, February 1991, p. 4-42.

foreign investment in the area of financial services are expected to become a bilateral issue if FTA negotiations are pursued. According to a report published by the USITC in February 1991 on the likely effect of the FTA, "If U.S. banks are allowed to offer a full range of financial services and products directly in the Mexican market, there could be a moderately positive impact on U.S. banking services exports to Mexico in the long term."³⁵⁰

The other major 1990 development in the area of Mexican "privatization" took place on December 9, 1990, when a 20.4-percent controlling interest in Telefonos de Mexico (TELMEX) was awarded through competitive bidding to a United States-Mexican-French consortium for \$1.76 billion collectively.³⁵¹ The U.S. company is Southwestern Bell of St. Louis, MO; the other members of the consortium are France Telecom and Grupo Carso of Mexico.³⁵² Included in the sales price is an option for Southwestern Bell to buy another 5-percent stake in TELMEX from the Mexican Government. Over the next 5 years, the consortium is committed to investing up to \$10 billion in TELMEX, including doubling the number of phone lines to 10 million.³⁵³ Currently, foreigners can own up to 49-percent equity of a Mexican telecommunications services provider.

Earlier, in March 1990, cellular services licenses were awarded to eight regional cellular network consortiums that also included U.S. companies. The privatization of the Mexican telecommunications industry is expected to expand the Mexican market for telecommunication and information services, especially for the United States, which has the largest and most advanced telecommunications sector in the world.³⁵⁴

Automotive Regulations

"The Decree for the Development and Modernization of the Transportation Vehicles Manufacturing Industry," a decree signed by President Salinas in December 1989, became effective on January 1, 1990. These new measures apply to heavy-duty trucks and buses. Designed to create a more efficient transportation system for persons and goods, these measures gave more freedom to producers in choosing the type of vehicles they manufacture and eased import restrictions and local-content requirements for producers.³⁵⁵

³⁵⁰ *Ibid.*, p. 4-41.

³⁵¹ TELMEX is Mexico's telephone monopoly, and its second-largest parastatal unit after PEMEX, the country's petroleum monopoly. It controls most of the basic switched telecommunications network, along with several other service and manufacturing ventures.

³⁵² *Journal of Commerce*, Dec. 12, 1990.

³⁵³ Keith Bradsher, "Group Will Buy Mexico's Phone Company," *New York Times*, Dec. 9, 1990, p. D1.

³⁵⁴ USITC, *The Likely Impact of FTA With Mexico*, USITC, Publication 2353, February 1991, p. 4-47.

³⁵⁵ For more information on Mexico's latest automotive regulations, see also USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, p. 114, and *Review of Trade and Investment Liberalization Measures: Phase I*, USITC, Publication 2275, April 1990, p. 4-10.

"The Decree for the Development and Modernization of the Automotive Industry" became effective on November 1, 1990. This decree, also issued in December 1989 covering light trucks, medium trucks, finished automobiles and auto parts, also relaxes several preexisting regulations.³⁵⁶ Notably, it allows Mexican companies currently producing or selling automobiles in Mexico to import foreign-made models. Previously, importation of finished automobiles was effectively prohibited by the Government's refusal to issue the required import permits.

Despite the new, more liberal provisions, extensive trade and regulatory barriers remain in the Mexican automobile sector. For example, in order to qualify for licenses to import vehicles, companies must maintain positive trade balances. For each dollar (or other foreign-exchange unit) used for the import of new vehicles, companies must achieve exports worth \$2.50 in model year 1991,³⁵⁷ \$2.00 in model years 1992 and 1993, and \$1.75 in model year 1994. In addition, the regulations provide that in 1991 and 1992 the total number of imported vehicles shall not exceed 15 percent of total Mexican sales and in 1993, 20 percent thereof. Moreover, imports of vehicles with engines under 1.8 liters are prohibited until the 1993 model year.³⁵⁸ With regard to auto-parts, the decree provides that local content must account for at least 36 percent of the value added.

The liberalization of automotive imports during the year under review, as well as the barriers that remain, have major implications for U.S. interests, since automotive trade is the largest component of bilateral trade. Automotive items constitute the major portion of manufactured good exported to the United States by both Mexico and Canada. Therefore, this sector is considered likely to be a major issue in any trilateral negotiations for a North-American free trade agreement.

Maquiladora

The "Decree for the Promotion and Operation of the Maquiladora Industry for Exportation" was in effect at the beginning of 1990 for a few days only. The Mexican Government put this decree into effect on December 23, 1989.³⁵⁹ In order to encourage better transfer of technology to the maquiladoras, the new regulations allow them to import computers for administrative purposes free of duty. Under the earlier 1983 maquiladora decree, only equipment needed for the productive process was permitted to enter Mexico free of duty.

³⁵⁶ *Ibid.*

³⁵⁷ The model year runs from Nov. 1 of a given calendar year to Oct. 31 of the following calendar year (Automotive Decree, 1989.)

³⁵⁸ USITC, *Review of Trade and Investment Liberalization Measures, Phase I*, USITC Publication 2275, April 1990, p. 4-10.

³⁵⁹ The maquiladora industry consists of companies (maquilas) for which foreign ownership was allowed even in the years of Mexico's closed-door economy. They are predominantly U.S.-owned. See previous section and also USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 115.

The new regulations also allow maquiladoras to sell more of their products on the domestic market, boosting the allowable share of domestically consumed maquiladora production from 20 percent to 50 percent of the total. Earlier, the red tape associated with selling in Mexico was prohibitive, therefore, virtually all maquiladora production was exported. The new regulation is considered an instrument of integration between the maquiladora and the rest of Mexican industry.

In 1990, the Government also streamlined the administrative procedures needed to establish new maquilas.

United States-Mexican Bilateral Trade Issues

Overview

In 1990, steadily improving relations between the United States and Mexico received a further boost from the prospect of an FTA, possibly with Canada as the third North American party included. Developments pertaining to an FTA were the most important bilateral exchanges during the year. "At no time in recent memory have our trade relations been as harmonious as they are today," said United States Trade Representative Carla Hills in testimony before the House Ways and Means Committee.³⁶⁰

The United States and Mexico began to forge closer ties after Mexico's accession to the GATT in 1986. In November 1987, the two countries concluded the "Framework of Principles and Procedures for Consultation Regarding Trade and Investment Relations," a consultative mechanism established for discussing concerns in mutual trade and investment issues. This agreement, which is considered a landmark in economic relations between the two countries, facilitated subsequent accords in the area of bilateral trade in steel, alcoholic beverages, and textiles.

In October 1989, the two countries reached an "Understanding Between the Government of the United Mexican States and the Government of the United States of America Regarding Trade and Investment Facilitation Talks" (TIFTs). The mandate of TIFTs, going beyond that of the Framework Understanding, provided for comprehensive trade and investment negotiations, forcing the parties to conduct continuous negotiations on specific sectors and non-sectoral issues.³⁶¹

FTA Developments

U.S. officials and academics have been considering the possibility of an FTA with Mexico since the

mid-1980s.³⁶² However, although bilateral economic relations have markedly improved in the past few years, Mexico refused until recently to consider such an accord. It came therefore as a surprise in 1990 when high-ranking officials from the two countries began moving in this direction. Mexico's earlier resistance to an FTA had been largely based on the view that the developing Mexican economy needed protection against the penetration of goods and capital from its highly industrialized northern neighbor. Mexican opposition to an FTA persisted even as Mexico's historic protectionist stance and import-substitution philosophy changed dramatically in the 1980s, especially since 1986, when Mexico joined the General Agreement on Tariffs and Trade.³⁶³

The abrupt 1990 change in the Mexican opposition to an FTA is widely attributed to recent historic changes that have taken place in the Soviet Union and Eastern Europe. In early 1990, Mexican president Salinas traveled to Europe, where he learned that, in spite of the Mexican Government's recent liberalizing reforms, Eastern Europe was the European countries' priority interest for investment purposes.

In a sharp break with earlier thinking, the Salinas government now states that to achieve economic growth, Mexico needs large inflows of foreign capital and technology. According to numerous analysts, Mexico became concerned that the dismantling of communism in Europe might increase Mexico's difficulties in attracting foreign capital, either for the privatization of state entities or for fresh investment

³⁶² In 1990, work proceeded on three U.S. International Trade Commission studies regarding trade with Mexico. At the request of the Committee on Ways and Means, U.S. House of Representatives, the USITC conducted a two-part "Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations" under section 332(g) of the Tariff Act of 1930. See USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexico Relations, Phase I: Recent Trade and Investment Reforms Undertaken by Mexico and Implications for the United States*, USITC Publication 2275, April 1990.

Phase II of the investigation covered the views of U.S. and Mexican government officials, academics, private sector and labor union representatives, etc. on various possible approaches to closer economic relations, including a bilateral U.S.-Mexican FTA, a trilateral North American FTA, or a multilateral (fully or partially hemispheric) FTA. See USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexico Relations, Phase II: Summary of Views on Prospects for Future United States-Mexico Relations*, USITC Publication 2326, October 1990.

A request by the House Committee on Ways and Means in September 1990 for a further Commission investigation was prompted by the two countries' officially declared interest in negotiating an FTA in a near future. The report assessed the possible impact of an FTA on the U.S. economy in general, on specific sectors thereof, and selected geographic regions of the United States. These assessments took into consideration the implications of Canada's joining the FTA as a third party. That investigation concluded with USITC, *The Likely Impact on the United States of a Trade Agreement with Mexico*, USITC Publication 2353, February 1991.

³⁶³ The long-held view that without appropriate trade and investment restrictions Mexico would be overpowered by the economically much stronger United States—possibly to the extent of losing its sovereignty and independence—still reverberates strongly in many Mexican circles.

³⁶⁰ U.S. House of Representatives, Subcommittee on Trade, *Hearing*, 101st Cong., 2d Sess., June 14, 1990.

³⁶¹ For additional information on these accords, see USITC, *OTAP 40th report, 1988*, USITC Publication 2208, July 1989, pp. 118-119, USITC, *OTAP 41st report, 1989*, USITC Publication 2317, September 1990, pp. 111-113, and USITC, *Review of Trade and Investment Liberalization Measures: Phase I*, USITC Publication 2275, April 1990, pp. 2-1, 2-6.

projects.³⁶⁴ Also, many observers stated that strengthening regional linkages among European and Western Pacific countries have made Mexico more sensitive to the challenges that regional economic groupings all over the world now pose to all North American economies.

The chronology of major 1990 developments towards FTA negotiations with the United States is as follows:

June 10, 1990

President Bush and President Salinas meet in Washington and determine that a comprehensive FTA would be the best vehicle to broaden bilateral economic relations. They direct United States Trade Representative Carla Hills and Mexican Minister of Commerce and Industrial Development Jaime Serra Puche to commence preparatory consultations.³⁶⁵

August 6, 1990

Ambassador Hills and Minister Serra Puche jointly recommend the formal initiation of negotiations towards a comprehensive FTA.³⁶⁶

August 21, 1990

In a letter to President Bush, President Salinas formally requests FTA negotiations.

September 1990

Canada expresses a desire to participate in the FTA negotiations. The ministers (secretaries) of the three countries begin to explore the feasibility of trilateral negotiations.³⁶⁷

September 25, 1990

President Bush submits a formal request to Congress for authority to negotiate an FTA with Mexico. The announcement signals the beginning of a 60-legislative-day period during which Congress may approve or disapprove the "fast-track" negotiating authority.³⁶⁸

October 1990

U.S. Commerce Secretary Mosbacher and Mexican Minister of Commerce Serra Puche jointly visit U.S. businessmen in Houston, Dallas, New York, Chicago, and Los Angeles to raise support for the proposed FTA.

³⁶⁴ Rogelio Ramirez de la O Canal, *Trade and Investment Prospects With Mexico*, p. 8.

³⁶⁵ The White House, Office of the Press Secretary.

³⁶⁶ USTR press release

³⁶⁷ On Feb. 5, 1991, the leaders of the United States, Canada, and Mexico issued a joint communique announcing their intention to pursue a trilateral North American FTA. They agreed that such an accord would aim for the widest liberalization of trade in goods and services, foreign investment, protection of intellectual property and dispute settlement. The White House.

November 26-27, 1990

Presidents Bush and Salinas meet in Monterrey, Mexico, to continue discussing the FTA and other subjects.³⁶⁹

Textiles and Apparel

In February 1990, the United States and Mexico signed a new Memorandum of Understanding (MOU) on trade of textiles and apparel. This document amends and further liberalized the 1988 bilateral textile agreement that was negotiated under the "Framework Understanding." The 1988 accord, effective January 1, 1988, through December 31, 1991, established a "special regime" that allowed for increased Mexican access to U.S. markets for most apparel and selected textile products assembled in Mexico from fabrics made and cut in the United States. The agreement set aside a significant portion of prevailing quotas for the special-regime articles and permitted much greater access for these products to the U.S. market than before, expanding quotas significantly above the 1987 base levels.³⁷⁰

The February 1990 MOU further liberalized Mexican access for "special-regime" products in the U.S. market. In addition, the MOU liberalizes access for products made by Mexican industries not involving U.S.- made and cut fabrics. The accord eliminates 33 U.S. quotas, covering 52 product categories, imports of which total about \$115 million, or 15 percent of total imports from Mexico in 1989.³⁷¹ It also liberalizes quotas on an additional 60 percent of Mexican textile and apparel trade flows to the United States (based on 1989 trade) by increasing these quotas and by changing some specific limits (SLs) to more liberal, designated consultation limits (DCLs). SLs are set for the duration of the agreement; DCLs can be increased upon consultation between the two Governments.

A conflict over bilateral textile trade developed on October 23, 1990. On that day, on short notice, Mexico put labeling regulations in place on finished textile imports. These regulations require a permanently affixed, woven label on all imports of textile and apparel products, using Spanish language and metric

³⁶⁸ "Fast track" means that, if Congress approves the use of this provision for the FTA, the administration must return with a negotiated package within 2 years. At this point, Congress can either accept or reject the treaty without amendments.

"Fast-track" consideration of trade agreements is provided for by the Omnibus Trade and Competitiveness Act of 1988.

³⁶⁹ Following a formal declaration of the United States, Canadian, and Mexican heads of state on Feb. 5, 1991, proposing the creation of a North-American FTA, on Feb. 6, 1991, the Senate Finance Committee opened a series of hearings on the FTA and the question of the President's "fast-track" authority to negotiate it. Carla A. Hills, United States Trade Representative, and several representatives of U.S. business testified in favor of the FTA and "fast-track." The AFL-CIO and representatives of environmental concerns were the principal witnesses for the opposition. Hearings on the same subject were also held in the Ways and Means Committee of the House of Representatives.

³⁷⁰ See also USITC, *OTAP, 39th Report, 1987*, USITC Publication 2095, July, 1988, p. 4-36.

³⁷¹ USITC, *Monthly Import/Business Review*, August 1990, p. 7.

measurements and naming both the U.S. exporter and Mexican importer. U.S. textile exporters protested that these requirements are difficult to meet because the U.S. manufacturer may not be the exporter and products may be shipped to Mexico through a number of importers. Industry sources also claimed that meeting the new requirements would complicate distribution and involves significant additional cost.³⁷² The new Mexican labeling regulations have delayed shipments of U.S. exports and the dispute remained unresolved by the end of the year under review.³⁷³ Textile manufacturers constitute one of the few U.S. business groups that are concerned about the adverse impact of an FTA on their interests.

Intellectual Property Rights

On January 24, 1990, the United States removed Mexico from the "Priority Watch List" in response to announcements by the Mexican Government that proposed new legislation will improve Mexican protection of intellectual property rights (IPR). The U.S. Government placed Mexico on this list in May 1989, along with seven other countries that had insufficient IPR legislation or enforcement, under the "special 301 provision" of the Omnibus Trade and Competitiveness Act of 1988.³⁷⁴ United States Trade Representative Carla Hills stated at the time that the reason behind Mexico's removal from the list was that "the Mexican Government has demonstrated its firm belief in the need to protect intellectual property rights."³⁷⁵

The proposed legislative changes in Mexico include the immediate grant of product patents, broad-scope trade secret protection that could enable recourse against third-party use of illicitly obtained trade secrets, and respect for trademarks of foreign origin and the movement toward more effective enforcement of all intellectual property rights available in Mexico.³⁷⁶

At the 1990 summit meeting held on November 26 and 27, President Salinas reaffirmed his Government's previously stated intention to strengthen Mexico's patent, trademark, and copyright legislation. In 1990 the Mexican Congress introduced for consideration two bills that would upgrade copyright and patent

³⁷² Eugene J. Milosh, President, American Association of Exporters and Importers, statement, as reported by the *Journal of Commerce*, Dec. 7, 1990.

³⁷³ In March 1991, Mexico suspended parts of the labeling regulations until June 30, 1991, but the suspension has not clearly dropped the requirement that the name of the Mexican importer be identified on the label.

³⁷⁴ For additional information, see USITC, *OTAP, 41st Report*, p. 113, and *Review of Trade and Investment Liberalization Measures: Phase I*, USITC Publication 2275, April 1990, p. 6-1.

³⁷⁵ USTR, announcement of Jan. 24, 1990, p. 2.

³⁷⁶ Prior to 1987, Mexican law provided no trade secret protection. For years, the absence of such protection had been a key issue in bilateral consultations. Some of the U.S. concerns were first addressed when the Mexican patent and trademark law was amended in December 1986. For a detailed description of Mexico's IPR system, see USITC, *Review of Trade and Investment Liberalization Measures: Phase I*, pp. 6-1 through 6-17.

protection. However, they failed to pass by the end of the year and will have to be reintroduced. Thus, Mexico had yet to honor the IPR commitment made in January that prompted its removal from the "Priority Watch List."³⁷⁷ Representatives of some U.S. industries declared in the course of congressional hearings that their support for the President's "fast-track" negotiating authority for the FTA is contingent on Mexico's taking action on the promised reforms.³⁷⁸

Tuna Embargo

In 1990, a U.S. embargo placed on imported tuna for ecological reasons developed into a contentious issue between the United States and Mexico. As of the end of 1989, the U.S. Mammal Protection Act forbids tuna imports from any nation whose vessels have an incidental marine mammal taking rate that exceeds twice that of U.S. vessels.³⁷⁹ On August 28, 1990, the U.S. District Court of Northern California imposed an embargo on imports of tuna caught by Mexico for exceeding the specified limits. This meant that an earlier embargo against Mexican tuna caught in purse seine nets was reinstated.³⁸⁰ The action was prompted by the Earth Island Institute, a California non-profit corporation, which sought to enforce the requirements of the Mammal Protection Act for environmental reasons. On October 10, 1990, the court upheld the earlier embargo against Mexican tuna.

In response, Mexico has begun proceedings against the United States at the GATT. In court, Mexico has defended its fishing techniques by claiming that Mexican fishermen have already reduced the dolphin kill by 70 percent in recent years.³⁸¹ Officials of various U.S. Government departments also pointed out in affidavits submitted to the court that Mexico has made significant progress in curtailing dolphin deaths pertaining to its tuna finishing. Notably, the U.S. Justice Department had challenged the lower court's ruling on behalf of Mexico, arguing that the ruling had

³⁷⁷ In a Feb. 1, 1991 letter to the United States Trade Representative, three members of the House Ways and Means Committee pointed out that "We are concerned that the prospect of a free trade agreement may have the inadvertent effect of postponing progress in certain areas. We speak, in this regard, of Mexico's failure to live up to its commitment on the issue of copyright reform."

³⁷⁸ At a hearing of the Trade Subcommittee of the House of Representatives on Feb. 20, 1991, United States Trade Representative Carla Hills stated that Mexican patent legislation is expected to pass in the spring of 1991, and a copyright law protecting sound recording would follow soon after. The USTR also commented that the Mexican Government realizes that adequate IPR legislation is in the country's interest as it facilitates obtaining foreign investment. Therefore, the USTR said, self-interest assures that the Mexican Government will soon follow through.

³⁷⁹ Dolphins, which are air-breathing, generally swim above tuna; therefore some fishing fleets deliberately drop their purse seine nets on the dolphins to catch the tuna. This practice often results in the death or maiming of the dolphins caught in the net.

³⁸⁰ Other nations affected by the ban were: Panama, Venezuela, Ecuador, and Vanuatu.

³⁸¹ Mexico had exported tuna fish only since 1982. The Mexican tuna industry, like that of many other countries, began operations using nets that inadvertently captured dolphins.

put a strain on United States-Mexican relations at a time when the U.S. Government is pursuing a comprehensive FTA with Mexico.³⁸²

Generalized System of Preferences

Mexico is the leading beneficiary of the U.S. Generalized System of Preferences, enjoying duty-free access to the U.S. market under this program for a wide variety of products. Mexico was also the major beneficiary of the latest annual GSP review, announced on April 27, 1990.³⁸³ As a result of this review, Mexico gained new, restored, or expanded GSP eligibility amounting to \$1.97 billion, based on 1989 trade. Thirty-four of Mexico's 44 petitions for new products were favorably considered, and GSP eligibility has been restored on 209 Mexican products.

Taiwan

The Economic Situation in 1990

Taiwan's real economic growth for 1990 registered 5.3 percent, below the 7.2 percent forecast early in the year but above the dire predictions made in the wake of climbing oil prices. In current prices, Taiwan's gross national product (GNP) topped \$161.8 billion in 1990. Taiwan's Minister of Finance predicted in late 1990 that 1991 growth could be even slower if the economy continued to react to higher oil prices.³⁸⁴ The 1990 growth rate was Taiwan's slowest of recent years, down from 7.2 percent in 1989, 7.8 percent in 1988, and 11.9 percent in 1987.³⁸⁵ Continued sluggish growth for 1991—by Taiwan's standards³⁸⁶—was forecast by some, pointing to the combined effects of recent slower export growth of Taiwan and lower domestic investment in the 1980s. In 1987, for example, Taiwan's exports grew by 35 percent over the level of 1986, to reach \$53.6 billion. In 1988, exports grew by 13 percent, in 1989 by 9 percent, and in 1990 by 2 percent, to register \$67.2 billion. During the mid-1980s, gross fixed investment as a percentage of current price GDP fell to a 20-year low of 18.1 percent, rising to 21.6 percent in 1989.³⁸⁷

Between February and October 1990, Taiwan's stock market fell by 80 percent. Over the same period, the average daily trading volume fell by 89 percent, from NTD127 billion to NTD14 billion. U.S. analysts in Taipei expect that the decline in the stock market will have limited economic impact, because a relatively small share of capital is invested in Taiwan's stock market, and only 181 companies are listed on the

exchange.³⁸⁸ In response to the decline, the Taiwan Securities and Exchange Commission decided to speed up the opening of the exchange to foreign institutional investors. This step had been planned since 1983 as part a three-phase plan to liberalize the stock market.³⁸⁹

Taiwan's consumer price index rose by 4.1 percent in 1990, slightly lower than the 1989 rate of 4.4 percent. The 1990 rate, however, was still above that of previous years. For the period 1986-88, Taiwan's consumer price index (CPI) increase was 1.3 percent or lower. Inflationary pressures in Taiwan rose with the surge of oil prices that began in August.³⁹⁰ Taiwan authorities reported an official unemployment rate of under 2.0 percent in 1990, a level comparable with recent years.³⁹¹

As noted above, Taiwan's total exports topped \$67.2 billion in 1990, a level 2 percent above that of 1989. Taiwan's total imports in 1990 reached \$54.7 billion, or 7 percent above 1989 imports. Taiwan's 1990 exports as a share of current price GNP, at 42 percent, were at their lowest percentage in 5 years. During 1986-87, that share was at about 52 percent, falling to 48 percent in 1988 and to 44 percent in 1989. The declining share of exports in GNP may partly reflect policy of Taiwan authorities in the late 1980s to stimulate domestic demand and ease dependence of the economy on trade. The share of private consumption expenditure in GNP, based on current market prices, rose from 50 percent in 1979 to 52 percent in 1989.³⁹²

According to preliminary statistics, the United States remained Taiwan's major export market in 1990, accounting for 32.4 percent of Taiwan's exports. Europe registered second place, with 18.2 percent; Hong Kong third, with 12.7 percent; and Japan fourth, with 12.4 percent.³⁹³ Japan was Taiwan's primary source of imports in 1990, accounting for 29.2 percent. The United States was second, at 23.0 percent, and Europe, third, at 17.5 percent.³⁹⁴ Taiwan's trade deficit with Japan reached \$17 billion out of total bilateral trade of \$44 billion. To counteract the trade deficit with

³⁸² As of June 1989, for example, the capitalization of Taiwan 181 companies listed on the stock exchange was \$16 billion, or 6.3 percent of the aggregate net worth of Taiwan's companies. U.S. Department of State Telegram, Oct. 13, 1990, Taipei, message reference No. 6747.

³⁸⁹ The phases are (1) opening up in 1983 indirect foreign investment in the market via four Taiwan mutual funds listed on foreign stock exchanges, (2) allowing direct investment in the stock market by foreign institutional investors, and (3) permitting direct investment by both institutional and individual investors. Ibid.

³⁹⁰ American Institute in Taiwan, "Foreign Economic Trends and Their Implications for the United States: Taiwan." January 1991, p. 3. The monthly rise in the CPI for September and October was between 6 and 7 percent. U.S. Department of State, Oct. 23, 1990, Taipei, message reference No. 7021.

³⁹¹ Directorate General of Budget, Accounting, and Statistics, Executive Yuan, reported in *Free China Journal*, Mar. 14, 1991, p. 8.

³⁹² Business International, The Economist Intelligence Unit, *Taiwan Country Profile, 1990-91*, p. 13.

³⁹³ Taiwan's trade data with Hong Kong reveal the increasing transshipments through Hong Kong to China. U.S. Department of State Telegram, Jan. 24, 1991, Taipei, message reference No. 631.

³⁹⁴ Ibid.

³⁸² The embargo was upheld on appeal in Feb. 1991.

³⁸³ USTR, announcement of Apr. 27, 1990.

³⁸⁴ Business International, Economist Intelligence Unit, *Taiwan Country Report*, No. 4, 1990, p. 13.

³⁸⁵ Directorate General of Budget, Accounting, and Statistics, Executive Yuan, reported in *Free China Journal*, Mar. 14, 1991, p. 8.

³⁸⁶ During 1953-89, Taiwan's annual average real GDP growth was 8.8 percent.

³⁸⁷ Business International, The Economist Intelligence Unit, *Taiwan Country Profile, 1990-91*, pp. 12-14.

Japan, Taiwan enacted tariff increases in 22 import categories. Products subject to the tariff boosts were largely consumer goods.³⁹⁵ The increased tariffs under the October package did not include increases in tariff rates agreed to and bound at lower levels between the United States and Taiwan in previous trade discussions.³⁹⁶

Taiwan continued to run a current account surplus with the world in 1989 and the first 3 months of 1990. The surplus registered \$11.4 billion for 1989 and \$8.4 billion for January-September 1990—identical to the surplus for the corresponding period in 1989. The \$11.4 billion surplus level is below Taiwan's record surpluses of \$16.0 billion to \$18.0 billion during 1986-87.

In recent years, Taiwan has run high trade surpluses with the world, although the surpluses are decreasing. In 1990, for example, Taiwan's trade surplus with the

³⁹⁵ Products included in the tariff hike package as introduced in late 1990 were sweetfish, scallops, soy sauce, diapers, electrical cookers, other electro-thermic appliances, facsimile machines, audio disc players, other sound-reproducing apparatus, cassette tape recorders, video cameras, cameras with a through-the-lens viewfinder, electronic organs, other keyboard instruments, video games used with a television receiver, other coin- or disc-operated games, and articles for games (mainly "Pachinco"). See U.S. Department of State Telegram, Oct. 9, 1990, Taipei, message reference No. 6627.

³⁹⁶ *Ibid.*

world fell by 10 percent, to \$12.5 billion during a year with total trade of \$122 billion. Taiwan's major import categories in recent years have been agricultural and industrial raw materials, accounting for over 70 percent of all imports, capital equipment (about 16 percent), and consumer goods (10 to 12 percent).

Merchandise Trade With the United States

The U.S. bilateral trade deficit with Taiwan in 1990, at \$11.4 billion, reached its lowest point in the last 5 years. Total trade volume between the two countries surpassed \$33 billion in 1990. U.S. exports to Taiwan topped \$11.1 billion. U.S. imports from Taiwan slid to \$22.6 billion, their lowest level since 1986. United States-Taiwan trade was dominated by trade in manufactured goods (see table 16). In 1990, 97 percent of U.S. imports from Taiwan and 71 percent of U.S. exports to Taiwan were manufactured goods (SITC categories 5, 6, 7, and 8) (see fig. 9).

In 1990, Taiwan ranked as the ninth-largest U.S. export market. Total U.S. exports to Taiwan reached \$11.1 billion in 1990, up by 2 percent over the level of 1989. The leading items exported to Taiwan in 1990 were passenger vehicles (\$645 million), corn (\$543 million), digital monolithic integrated circuits (\$500 million), soybeans (\$411 million), oil (\$263 million), and airplanes (\$249 million). Leading items exported to Taiwan during 1988-90 are listed in table A-13.

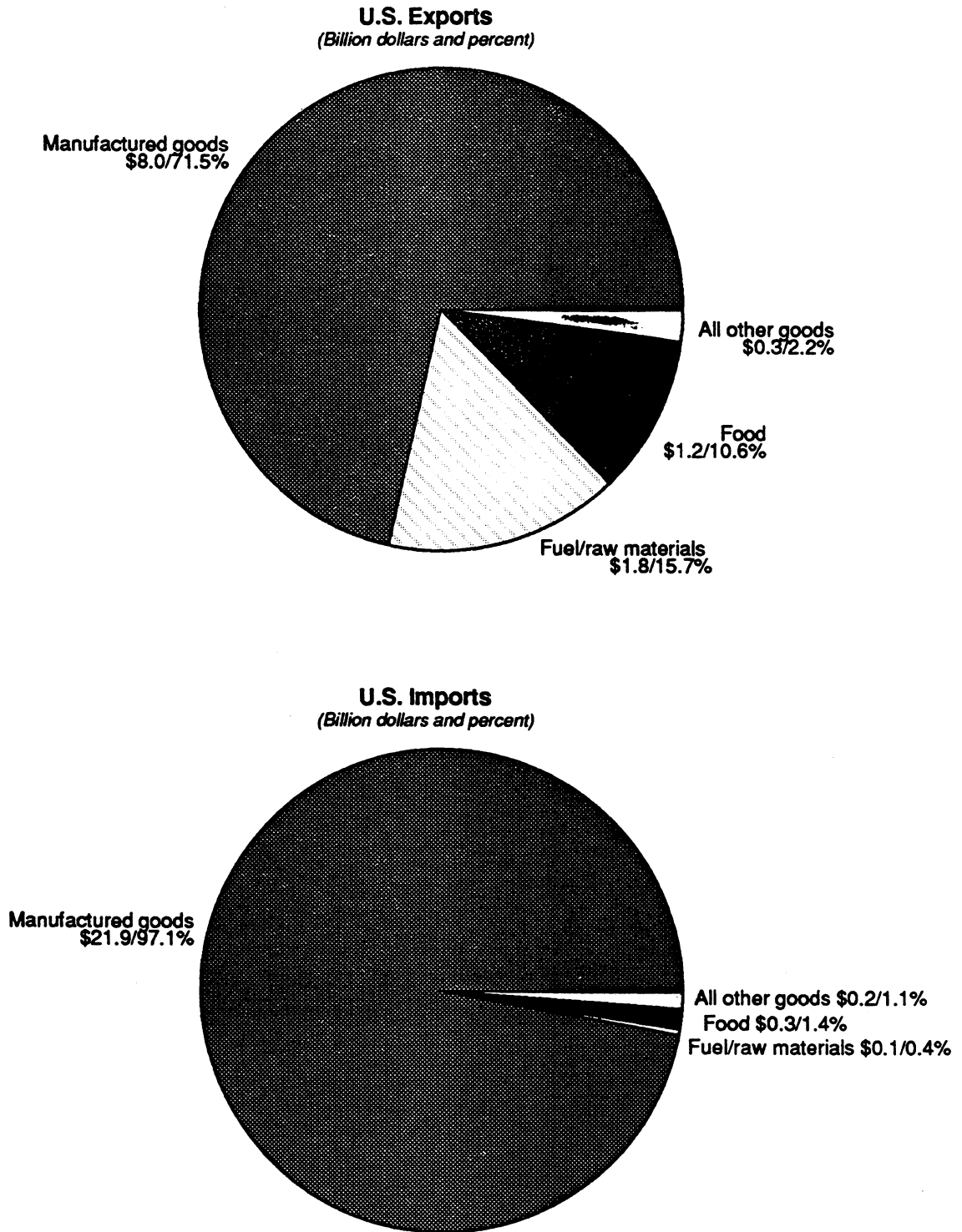
Table 16
U.S. merchandise trade with Taiwan, by SITC Nos. (Revision 3), 1988-90
(Thousands of dollars)

SITC section no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals	855,351	1,008,179	1,002,667
1	Beverages and tobacco	180,113	172,890	166,530
2	Crude materials, inedible, except fuels	1,438,596	1,361,493	1,263,611
3	Mineral fuels, lubricants and related materials	461,420	515,895	491,209
4	Animal and vegetable oils, fats, and waxes	11,690	13,998	5,338
5	Chemicals and related products, n.e.s.	1,516,073	1,750,791	1,529,415
6	Manufactured goods classified chiefly by material	537,954	753,551	821,177
7	Machinery and transport equipment	3,520,770	4,450,997	4,818,055
8	Miscellaneous manufactured articles	471,773	760,904	793,870
9	Commodities & transactions not classified elsewhere in SITC	2,605,547	185,999	250,085
Total all commodities		11,599,286	10,974,696	11,141,956
U.S. imports				
0	Food and live animals	418,201	343,800	309,222
1	Beverages and tobacco	3,192	2,988	3,996
2	Crude materials, inedible, except fuels	76,152	81,015	87,341
3	Mineral fuels, lubricants and related materials	5,634	265	102
4	Animal and vegetable oils, fats, and waxes	896	1,207	1,678
5	Chemicals and related products, n.e.s.	334,836	346,945	348,785
6	Manufactured goods classified chiefly by material	3,528,079	3,286,449	3,122,376
7	Machinery and transport equipment	9,212,455	9,186,267	9,037,344
8	Miscellaneous manufactured articles	10,856,283	10,746,993	9,404,559
9	Commodities & transactions not classified elsewhere in SITC	275,002	207,357	250,712
Total all commodities		24,710,730	24,203,285	22,566,115

Note.—Data before 1989 are estimated.

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

Figure 9
U.S. trade with the Taiwan by product sector, 1990



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

Taiwan ranked as the fifth-largest source of U.S. imports in 1990, down from its fourth-place rank of recent years. Total U.S. imports from Taiwan fell by 7 percent in 1990, to \$22.6 billion. The leading items imported from Taiwan in 1990 were ADP machines and parts (\$2.0 billion), footwear (\$1.1 billion), digital processing units with storage (\$510 million), bicycles (\$404 million), digital monolithic integrated circuits (\$390 million), wooden furniture (\$354 million), and sweaters (\$335 million). Leading items imported from Taiwan during 1988-90 are listed in table A-14.

Major Policy Developments Affecting Trade

Six-Year Economic Development Plan

In late 1990, Taiwan announced a 6-year economic development plan, which would cover the period 1991-96. The plan foresees boosting per capita GNP from \$8,026 in 1990 to \$13,975 in 1996. Other targets in the plan include GNP growth of 7 percent a year, inflation of 5.0 percent in 1991 and 3.5 percent or lower thereafter, and unemployment of just under 2.5 percent. Two of the main goals of the plan are a projected reduction in Taiwan's trade surplus and a fall in exports as a percent of GNP. These goals are anticipated by import growth faster than export growth. Under the plan, Taiwan exports would rise by 46 percent, to reach \$103.0 billion, whereas imports would increase by 60 percent, to top \$95.6 billion. As a result, Taiwan's trade surplus is projected to fall from a targeted \$10.5 billion in 1991 to \$7.4 billion in 1996. Exports as a percent of GNP would fall from 6 percent in 1991 to 2.5 percent in 1996.³⁹⁷

In addition to the targets for the economy, the plan defines certain structural changes for Taiwan. Financial liberalization is planned that would allow foreign investors to enter the local securities market, foreign banks to offer new services, and international capital transfers to be deregulated. Diversification of energy consumption away from petroleum would take place. Major antipollution projects would also be introduced. The plan projects reducing industrial pollution by 80 percent, by increasing waste-treatment capacity and developing the capacity to filter 330,000 metric tons of sulphur dioxide and 112,000 metric tons of carbon monoxide out of industrial and automotive exhaust annually.

The plan estimates total expenditure of \$476 billion for areas such as public works and industrial projects. The capital to finance this expenditure is expected to come from domestic sources, with some of Taiwan's \$70 billion in foreign reserves to be used for foreign procurement. Infrastructure projects included in the plan include a high-speed railway between the island's two main population centers (Taipei and Kaohsiung), a north-south superhighway, construction of 120,000

³⁹⁷ The economic development plan is summarized in U.S. Department of State Telegram, Nov. 14, 1990, Taipei, message reference No. 7570.

public housing units, construction of 5 water reservoirs, and conversion of 28,600 hectares of reserved agricultural land to industrial or other nonagricultural use.

The plan also specifies that large industrial projects will qualify for tax holidays and credits during 1991-96. Examples of qualifying investments are a \$550 million semiconductor plant, several steel mills valued between \$370 million and \$1.1 billion, plus industries such as aeronautics, auto parts, integrated circuits, optical fiber, information, metal materials, and special chemicals. Greater research and development expenditures are planned for industrial upgrading of existing industries (food processing, textiles, footwear, furniture, and toys/sporting goods) plus a focus on high-technology areas such as electronics, electrical and nonelectrical machinery, transportation equipment, and special alloys and chemicals.

Critics of the plan have focused on the 7-percent annual GDP growth rates, calling them overly optimistic for an economy entering a capital-intensive, high-tech stage. In addition, critics add that the plan underestimates the effects of the recent boom in overseas industrial investment by Taiwan-based investors.³⁹⁸ Small businesses say that the plan favors big business through incentives available only for large-scale investment projects.

GATT Application

On January 1, 1990, Taiwan applied for membership in the General Agreement on Tariffs and Trade. Taiwan sought membership under article XXXIII (accession)³⁹⁹ under the name "Taiwan, Penghu, Kinmen, and Matsu customs Territory,"⁴⁰⁰ instead of as an independent country. Taiwan reportedly sought this approach to membership in order not to antagonize the People's Republic of China, which has applied for GATT membership and also claims Taiwan as a part of China. Taiwan authorities describe Taiwan's bid to join the GATT as "entirely economic" and state that "the territory has no wish to provoke or antagonize Mainland China through its GATT application."⁴⁰¹ China criticized Taiwan's

³⁹⁸ After Taiwan authorities deregulated capital movement in July 1987, offshore investment rose from \$66 million in 1986 to \$7.0 billion in 1989. U.S. Department of State Telegram, Oct. 13, 1990, Taipei, message reference No. 6747.

³⁹⁹ Art. XXXIII (accession) states that—
A Government not party to this Agreement, or a Government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such Government and the Contracting Parties. Decisions of the Contracting Parties under this paragraph shall be taken by a two-thirds majority.

⁴⁰⁰ USA-ROC Economic Council, *ROC-USA Taiwan Economic News*, vol. 14, No. 2, April 1990, p. 31. Taiwan, Penghu, Kinmen, and Matsu are islands off the Chinese mainland administered by Taiwan authorities. The islands were taken over by Chinese Nationalist forces of President Chiang Kai-shek as the Communists rose to power on the mainland in 1949.

⁴⁰¹ "Bush Administration is Split on Taiwan Joining GATT," *New York Times*, Nov. 8, 1990, p. 7.

application as an "utterly illegal" request that should not be considered.⁴⁰²

According to Taiwan's statistics, Taiwan is the world's 13th-largest trader, with total trade of more than \$122 billion in 1990.⁴⁰³ Ambassador Carla A. Hills welcomed the application by stating that "we have a unique opportunity to bring under GATT discipline one of the last major market-price-based trading entities outside the GATT system."⁴⁰⁴

United States-Taiwan Bilateral Trade Issues

Tariffs

Taiwan's "Trade Action Plan" of February 1989 was designed to counteract the bilateral trade imbalance with the United States and to improve foreign access to Taiwan's market.⁴⁰⁵ The plan included a 3-year schedule of tariff reductions for Taiwan, which would lower Taiwan's average nominal tariff rate to 10.3 percent in 1989, 9.2 percent in 1990, and 8.1 percent in 1991. Taiwan lowered its average nominal tariff rate to 9.7 percent in 1989. Scheduled tariff reductions for 1990 failed to pass Taiwan's Legislative Yuan.⁴⁰⁶

Tariffs on certain items of export interest to the United States remain higher than Taiwan's average nominal tariff rate. Other products face import bans.⁴⁰⁷ The average nominal tariff rate for agricultural products is 23.2 percent. For example, tariffs of 40 percent exist on apples, avocados, fruit juices and drinks, and soups. Plywood faces tariffs of up to 20 percent, and small passenger cars face duties of 40 to 42.5 percent.⁴⁰⁸

Protection of Intellectual Property Rights

In May 1989, the Office of the USTR placed Taiwan, among others, on a "Priority Watch List" of countries that deny protection of intellectual property

⁴⁰² "China Takes Early Action to Block Taiwan's GATT Membership Application," *International Trade Reporter*, Jan. 24, 1990, p. 131.

⁴⁰³ Taiwan trade data reported in U.S. Department of State Telegram, Jan. 24, 1991, Taipei, message reference No. 631, and ranking reported in "ROC GATT Membership Will Benefit Whole World," *Free China Journal*, Dec. 20, 1990, p. 1.

⁴⁰⁴ "Bush Administration is Split on Taiwan Joining GATT," *New York Times*, Nov. 8, 1990, p. 7. United States-Taiwan relations are administered pursuant to the Taiwan Relations Act (Public Law 96-8, 93 Stat. 14), which was enacted after the United States established diplomatic relations with China in 1979.

⁴⁰⁵ For a discussion of the Trade Action Plan of February 1989, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 118.

⁴⁰⁶ USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, p. 205. The bill would have lowered Taiwan's average nominal tariff rate to 8.9 percent for 1991. USTR estimates that if Taiwan were to reduce its average nominal tariff rate to 8.9 percent in 1991 from the 9.7-percent level of 1990, U.S. exports would face a tariff savings of \$100 million to \$500 million. *Ibid.*, p. 206.

⁴⁰⁷ Import bans exist on rice, peanuts, small red beans and animal offals. Import restrictions also exist on poultry and pork, flour, and sugar. U.S. Department of State Telegram, Nov. 6, 1990, Taipei, message reference No. 7347.

⁴⁰⁸ USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, pp. 205-206.

rights (IPR) or deny equitable market access to those relying on such protection, the so-called "Special 301."⁴⁰⁹ Several measures that Taiwan took in 1989 to improve enforcement of IPR protection led USTR to determine that Taiwan had shown a "strong commitment" to protecting and enforcing IPRs. Therefore, USTR transferred Taiwan from the "Priority Watch List" to the "Watch List," where Taiwan remained through 1990.⁴¹⁰

In 1990, bilateral discussions with Taiwan focused on seeking improved enforcement of patent, copyright, and trademark laws. Inconsistent enforcement of IPR laws, long delays in prosecution of cases, and penalties insufficient to serve as a deterrent to future infringements have been some of the concerns of the United States.⁴¹¹

Distilled Spirits

In a December 3, 1990, petition, representatives of certain U.S. distillers filed a section 301 petition alleging that Taiwan maintained barriers to U.S. distilled spirits. The barriers, petitioners alleged, restricted the importation, distribution, and sale of U.S. distilled spirits in Taiwan, thereby limiting export opportunities to Taiwan.⁴¹² Taiwan later agreed to allow importation of distilled spirits from the United States and the EC. In response to Taiwan's market-opening measures, on January 11, 1991, the petition was withdrawn.⁴¹³

The plan announced by Taiwan permits importation of liquor from the United States and EC, as import bans on various products are phased out by January 1993. The plan outlined import tariffs⁴¹⁴ and regulations on advertisements, labeling, bulk imports, and sales

⁴⁰⁹ For a discussion of "Special 301" actions taken in 1989, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 6-7, and 117.

⁴¹⁰ *Ibid.*, p. 117.

⁴¹¹ USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, pp. 208-210. The administration noted in early 1991 that Taiwan authorities have worked to improve protection of IPR, with areas such as copyright and patent protection moving toward international standards. *Ibid.*

⁴¹² The Kentucky Distillers' Association, the Distilled Spirits Council of the United States, and the American Beverage Alcohol Association filed the petition. USTR, "Section 302 Petitions—No Investigation Initiated," Jan. 17, 1991, p. 6.

⁴¹³ "Distilled Spirits Industry Withdraws Its Section 301 Petition Against Taiwan," *International Trade Reporter*, Jan. 16, 1991, pp. 89-90.

⁴¹⁴ Tariffs were defined as follows: Irish and Scotch whiskeys, \$20.41 (550 NTD) per liter effective Apr. 1, 1991; other whiskeys, \$7.35 (198 NTD) per liter effective Apr. 1, 1991; cognac and armagnac, \$46.38 (1,250 NTD) per liter with Taiwan Tobacco and Wine Monopoly Bureau (TTWMB) accepting applications for import effective Jan. 1, 1993; other brandies, \$20.41 (550 NTD) per liter, with TTWMB accepting applications for import effective Jan. 1, 1993; rum, gin, vodka and other distilled spirits (excluding kaoliang, rice distilled spirits, other processed spirits and spirits processed with Chinese medicine) \$8.35 (225 NTD) per liter, TTWMB accepting applications for import effective Sep. 1, 1992; and distilled spirits preparations, \$1.67 (45 NTD) for alcohol content under 7 percent, \$4.42 (119 NTD) for alcohol content above 7 percent but below 20 percent, and \$8.35 (225 NTD) for alcohol content above 20 percent, with applications for import effect beginning Sept. 1, 1992. U.S. Dept. of State, Taipei, Mar. 4, 1991, message reference no. 1546, and Jan. 16, 1991, message reference no. 420. NTD converted to U.S. dollars using average 1990 exchange rate of 26.95 NTD/US\$.

promotions for distilled spirits.⁴¹⁵ USTR announced its intention to monitor implementation of the plans.⁴¹⁶

Exchange Rates

As required by the Omnibus Trade and Competitiveness Act of 1988, since October 1988 the U.S. Department of the Treasury has conducted semiannual reviews of exchange-rate policy of U.S. trading partners. These reviews examine whether such trading partners manipulate exchange-rate policy "for the purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade."⁴¹⁷

In April, the Treasury Report stated that there was no evidence of exchange-rate manipulation by Taiwan. The report did say, however, that the United States was—

concerned about Taiwan's unsustainably large external surpluses. The adjustment process must continue. Liberalization of remaining exchange and capital controls, and more broadly, exchange rate adjustment need to play a role in this process.⁴¹⁸

In December, the Treasury Department reported that it did not "obtain evidence that Taiwan usurps unfair competition and directly manipulates exchange rates." The Treasury report added, however, that capital flow restrictions in Taiwan, particularly on capital remittances and foreign-exchange transactions, hindered the full functioning of the foreign-exchange market in Taiwan and led to "indirect foreign exchange rate manipulation."⁴¹⁹ The Governor of the Taiwan Central Bank, Samuel Shieh, responded to that point by stating that "there is no need to raise the ceiling." He added that those who would need to send in capital in excess of the limit could get approval from the Central Bank quite easily.⁴²⁰ The Treasury said it planned to monitor the situation and to urge Taiwan authorities to

⁴¹⁵ U.S. Department of State Telegram, Jan. 7, 1991, Taipei, message reference No. 1546, and *Free China Journal*, Jan. 10, 1991, p. 7.

⁴¹⁶ USTR, *1990 Trade Policy Agenda and 1990 Annual Report of the President of the United States on the Trade Agreements Program*, p. 55.

⁴¹⁷ U.S. Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, Oct. 15, 1988. In October 1988 and April 1989, Treasury stated that Taiwan manipulated its exchange rate for such advantage, but found "no clear indications" of such manipulation in October 1989. See USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 117-118. See also Omnibus Trade and Competitiveness Act of 1988, Title III—International Financial Policy, Subtitle A—Exchange Rates and International Economic Policy Coordination.

⁴¹⁸ U.S. Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, Apr. 18, 1990, p. 29. Taiwan's current account surplus grew from \$9.2 billion in 1985 to \$18.0 billion in 1987, and declined to 11.4 billion in 1989. Business International, Economist Intelligence Unit, *Taiwan Country Report*, No. 4, 1990, p. 3.

⁴¹⁹ Taiwan maintains ceilings on annual inward remittances per entity of \$2 million and of \$5 million for outward remittances.

⁴²⁰ U.S. Department of State Telegram, Dec. 12, 1990, Taipei, message reference No. 8340.

liberalize capital and foreign-exchange-rate restrictions.⁴²¹

After the September 1985 Plaza Agreement,⁴²² the New Taiwan dollar (NT\$) appreciated from about NT\$40 per U.S. dollar to an average rate of about NT\$26 per U.S. dollar in 1989, or by about 35 percent. During 1990, the New Taiwan dollar-U.S. dollar exchange rate remained relatively stable at about NT\$27 per U.S. dollar.

Beef

During consultations with the United States on June 23, Taiwan agreed to reduce its tariffs on special-quality beef cuts from \$1.11 (NT\$30) to \$0.74 (NT\$20) per kg.⁴²³ Included under this arrangement were cuts of under 12 different trade categories including special-quality cuts from the rib, loin, rump, chuck, and round sections. Final implementation of the new tariff rates for all categories of special-quality beef cuts in the June agreement became effective Dec. 3, 1990.⁴²⁴

Republic of Korea

The Economic Situation in 1990

The growth rate of Korea's real GNP stood at 9.1 percent in 1990, up from the low—by Korean standards—level of 6.7 percent in 1989.⁴²⁵ Despite the rise, Korea's double-digit GNP growth of recent years (12 to 13 percent last seen during 1986-88) remained elusive. The 1990 growth rate was largely led by domestic demand:⁴²⁶ private consumption rose by 10 percent and gross fixed investment by 21.7 percent, and exports, Korea's traditional engine of growth, rose by a relatively modest 4.2 percent.⁴²⁷ However, this level of export growth compares with a decline of 5.2 percent for 1989, making the 1990 recovery in exports much stronger than 1990 performance in consumption (9.0 percent growth in 1989) and investment (16.2 percent in 1989). Preliminary estimates placed Korea's GNP per capita at \$5,500 for 1990, up from \$4,830 in 1989.⁴²⁸ Although the 1990 growth rate of 9.1 percent

⁴²¹ U.S. Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, December 1990.

⁴²² During a September 1985 meeting at the Plaza Hotel in New York, finance ministers from the major industrialized countries essentially agreed to support realignment of their currencies in a effort to achieve more balanced trade and economic performance.

⁴²³ New Taiwan dollars converted to U.S. dollars using average 1990 exchange rate of NT\$26.95 per U.S. dollar.

⁴²⁴ U.S. Department of State Telegram, Dec. 5, 1990, Taipei, message reference No. 8150.

⁴²⁵ The 1989 growth rate compelled President Roh Tae-Woo and other Government officials to speak of the Korean economy in terms of being in a "crisis." See "Special Report: South Korea's Emergence as a Trading Power Increases Pressure for More Open Markets," *International Trade Reporter*, Aug. 29, 1990, pp. 1344-1347.

⁴²⁶ Business International, *Economist Intelligence Unit, South Korea Country Report*, No. 4 (1990), p. 9.

⁴²⁷ Economic Planning Board, *Economic Bulletin*, No. 91-02, February 1991.

⁴²⁸ Dr. Il Sa-Kong, "Korea at a Crossroads," *Economic Insights*, Institute for International Economics, Washington, DC.

was higher than the previous year's level of 6.7 percent, Korean analysts expressed concern that domestic demand, and not foreign exports, was driving the economy, fuelled by "our" money, instead of "alien" money.⁴²⁹

Korea's consumer price index rose to 9.4 percent in 1990, putting the inflation rate at the highest level in nearly a decade. By comparison, the inflation rate for 1989 was 5.1 percent. The rise in inflation was attributed to such demand-side factors as an increase in consumer and housing demand—which were attributed to wage and property value rises of recent years. On the supply and cost side were wage increases exceeding gains in productivity, shortages of agricultural products brought about by severe weather conditions, and oil price increases ignited by the Persian Gulf War. Korea's unemployment rate stood at 2.5 percent for 1990.⁴³⁰

Korea's current account balance dropped from a record high surplus of \$14.2 billion in 1988 to \$5.1 billion in 1989, and ended 1990 in a deficit of \$2.1 billion. Over the same period, Korea's trade balance fell from a surplus of \$8.9 billion in 1988 to \$0.9 billion in 1989 and reached a deficit of \$2.1 billion in 1990. In 1990, Korea's exports rose by 3 percent over 1989 levels, to \$63.2 billion. Imports, however, climbed by 14.5 percent over 1989 levels, to \$65.1 billion. Much of the deterioration in Korea's trade and current account balances has been attributed to the oil price rise in the wake of Iraq's invasion of Kuwait. Korea imports all of its oil, which provides 50 percent of the country's energy needs. For the year, Korea's oil import bill rose by 30 percent.⁴³¹

Also contributing to Korea's trade imbalance was a fall in demand for Korean goods in the country's top two export markets. In 1990, U.S. imports from Korea fell by 6.3 percent, to \$18.3 billion. Korea's exports to Japan fell by 6.1 percent, to \$12.6 billion. Korea's imports from each country, however, rose by over 6 percent in 1990.

Merchandise Trade With the United States

Korea's trade patterns reflect the country's lack of abundant natural resources. In 1989, for example, Korea's imports consisted of raw materials (46 percent), capital goods (36 percent), consumer goods (10 percent), and petroleum (8 percent). Over 95 percent of Korea's exports, however, are manufactured goods, with the remainder accounted for by primary products. In recent years, the U.S. market has accounted for about 35 percent of Korea's exports; Japan, 21 percent; and the European Community, about 14 percent. Regarding Korea's import sources, other

⁴²⁹ "Special Report: South Korea's Emergence as a Trading Power Increases Pressure for More Open Markets," *International Trade Reporter*, Aug. 29, 1990, p. 1344.

⁴³⁰ Korea Economic Institute of America, *Korea's Economy*, 1991, vol. 7, No. 1, p. iii.

⁴³¹ Korea Economic Institute of America, *Korea Economic Update*, vol. 2, No. 1, spring 1991, pp. 1-4.

Asian countries account for about 39 percent; North America, about 29 percent; and Europe, over 12 percent. According to Korean Statistics, Korea's exports to the United States accounted for 31 percent of Korea's exports to the world of \$63.2 billion in 1990. The U.S. market accounted for 26 percent of Korea's worldwide imports of \$65.1 billion.⁴³²

The U.S. bilateral trade deficit with Korea in 1990 fell to \$4.3 billion, its lowest level in over 5 years. Total trade volume between the two countries exceeded \$32 billion in 1990. U.S. exports to Korea grew to \$14.1 billion in 1990. U.S. imports from Korea fell to \$18.3 billion, their lowest level since 1987. United States-Korea trade was dominated by trade in manufactured goods (see table 17). In 1990, 98 percent of U.S. imports from Korea and 63 percent of U.S. exports to Korea were manufactured goods (SITC categories 5, 6, 7, and 8) (see fig. 10)

In 1990, for the second year in a row, Korea was the sixth-largest market for U.S. exports. Total U.S. exports to Korea reached \$14.1 billion in 1990, up 7 percent over the previous year. The leading items exported to Korea in 1990 were bovine hides and skins (\$624 million), corn (\$604 million), digital monolithic integrated circuits (\$512 million), cotton (\$481 million), oil (\$454 million), and airplanes and parts (\$704 million). Leading items exported to Korea during 1988-90 are listed in table A-15.

U.S. imports from Korea fell by 6 percent in 1990, to \$18.3 billion. The decline lowered Korea from sixth- to seventh-largest source of U.S. imports that year. The leading items imported from Korea in 1990 were footwear (\$2.0 billion), digital monolithic integrated circuits, (\$1.4 billion), passenger motor vehicles (\$1.1 billion), articles of apparel of leather or composite leather (\$851 million), and input or output units for ADP machines (\$706 million). Leading items imported from Korea during 1988-90 are listed in table A-16.

Major Policy Developments Affecting Trade

Anti-Import Campaign.

During much of 1990, United States-Korea trade discussions focused on U.S. accusations that an "anti-import campaign" was being orchestrated by the Korean Government. In response to the campaign, the United States raised the possibility that a section 301 case may be brought against Korea. The campaign was designed to discourage Korean consumers from purchasing imported items. Initially directed at luxury items and designed to counter a growing deficit in Korea's current account, the campaign later included imported consumer goods, food, and industrial raw materials.

The Government of Korea responded that the lobbying of Korean consumers not to buy imports is a grassroots frugality movement against excessive

⁴³² Economic Planning Board, Government of the Republic of Korea, *Economic Bulletin*, February 1991, p. 22.

Table 17
U.S. merchandise trade with South Korea, by SITC Nos. (Revision 3), 1988-90

(Thousands of dollars)

SITC section no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals.....	849,797	1,217,330	1,194,519
1	Beverages and tobacco.....	67,841	119,830	118,513
2	Crude materials, inedible, except fuels.....	2,638,313	2,872,417	2,939,527
3	Mineral fuels, lubricants and related materials.....	307,134	344,282	719,503
4	Animal and vegetable oils, fats, and waxes.....	45,188	43,138	51,817
5	Chemicals and related products, n.e.s.....	1,372,627	1,641,681	1,689,909
6	Manufactured goods classified chiefly by material.....	789,676	1,043,655	978,844
7	Machinery and transport equipment.....	3,666,614	5,016,988	5,156,907
8	Miscellaneous manufactured articles.....	544,939	784,727	1,052,163
9	Commodities & transactions not classified elsewhere in SITC.....	99,306	123,694	172,182
Total all commodities.....		10,381,436	13,207,742	14,073,883
U.S. imports				
0	Food and live animals.....	263,179	188,325	176,012
1	Beverages and tobacco.....	23,943	9,149	5,452
2	Crude materials, inedible, except fuels.....	26,867	51,417	47,834
3	Mineral fuels, lubricants and related materials.....	14,606	24,988	9,572
4	Animal and vegetable oils, fats, and waxes.....	478	1,385	947
5	Chemicals and related products, n.e.s.....	187,547	184,881	251,971
6	Manufactured goods classified chiefly by material.....	2,322,073	2,027,936	2,101,079
7	Machinery and transport equipment.....	9,036,136	8,760,823	7,446,226
8	Miscellaneous manufactured articles.....	8,067,897	8,180,151	8,153,540
9	Commodities & transactions not classified elsewhere in SITC.....	129,262	137,670	144,326
Total all commodities.....		20,071,989	19,566,725	18,336,960

Note.—Data before 1989 are estimated.

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

consumption separate from the Government and solely the responsibility of consumer groups. According to the Korean Government, appeals to frugality are a common trait of public discourse in Korea's Confucian-influenced society. The Korean Government added that Koreans have traditionally equated imports with luxuries as, in the past, only the wealthy could afford them.⁴³³

U.S. administration officials maintained that the Government of Korea directed the campaign, and these officials believed it was designed to protect Korean producers. The beginning of the campaign followed appointment of a new team of economic policymakers in March. Shortly thereafter, these policymakers criticized conspicuous consumption and real estate speculation. They warned that buyers of imported cars or Koreans traveling abroad would face tax audits.

U.S. officials were also concerned that the campaign made Korea appear not to be fulfilling its market-liberalization obligations, which headed off retaliation under super 301 earlier this year. In late November, administration sources said that a section

301 investigation may be started if the issue is not resolved. Cho Soon, a special envoy of the president of South Korea, reiterated to Ambassador Carla Hills on December 19 that the campaign was designed to curtail consumer consumption of luxury items and would not be allowed to turn into an anti-import campaign. On December 29, Ambassador Hills said that "if we do not get a change in policy, we will certainly withdraw concessions that would otherwise be available to the Koreans."⁴³⁴

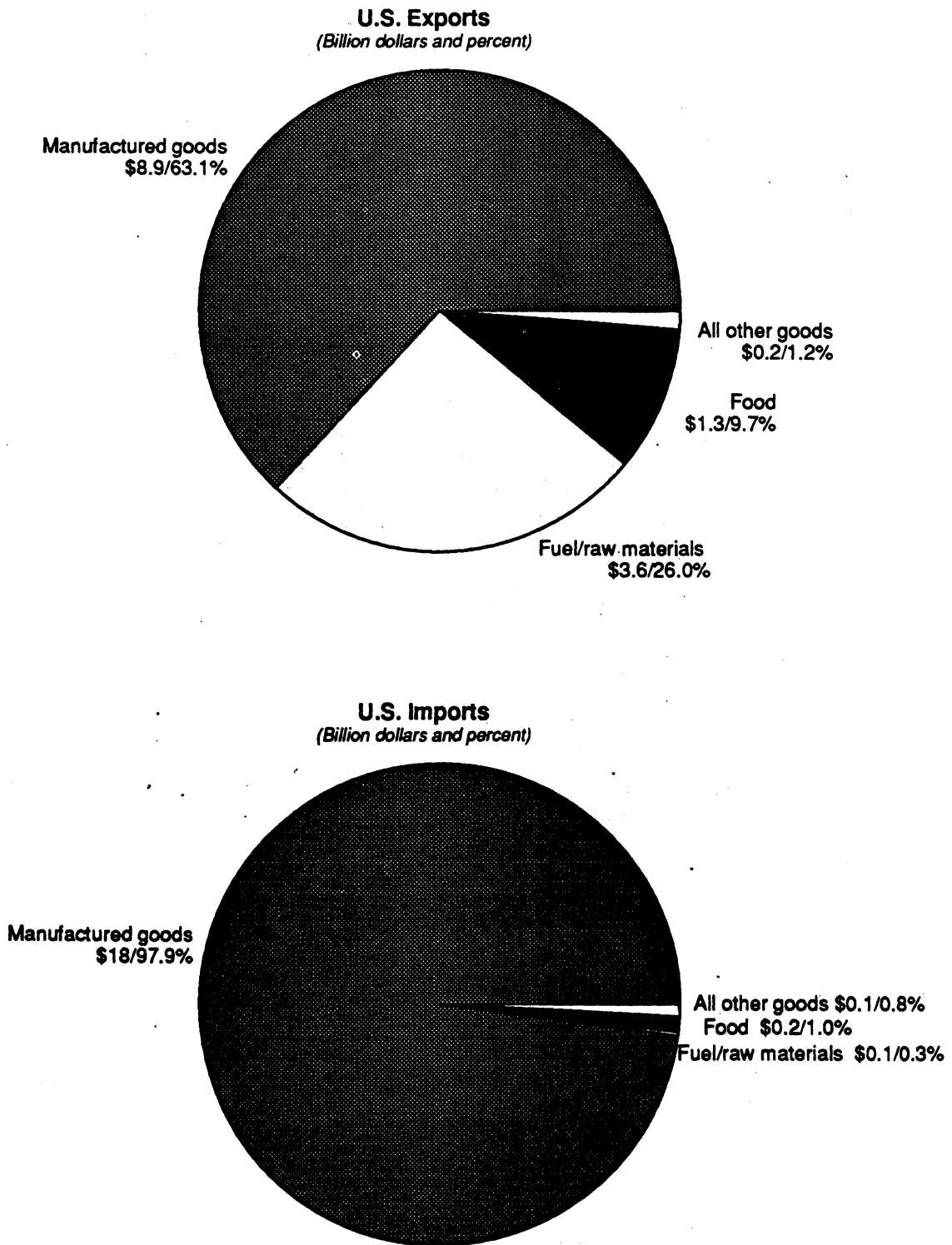
The result of the campaign, reportedly, included the closing of boutiques specializing in foreign clothing, removal of U.S. appliances from department store floors, reduced import and marketing of foreign goods, and remodeling of major department stores in Seoul after removal of imported items from floors and shelves. Sales in Korea of U.S.-made Mercury Sable cars, at one time robust, have slumped in recent months. Sales of Hyundai's top-of-the-line car, however, have reportedly not fallen. European exports of leather goods, cosmetics, fashion garments, and Japanese exports of kitchen and bath products also suffered from the drive. In the fall, the campaign was

⁴³³ Korean Ministry of Trade and Industry, "Korea's Trade Policy and Its Implications for U.S.-Korean Trade," November 1990, p. 17.

⁴³⁴ "U.S. Plans to Retaliate Against Korea if Its Trade Policy Remains Unchanged," *International Trade Reporter*, Jan. 2, 1991, pp. 4-5.

Figure 10

U.S. trade with the South Korea by product sector, 1990



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

widened to include imported fruits, vegetables, and industrial raw materials.

Restrictions on Trade in Agricultural Products

Korea remains a major market for bulk U.S. agricultural products. In FY1990, Korea was the fifth-largest market for agricultural and wood products, 86 percent of which were feed grains, cotton, wheat, soybeans, and hides and skins. Exports of high-value and value-added agricultural products, however, face an array of quantitative, phytosanitary, and food safety restrictions, and export volumes are consequently limited.⁴³⁵

In 1989, Korea agreed to begin lifting quantitative restrictions on 243 agricultural and fishery and 30 manufactured products.⁴³⁶ Quantitative restrictions on certain types of fruits, vegetables, fruit juices, beef, paper, and solid wood products continue to be of U.S. export interest.⁴³⁷ On October 19, Korea announced that phytosanitary problems surrounding pecans had been overcome and that imports would be allowed upon implementation of the decision.⁴³⁸

Against the backdrop of the anti-import effort, a campaign to discourage consumers from purchasing imports of agricultural products developed. U.S. officials contend that food imports into Korea are subject to various phytosanitary restrictions that are frequently not related to food safety concerns. Imported Kiwi fruit, for example, have been subject to an additional 2 weeks of cold storage after a mandatory 4 months of already-required cold storage. California raisins that were coated with vegetable oil, used to inhibit sticking, were rejected. Imported oranges are subject to a 50-percent tariff and are restricted to hotel use only. The California-Arizona Citrus League estimates that lifting the ban would mean an increase of \$22 million in U.S. exports to Korea.⁴³⁹ Adding further tension to the bilateral atmosphere, in late 1990 the Ministry of Agriculture distributed a comic book to school children designed to convince Koreans that imported food is poisonous.

Improving Trade Relations With China and the Soviet Union

In October, Korea and China formally agreed to open trade-promotion offices in each other's capital. The trade offices will be run by the Korea Trade Promotion Corporation and the China Council for the Promotion of International Trade. Of the initial Korean staff in Beijing of about 20 officials, half will have diplomatic immunity.⁴⁴⁰ Establishment of the office

⁴³⁵ USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, p. 140.

⁴³⁶ *Ibid.*

⁴³⁷ For details of specific products, see *ibid.*

⁴³⁸ Implementation was still pending as of January 1991. U.S. Dept. of State Telegram, Jan. 11, 1991, Seoul, message reference No. 320.

⁴³⁹ "Policies of South Korea, Japan Lead List of Those Recommended for Super 301 Review," *International Trade Reporter*, Feb. 28, 1990, p. 285.

⁴⁴⁰ FBIS, *Daily Report: East Asia*, Oct. 22, 1990, p. 31, and Nov. 2, 1990, p. 31.

and other direct links between the two countries comes at a time when trade between Korea and China continues to grow. During the first 6 months of 1990, Korea exported about 690 million dollars' worth of goods to China, according to Korea's Ministry of Trade and Industry. Imports from China topped \$960 million during the same period. For 1989, China was Korea's sixth-largest export market and eighth-largest import source.⁴⁴¹ Indirect trade through third countries such as Hong Kong was reportedly as high as \$3.2 billion in 1989.⁴⁴²

Korea's relations with the Soviet Union improved at a rapid clip in 1990, as South Korean President Roh Tae-Woo met with Soviet President Mikhail Gorbachev in San Francisco in June. On September 30, the two countries established diplomatic relations.⁴⁴³ President Roh visited Moscow in December. A reciprocal visit by President Gorbachev took place in April 1991. The two countries concluded an investment agreement in December, which included provisions for equal access by Korean investors in the Soviet Union, remittance of profits, and dispute settlement.⁴⁴⁴ The agreement was signed during President Roh's visit to Moscow.

In an effort to facilitate growing bilateral trade, Korea and the Soviet Union in 1990 concluded a trade agreement that included granting each other most-favored-nation treatment, a commitment of nondiscrimination in applying import quotas, granting trade licenses, and allocating currency to pay for imports. Two-way trade between the Soviet Union and Korea reached nearly \$600 million in 1989 and was expected to top \$1 billion in 1990.⁴⁴⁵ Korea's 1989 \$30 billion trade surplus with the Soviet Union was attributed to Soviet purchases of Korean consumer goods.⁴⁴⁶ Other non-market-economy countries that South Korea has recently signed trade agreements with include Hungary, Poland, Bulgaria, Czechoslovakia, and Romania.⁴⁴⁷

United States-Korean Bilateral Trade Issues

Tariffs

Korea's tariffs have been a topic of bilateral discussion for several years. In 1989, Korea implemented its second five-year tariff-reduction plan.⁴⁴⁸ This plan, originally designed to run from

⁴⁴¹ See FBIS, *Daily Report: East Asia*, Aug. 22, 1990, p. 26.

⁴⁴² "South Korea and China Will Open Trade Offices," *New York Times*, Oct. 21, 1990, p. 20. Based on trade statistics measuring direct and indirect trade, Korea projects bilateral trade with China in 1991 to top \$9.4 billion. "Korea's Trade With China," *Korea News Review*, Oct. 27, 1990, p. 5.

⁴⁴³ For more details regarding establishment of diplomatic relations between Korea and the Soviet Union, see "Korea, Soviet Union Establish Diplomatic Relations," *Korea News Review*, Oct. 6, 1990, pp. 4-5.

⁴⁴⁴ "Seoul-Moscow Initial Investment Pact," *Korea News Review*, Dec. 15, 1990, p. 13.

⁴⁴⁵ "Roh-Gorbachev Talks Could Help Seoul With Several Crucial Issues," *Asian Wall Street Journal*, June 4, 1990, p. 4.

⁴⁴⁶ See FBIS, *Daily Report: East Asia*, Sept. 17, 1990, p. 36.

⁴⁴⁷ *Ibid.*

⁴⁴⁸ The first five-year tariff-reduction plan (1984-88) reduced Korea's average tariff rate from 23.7 percent to 18.1 percent. For details, see USTR, *1989 National Trade Estimate Report on Foreign Trade Barriers*, p. 115.

1989 to 1993, is scheduled to reduce the average tariff rate to 7.9 percent. In 1990, the Ministry of Finance proposed a 1-year delay in implementation of the plan, to make up for unanticipated revenue shortfalls. The National Assembly approved the revision, and the second five-year tariff-reduction plan is scheduled to last until January 1, 1994.⁴⁴⁹ High duties remain on many high-value agricultural products of export interest to the United States. For example, 50-percent tariffs are levied on most fresh fruits and fruit juices, Kiwi fruit, peaches, and grape juice. Raisins and almonds face 35-percent tariffs in Korea.⁴⁵⁰

Telecommunications

Korea annually exports about \$500 million in telecommunications equipment to the United States, although, according to the Bush administration, U.S. firms face very limited access to the Korean market for telecommunications equipment and services.⁴⁵¹ Problem areas center on Government monopoly providers of services, burdensome testing and standards, and high tariffs.

In 1989, Korea was named under section 1374(a) of the 1988 Omnibus Trade and Competitiveness Act as allegedly engaging in unfair trade practices regarding U.S. telecommunications goods and services.⁴⁵² The issues under resulting discussions included Korea's alleged restrictions on the sale of value-added telecommunication services by foreign vendors, government procurement policies regarding telecommunications goods and services, and standards.⁴⁵³

On March 9, 1990, the President decided to delay for at least a year retaliation against Korea on this issue.⁴⁵⁴ The President, in announcing his decision to continue discussions with Korea, both bilaterally and in the Uruguay Round said he was doing so to avoid "jeopardiz[ing] not only current progress but also prospects for future liberalizing actions of specific interest to the United States."⁴⁵⁵ Korea's progress, the President said, included approval of a 5-year tariff-reduction plan, adoption of a standards approval process, intention to join the GATT's Government Procurement Code, and intention to liberalize its service market.

⁴⁴⁹ USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, p. 139.

⁴⁵⁰ Temporary tariff reductions were granted to certain products in 1989, including almonds, avocados, pistachios, and raisins (40 to 35 percent); red and white wines (50 to 35 percent, and to 25 percent in 1991), and certain grains for seed (rye, oats, grain sorghum, 5 to 0 percent). *Ibid.*

⁴⁵¹ USTR, *1990 Trade Policy Agenda and 1989 Annual Report of the President of the United States on the Trade Agreements Program*, pp. 40-41.

⁴⁵² For more discussion of this subject, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, pp. 119-120.

⁴⁵³ See USTR, *Foreign Trade Barriers*, 1990, p. 135.

⁴⁵⁴ See *Weekly Compilation of Presidential Documents*, Mar. 9 1990, vol. 26, p. 394.

⁴⁵⁵ *International Trade Reporter*, Mar. 14, 1990, p. 382.

Beef

Bilateral trade disputes on the subject of beef have existed for a number of years. In February 1988, the American Meat Institute filed a section 301 petition alleging that Korea maintains a restrictive licensing system on imports of all bovine meat, in violation of GATT article XI.⁴⁵⁶ In May 1989, a GATT panel ruled that Korea's beef import quotas were inconsistent with the General Agreement. In November 1989, Korea accepted the ruling, clearing the way for bilateral consultations to begin on implementing the panel's results.⁴⁵⁷

Import restrictions had been justified by Korea under GATT article XVIII(b), the balance-of-payments (BOP) exemption. Korea agreed to "graduation" from the BOP import restrictions, and GATT gave Korea 7-1/2 years to phase out its restrictions on over 450 items. On March 21, 1990, the United States and Korea reached agreement on a plan for opening Korea's market to U.S. beef. Retroactive to January 1, 1990, the pact boosts Korea's beef quota from its 1989 level of 50,000 metric tons to 58,000 metric tons in 1990, to 62,000 metric tons in 1991, and to 66,000 metric tons in 1992.⁴⁵⁸ The Government of Korea reportedly expanded the 1990 beef quota to 80,000 metric tons in August 1990 in response to increasing demand.⁴⁵⁹

The agreement contains a provision for a "simultaneous buy-sell" (SBS) system designed to allow U.S. producers to sell 7 percent of the beef exported to Korea directly to beef sellers in Korea, bypassing the Livestock Products Marketsellers Organization, the state monopoly. Most of the 7 percent of beef sold to Korea under this exemption would initially be high-grade beef sold to hotels and restaurants. The United States, in return for the Korean action, agreed to terminate the section 301 case.⁴⁶⁰ Korea agreed that industry-to-industry talks including Korea, the United States, Australia, and New Zealand were to reach a settlement on implementation of the SBS system by October 1. That date was later extended to December 31, but as of yearend, no agreement on implementation of the SBS had been reached.^{461 462}

Exchange Rates

Under the Omnibus Trade and Competitiveness Act of 1988, the Treasury Department is required to submit to Congress twice a year a review on the international economic and exchange-rate policy of U.S. trade partners.⁴⁶³ In its report, the Treasury

⁴⁵⁶ For a history of this case, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 137.

⁴⁵⁷ USTR, *Foreign Trade Barriers*, 1990, p. 129.

⁴⁵⁸ *International Trade Reporter*, Mar. 21, 1990, pp. 404-405, and Mar. 28, 1990, pp. 428-429.

⁴⁵⁹ Foreign Broadcast Information Service (FBIS) *Daily Report: East Asia*, Nov. 8, 1990, p. 29.

⁴⁶⁰ *International Trade Reporter*, Mar. 21, 1990, pp. 404-405, and Mar. 28, 1990, pp. 428-429.

⁴⁶¹ U.S. Department of State Telegram, Jan. 11, 1991, Seoul, message reference No. 320.

⁴⁶² For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

⁴⁶³ Omnibus Trade and Competitiveness Act of 1988, Title III—International Financial Policy, Subtitle A—Exchange Rates and International Economic Policy Coordination.

Department is to determine whether countries use capital controls to manipulate their currency to obtain an unfair trade advantage.

In April 1990, the Treasury report noted that Korea had introduced exchange reforms in March and had held policy talks with the United States in February that were designed to increase access for U.S. banks and securities firms in the Korean market.⁴⁶⁴ On release of the April report, Treasury Under Secretary for International Affairs David Mulford said that "since the introduction of the new exchange rate system, there is a lack of evidence of continued direct government 'manipulation' of the exchange rate."⁴⁶⁵

In November 1990, the Treasury Department said that Korea does not manipulate its currency and has moved toward a more market-influenced exchange rate, but that restrictions on buying and selling the Korean currency (won) insulate it from market forces.⁴⁶⁶

Protection of Intellectual Property Rights

In May 1989, Korea was placed on the "priority watch list" under special 301 provision over lack of protection of intellectual property rights. In particular, the United States expressed concern about inadequate enforcement of IPR laws, problems with the patent law, and lack of protection for semiconductor mask works.⁴⁶⁷ Improved enforcement of IPR laws was largely responsible for Korea being moved from the "priority watch list" to the "watch list" on November 1, 1989. In April 1990, Korea was retained on the "watch list." Actions Korea took to prevent such a designation included (1) creating a task force to improve coordination among its ministries on IPR protection, (2) designating special enforcement teams of police and prosecutors, (3) instituting vigorous search and seizure efforts, and (4) prosecuting violators.

According to USTR, a "dramatic" improvement has taken place in legal protection for intellectual property in the past 5 years.⁴⁶⁸ The Government of Korea maintains that "strenuous" enforcement of such laws takes place.⁴⁶⁹ Inconsistent enforcement of IPR laws and penalties insufficient to deter future

⁴⁶⁴ U.S. Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, p. 4.

⁴⁶⁵ "Senate Banking Panel Hears Treasury Report on Currency Changes in Japan, Taiwan, Korea," *International Trade Reporter*, Apr. 25, 1990, vol. 7, p. 599.

⁴⁶⁶ U.S. Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, December 1990.

⁴⁶⁷ Legislation to protect designs of semiconductor chips is expected to be submitted to Korea's National Assembly in 1991 and implemented in 1992. USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, p. 145.

⁴⁶⁸ "Intellectual Property Rights Protection in Korea, Taiwan, and Thailand Surveyed," *International Trade Reporter*, vol. 7, pp. 812-813.

⁴⁶⁹ For example, regarding counterfeiting, the Korea Intellectual Property Office (KIPO) reported in late 1990 that 63 crackdowns had netted 1,018 fake product makers and confiscation of 325,000 counterfeit items. "Korea No Longer Haven for Pirated Name-Brands," *Korea News Review*, Dec. 1, 1990, p. 21.

infringements remain a concern of the U.S. Government.⁴⁷⁰

Trademark registration in Korea has been plagued by inconsistent determination of a "well-known" trademark. The trademark law in Korea has few written regulations regarding the provisions. Korean authorities, therefore, exercised considerable discretion in administering it. In 1990, some specific trademark disputes were settled. Also in 1990, Korea began compiling a list of internationally "well-known" trademarks to protect.⁴⁷¹

Other IPR areas of concern to the U.S. Government are video and textbook piracy and counterfeiting, protection of trade secrets, and patent protection. The U.S. Government has encouraged Korea to apply international standards regarding licensing of Korean distributors of such U.S. products. The market for pirated videos in Korea is estimated to be worth \$90 million a year and about \$124 million for counterfeit goods. U.S. customs seizes an estimated \$10 million of Korean counterfeit goods every year.⁴⁷²

Korean law does not protect trade secrets. The Korean Industrial Property Office (KIPO) recently announced its intention to draft such a law. The legislation is expected to be submitted to the National Assembly in 1991. According to USTR, Korea needs to amend its patent law to provide greater protection for U.S. pharmaceutical companies. The lack of bioequivalency testing for generic copies of drugs registered before January 1, 1989, has meant that Korean firms produce generic drugs in Korea without adequate testing, thus posing both a potential health threat to consumers and a commercial threat to the name of the original manufacturer. According to U.S. Government sources, this practice has led to lost markets for U.S. pharmaceutical firms.^{473 474}

Brazil

The Economic Situation In 1990

Brazil began and ended 1990 with hyperinflation and severe recession. The economy contracted by 4.5 percent in 1990, and the average annual inflation rate was 1,800 percent.⁴⁷⁵

Brazil's monthly inflation rate was in excess of 80 percent, and the economy was in a deep recession when president Fernando Collor de Mello took office in March 1990. Collor promised to "liquidate" inflation by introducing the Brasil Novo (New Brazil) economic

⁴⁷⁰ U.S. Dept. of State Telegram, Jan. 11, 1991, Seoul, message reference No. 320.

⁴⁷¹ Ibid.

⁴⁷² "Special Report: South Korea's Emergence as a Trading Power Increases Pressure for More Open Markets," *International Trade Reporter*, vol. 7, Aug. 29, 1990, p. 1346.

⁴⁷³ U.S. Dept. of State Telegram, Jan. 11, 1991, Seoul, message reference No. 320, and USTR, *1991 National Trade Estimate Report on Foreign Trade Barriers*, p. 145.

⁴⁷⁴ For further details, see "Enforcement of Trade Agreements and Response to Unfair Trade Practices" section in ch. 5.

⁴⁷⁵ Preliminary 1990 economic data from The Economist Intelligence Unit (EIU), *Brazil: Country Report*, No. 1, 1991, p. 5.

program that month,⁴⁷⁶ later dubbed the Collor plan—Brazil's fourth "economic stabilization" program since 1986.⁴⁷⁷ Following in the tradition of Brazil's recent history of unsuccessful economic programs, the 1990 Collor plan promised tight monetary policy, wage and price controls, and budget cuts to reign in inflation as well as a new currency unit, the cruzeiro,⁴⁷⁸ to remonetize the economy. Collor promised to raise revenues and reduce Government spending through key structural reforms, including paring back the Federal workforce, jump-starting Brazil's stalled privatization program⁴⁷⁹ to sell off⁴⁸⁰ money-losing state-run enterprises,⁴⁸¹ and, possibly, to resume Brazil's debt-for-equity swap program.⁴⁸²

⁴⁷⁶ U.S. Department of State Telegram, Mar. 27, 1990, Brasilia, message reference No. 03297.

⁴⁷⁷ Brazil's recent history of unsuccessful anti-inflation "economic stabilization" programs includes the Cruzado plan of February 1986, the Bresser plan of 1987, and the Summer plan of January 1989.

⁴⁷⁸ Prior to 1986, Brazil's currency was the cruzeiro. In February 1986 the currency was renamed the cruzado, which replaced the cruzeiro at the rate of 1,000 to 1 and was fixed at 13.85 to the U.S. dollar. In October 1986, Brasilia shifted from a fixed exchange rate to a crawling peg system with periodic "mini-" and "midi-devaluations" of the cruzado to compensate for inflation. The 1989 Spring plan created the cruzado novo (new cruzado), which replaced the cruzado at the rate of 1,000 to 1. The cruzeiro, as created in 1990, replaced the cruzado novo on a one-for-one basis. Although the cruzeiro was allowed to float freely, Central Bank domination of the foreign-exchange market made this a managed float, with little exchange-rate flexibility. In addition to the official exchange rate, there is a "parallel" currency market, based on Brazil's earnings from gems, gold, and agricultural commodities, and a black market exchange rate.

⁴⁷⁹ Brazil has a long history of Government intervention in industry. By 1982, the Government controlled nearly 70 percent of economic activity in Brazil's manufacturing sector, giving it the authority to set prices, establish production standards, and regulate salary levels. Government involvement in manufacturing occurred through state-owned corporations formed to undertake activities the private sector was unwilling to tackle, to preserve Brazilian control over areas deemed of vital national importance (such as computer technologies and petrochemicals), or to bail out failing private entities. EIU, *Brazil: Country Profile*, 1988-89, p. 32.

⁴⁸⁰ President Collor's economic team estimated that, at a targeted rate of one privatization per month, Brazil would save \$7 billion annually by selling off state-run enterprises. EIU, *Brazil: Country Report*, No. 3, 1990, p. 10.

⁴⁸¹ Brazil launched a privatization program in 1988. Budget-cutting efforts undertaken by the administration of President Jose Sarney put the Banco Nacional do Desenvolvimento Economico e Social (BNDES) in charge of selling off state firms. In October 1989, following charges of corruption in the program filed by a presidential candidate, President Sarney ordered BNDES to suspend any further sales of state firms until the next government assumed office in March 1990. EIU, *Brazil: Country Report*, No. 4, 1989, p. 7.

⁴⁸² Brazil launched a debt-for-equity swap program in March 1988. Debt swaps allow creditors holding Brazil's nonperforming or delinquent loans to exchange these loans for equity investments in Brazilian firms. In addition to securing new investors for Brazilian enterprises, the swaps allow the Brazilian Government to reduce its foreign debt service burden. Nearly \$7 billion of Brazil's external debt was exchanged for equity investments under this program in 1988, including swaps with U.S. creditors Chase Manhattan, Manufacturers Hanover Trust, and American Express Bank. EIU, *Brazil: Country Report*, Nos. 2 and 3, 1988. Brasilia formally terminated its role in the debt-equity swap program in January 1989 because of concerns that the swaps were adding to the Government's problems managing monetary policy. EIU, *Brazil: Country Report*, No. 2, 1990, p. 17.

The Collor plan offered no proposals for dealing with Brazil's \$110 billion foreign debt. When President Collor was inaugurated in March 1990, his administration inherited Brazil's \$5.5 billion arrearage⁴⁸³ on interest payments due to commercial bank creditors,⁴⁸⁴ on outstanding debt of an estimated \$60 billion,⁴⁸⁵ and debt owed to Paris Club official creditors.⁴⁸⁶ With over 75 percent of the country's foreign debt contracted at floating rates, Brazil is vulnerable to fluctuations in global interest rates.⁴⁸⁷ With debt arrears, Brazil was unable to obtain a new \$2 billion standby loan from the International Monetary Fund (IMF) in September 1990.⁴⁸⁸ Collor stated that Brazil would limit debt-service payments to \$5 billion in 1990, although interest due in 1990 was estimated to total \$9.7 billion, with another \$6.7 billion due in amortization.⁴⁸⁹ Brazil made no interest payments during 1990, but by late 1990 and early 1991 was close to an agreement to resume interest payments and arrears to commercial bank creditors.⁴⁹⁰

Collor's economic team startled the country by taking the unprecedented step of freezing nearly 80 percent of all banking assets and limiting withdrawals from bank and savings accounts to the equivalent of \$1,000 for 18 months.⁴⁹¹ To reinforce the liquidity squeeze, the newly minted cruzeiro was made available only to unblocked funds. Monthly inflation initially declined in response to tighter liquidity, dipping under 10 percent in May, but returned to double-digit levels after June, to rise over 18 percent in December,⁴⁹² as the public learned how to circumvent the banking

⁴⁸³ *Ibid.*

⁴⁸⁴ Brasilia stopped making interest payments on its commercial bank debt in July 1989 to preserve its hard-currency reserves and to guarantee that the country maintained sufficient foreign exchange to finance trade. Other measures taken to prevent a drain on hard-currency reserves include requiring that importers finance purchases for minimum periods of time (2 years or more for capital goods) to delay currency outflows from the central bank. Conversely, Brasilia required exporters to close their exchange contracts with the central bank within 20 days of shipment in order to minimize the time in which foreign exchange was placed in the central bank. See BNA, "Brazil's Lack of Hard Currency Restricts Imports, Experts Say," *International Trade Reporter*, July 4, 1990, p. 997.

⁴⁸⁵ "Mulford Advice to Brazil: Open Markets, Cut Arrears," *LDC Debt Report: Latin American Markets*, Apr. 1, 1991, p. 1.

⁴⁸⁶ EIU, *Brazil: Country Profile*, 1990-91, p. 46.

⁴⁸⁷ *Ibid.*

⁴⁸⁸ EIU, *Brazil: Country Report*, No. 1, 1991, p. 28. The IMF had suspended lending to Brazil under a \$1.14 billion standby program in 1989 because of the Government's failure to meet public sector deficit targets. EIU, *Brazil: Country Profile* 1990-91, p. 46.

⁴⁸⁹ EIU, *Brazil: Country Report*, No. 2, 1990, p. 17.

⁴⁹⁰ In March 1991, Brazil paid a \$350 million installment on its arrears, then totaling \$9 billion, to commercial banks as a show of interest in improving relations with the international financial community. "Mulford Advice to Brazil: Open Markets, Cut Arrears," *LDC Debt Report: Latin American Markets*, Apr. 1, 1991, p. 1.

⁴⁹¹ EIU, *Brazil: Country Report*, No. 2, 1990, p. 7.

⁴⁹² For data on inflation, see EIU, *Brazil: Country Report*, No. 1, 1991, p. 12.

freeze.⁴⁹³ Inflation declined again in the wake of higher oil prices following the outbreak of the crisis in the Middle East.⁴⁹⁴

Cuts in the Federal payroll and in some Government programs achieved only limited results.⁴⁹⁵ Collor abolished the Brazilian Coffee Institute, which had provided low-cost financing for coffee producers, only to transfer many of the institute's responsibilities to another government coffee agency, FUNCAFE. No state-controlled enterprises were privatized in 1990. The Brazilian Congress agreed to Collor's privatization program in April 1990, however delays proliferated because all of the major enterprises targeted for privatization had foreign creditors with whom financial arrangements had to be made.⁴⁹⁶ Plans to privatize the state-run steel company Usiminas, targeted as the first company to be sold in 1990, were delayed until 1991.⁴⁹⁷ The only income the Brazilian Government realized from the privatization program was through the sale of non-tradeable "privatization certificates" (PCs)—advanced sales of shares. Meanwhile, industrial production plummeted throughout 1990, especially in the manufacturing sector, as inflation rebounded and as the recession deepened. Continued unravelling of the economy and monthly inflation rates headed over 20 percent⁴⁹⁸ forced Collor to unveil a second economic stabilization program in January 1991.⁴⁹⁹

Regional Economic Cooperation

President Collor increased Brazil's level of participation in ongoing regional integration efforts in 1990. On July 6, 1990, the presidents of Brazil and Argentina signed the "Act of Buenos Aires,"⁵⁰⁰ an agreement to accelerate the economic integration

⁴⁹³ For a more detailed discussion of the unraveling of Collor's banking freeze, see EIU, *Brazil: Country Report*, No. 2, 1990, p. 8.

⁴⁹⁴ For a discussion of the impact of the Persian Gulf war and higher oil prices on Brazil's economy, see Julia Preston, "Latest Anti-Inflation Plan Leaves Brazilians Skeptical," *Washington Post*, Feb. 2, 1991, p. A12.

⁴⁹⁵ Brasilia "promised to balance its books by cutting public spending and increasing revenue—but did neither. Instead, the state went on spending the money that it had in effect compulsorily borrowed from the private sector." "Brazil: Laying the Blame," *The Economist*, Feb. 2, 1991, p. 41.

⁴⁹⁶ The Brazilian Congress nevertheless retained the right to veto specific selloffs. EIU, *Brazil: Country Report*, No. 2, 1990, p. 9.

⁴⁹⁷ EIU, *Brazil: Country Report*, No. 1, 1991, p. 25. Other state-run enterprises targeted for privatization include: Portobras (the port authority), Interbras (the international trading arm of Petrobras, the Brazilian state-owned oil company and largest trading company in the country), and several other Government-controlled steel companies.

⁴⁹⁸ January and February 1991 registered inflation rates of 19.9 percent and 21.9 percent respectively. EIU, *Brazil: Country Report*, No. 1, 1991, p. 12.

⁴⁹⁹ Thomas Karmm, "Brazil Unveils Anti-Inflation Measures Again," *Wall Street Journal*, Feb. 1, 1991, p. 8A.

⁵⁰⁰ "Argentina and Brazil: Free Trade Moves South," *The Economist*, July 14, 1990, p. 40.

process the two countries initiated in 1986.⁵⁰¹ This new agreement expanded the list of goods eligible for duty-free trade between the two countries. The agreement also advanced by 4 years the date for the establishment of a planned bilateral common market, to the end of 1994, and created a bilateral working group to coordinate macroeconomic policy in the interim.⁵⁰²

In late 1990, Brazil participated in meetings with ministers from Argentina, Chile, and Uruguay to explore the feasibility of a regional free trade zone and common market.⁵⁰³ Brazil, Argentina, Paraguay, and Uruguay pursued the discussions and drafted, but did not sign,⁵⁰⁴ a treaty targeting tariff-free intra-regional trade by 1995.⁵⁰⁵ In late 1990, the ministers of these four countries entered talks multilaterally with United States on a framework agreement under the U.S.-proposed Enterprise for the Americas Initiative.⁵⁰⁶

Foreign Trade Developments

Brazil experienced a disappointing year for foreign trade in 1990. The overall trade surplus totaled just over \$11 billion, representing a 31-percent decline from 1989. The lower surplus resulted both from lower exports and a record high level of imports.⁵⁰⁷

Exports fell to \$31 billion in 1990, their lowest level since 1988. Depressed prices caused export earnings to fall for Brazil's most important export commodities—coffee (down by 29 percent from \$1.5 billion in 1989 to \$1.4 billion in 1990) and soybeans (down by 21 percent from \$1.1 billion in 1989 to \$909 million in 1990). Labor disputes in key industrial sectors and the loss of some sales to the Middle East because of the Gulf War caused export volume to decline in the automotive sector, (exports of passenger cars were down nearly 45 percent from \$609 million in 1989 to \$336 million in 1990) and in the iron and steel industries (down by over 44 percent from \$1.3 billion in 1989 to \$753 million in 1990).⁵⁰⁸ Brazil's exports lost competitiveness during most of the year because the Collor administration's tight monetary policy caused the cruzeiro to appreciate in real terms, leading to overvaluation.⁵⁰⁹ President Collor's trade policy reforms, which dismantled the national export-credit agency and made trade credit difficult to obtain,

⁵⁰¹ Argentina and Brazil signed their first economic integration agreement in 1986. This agreement, signed within the framework of the Latin American Integration Association, entailed the signature of protocols covering trade in specific items such as grains, capital goods, and automobiles. Both countries also pledged to work toward the establishment of a binational common market by 1999.

⁵⁰² EIU, *Argentina: Country Report*, No. 4, 1990, p. 19.

⁵⁰³ "Four Southern Cone Countries Set Out on the Road Towards a Common Market," *Latin American Weekly Report*, Nov. 22, 1990, p. 1.

⁵⁰⁴ "Southern Cone: Christmas Target Set for Mercosur," *Latin American Weekly Report*, Dec. 13, 1990, p. 3.

⁵⁰⁵ The treaty was signed on March 26, 1991. James Bruce, "S. American Nations Ink Tariff Reduction Treaty," *Journal of Commerce*, Mar. 27, 1991, p. 10A.

⁵⁰⁶ See discussion on the Enterprise for the Americas Initiative in ch. 1.

⁵⁰⁷ EIU, *Brazil: Country Report*, No. 1, 1991, p. 3.

⁵⁰⁸ *Ibid.*, pp. 26-27.

⁵⁰⁹ *Ibid.*

also took a toll on 1990 export performance. Reduced export earnings for most products outweighed increased export earnings from Brazil's worldwide sales of iron ore (up nearly 8 percent from \$2.2 billion in 1989 to \$2.4 billion in 1990), raw sugar (up over 150 percent from \$113 million in 1989 to \$288 million in 1990), and concentrated orange juice (up 44 percent from \$1 billion in 1989 to over \$1.4 billion in 1990). Export performance improved only after October 1990, when Brasilia began letting the cruzeiro fully depreciate.

Despite the domestic recession, Brazil's imports reached a record \$20 billion in 1990. Higher priced oil added over \$1 billion to Brazil's 1990 import bill⁵¹⁰—accounting for about two-thirds of the increase in import costs. In addition, imports were encouraged by the overvalued exchange rate and by President Collor's trade-liberalization measures.⁵¹¹

Merchandise Trade With the United States

The United States remained Brazil's largest single trading partner in 1990, although the EC—by a slight margin—continues to be Brazil's principal trading market. Brazil's trade surplus with the United States declined by \$1 billion for the second consecutive year, hitting its lowest level since 1986, primarily because of declining Brazilian sales to the United States (table 18).

Brazil's exports to the United States declined to \$7.8 billion in 1990. Only sales in the categories of food and live animals and beverages and tobacco increased in 1990. Within this category, Brazilian orange juice exports to the United States more than doubled, reaching \$524 million in 1990.⁵¹² Brazilian juice benefited from a devastating Florida citrus crop freeze in 1989.⁵¹³ Sugar exports increased by over 500 percent from 1989, to over \$137 million. Other exports declined in value as Brazilian goods lost some of their competitive edge because of the country's rebounding inflation and overvalued exchange rate. Exports declining in value in 1990 included base metals, particularly tin; footwear; mineral products, led by noncrude oil; and vehicles, led by sharply lower exports of automotive parts and vehicles, which proved especially sensitive to declining global demand due to Brazil's overvalued exchange rate. In the course of the 1990 GSP annual review, the United States restored GSP eligibility for duty-free treatment to 90 products from Brazil, valued at \$345 million in 1990 trade.⁵¹⁴ As a share of imports from Brazil, the United States

⁵¹⁰ "Disappointing Surplus," *Latin American Weekly Report*, Feb. 7, 1991, p. 5.

⁵¹¹ See discussion on trade reforms below.

⁵¹² Brazil is the world's largest producer of oranges and orange juice. Brazil supplies about 90 percent of U.S. imports of orange juice concentrate. "The Future of the World Citrus-Fruit Market," *Latin American Economy & Business*, January 1991, p. 28.

⁵¹³ *Ibid.*

⁵¹⁴ For more detailed information, see discussion of product coverage changes relating to Brazil in 1990 under the U.S. GSP program in ch. 5.

imported a greater share of food—over 20 percent—than from any other major trading partner (figure 11).

Despite Brazil's record high level of total imports in 1990, imports from the United States of \$4.9 billion rose only slightly from 1989. U.S. exports of vegetable products—especially corn and rice—and prepared foodstuffs rose as a result of Brazil's poor 1990 crop year. However, stagnant demand for U.S. capital equipment in Brazil's depressed economy and the partial suspension of U.S. Export-Import Bank lending programs in Brazil⁵¹⁵ impeded U.S. export performance in 1990.

Leading individual items of bilateral trade with Brazil are shown in tables A-17 and A-18.

Major Policy Developments Affecting Trade

Overview

Brazil historically has maintained some of the highest protective tariffs in the world. Brazil also has erected many nontariff barriers, including (1) prohibiting imports of certain items; (2) protectionist import-licensing practices; (3) company-based and sectoral import quotas; (4) a market reserve policy for computers and computer software; (5) restrictions on foreign investment and foreign ownership in Brazil; (6) the lack of intellectual property protection; and (7) export subsidies.

Trade liberalization and the elimination of many tariff and nontariff barriers were key components of President Collor's March 1990 economic stabilization program. Both the 1990 Collor plan and its 1991 successor aimed to liberalize trade to increase the productivity and competitiveness of Brazilian industries, to encourage foreign trade, and to increase foreign investment in Brazil. These measures led to a significantly improved trading climate between Brazil and the United States throughout 1990.

Tariff Reductions

Brasilia initiated the first of several recent efforts to reduce its protective tariffs in 1988.⁵¹⁶ On March 15, 1990, as part of his economic stabilization program, President Collor stated his intention to conduct a major overhaul of Brazil's foreign-trade policies.⁵¹⁷ In June,

⁵¹⁵ The U.S. Export-Import Bank suspended cover on public sector loans in Brazil in October 1989. No changes or new restrictions were made for loans and guarantees to Brazil's private-sector customers. USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 125.

⁵¹⁶ Tariff schedule implemented July 1, 1988, initiated a phased decrease in the maximum tariff from 105 percent to 85 percent (however, the maximum 105-percent tariff was not entirely phased out). See U.S. Department of State Telegram, Dec. 7, 1989, Brasilia, message reference No. 14341. See also *OTAP, 40th Report*, USITC Publication 2208, July 1989, p. 133. Between July 1, 1988, and President Collor's inauguration, Brazil's average ad valorem tariff rate declined from 51 percent to 35 percent. See U.S. Department of State Telegram, Apr. 3, 1990, Brasilia, message reference No. 03581.

⁵¹⁷ U.S. Department of State Telegram, Mar. 27, 1990, Brasilia, message reference No. 03297.

Table 18
U.S. merchandise trade with Brazil, by SITC Nos. (Revision 3), 1988-90

(Thousands of dollars)

SITC section no.	Description	1988	1989	1990
U.S. exports				
0	Food and live animals	24,658	86,928	135,433
1	Beverages and tobacco	1,529	2,117	5,250
2	Crude materials, inedible, except fuels	189,761	227,055	193,987
3	Mineral fuels, lubricants and related materials	270,557	311,091	301,146
4	Animal and vegetable oils, fats, and waxes	6,751	27,976	10,257
5	Chemicals and related products, n.e.s.	643,764	773,714	896,782
6	Manufactured goods classified chiefly by material	152,796	228,036	237,557
7	Machinery and transport equipment	2,486,312	2,491,014	2,601,660
8	Miscellaneous manufactured articles	247,860	331,651	348,375
9	Commodities & transactions not classified elsewhere in SITC	82,272	156,527	146,014
Total all commodities		4,106,260	4,636,110	4,876,461
U.S. imports				
0	Food and live animals	1,765,491	1,365,933	1,472,881
1	Beverages and tobacco	129,186	105,710	105,939
2	Crude materials, inedible, except fuels	391,688	484,057	471,651
3	Mineral fuels, lubricants and related materials	714,809	705,984	507,317
4	Animal and vegetable oils, fats, and waxes	57,510	36,537	34,395
5	Chemicals and related products, n.e.s.	339,991	310,089	306,039
6	Manufactured goods classified chiefly by material	1,708,882	1,568,475	1,413,327
7	Machinery and transport equipment	2,475,096	2,324,564	1,993,122
8	Miscellaneous manufactured articles	1,402,588	1,490,447	1,381,855
9	Commodities & transactions not classified elsewhere in SITC	73,675	91,968	75,585
Total all commodities		9,058,916	8,483,765	7,762,112

Note.—Data before 1989 are estimated.

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

Collor announced a phased reduction in the maximum tariff rate from 105 percent to 40 percent and a reduction in the average tariff rate from 35 percent to about 20 percent by 1994.⁵¹⁸ Tariffs on raw materials, intermediate products, and some machinery and parts were immediately reduced from 20 percent to zero. Tariffs on textiles were halved.⁵¹⁹ Fearing that the Gulf War would add to import costs, Brasilia hesitated for several months in late 1990 before following through with additional tariff reductions.⁵²⁰ In December 1990, Brasilia temporarily lowered or reduced import duties, subject to renewal, on more than 100 additional products, including the machinery used in numerous industries and industrial processes.⁵²¹ Duties on 13,500 additional products were scheduled to be reduced or eliminated in February 1991 as part of President Collor's 1991 economic stabilization program.⁵²² By early 1991, Brasilia indicated its intentions to reduce the average tariff to 20 percent by the end of the year.⁵²³

⁵¹⁸ U.S. Department of State Telegram, June 28, 1990, Brasilia, message reference No. 07115.

⁵¹⁹ EIU, *Brazil: Country Report*, No. 3, 1990, p. 10.

⁵²⁰ EIU, *Brazil: Country Report*, No. 1, 1991, p. 11.

⁵²¹ "Brazil Eliminates, Cuts Import Duties," *Journal of Commerce*, Dec. 12, 1990, p. 8A.

⁵²² James Bruce, "New Brazilian Tariff Schedule Sets Reductions Over 4 Years," *Journal of Commerce*, Feb. 4, 1991, p. 3A.

⁵²³ EIU, *Brazil: Country Report*, No. 1, 1991, p. 11.

Prohibited Imports

Effective in May 1990, President Collor abolished Brazil's list of prohibited imports.⁵²⁴ Although quantitative restrictions were lifted, most goods on the list remained subject to tariffs, a \$2 billion ceiling on imports,⁵²⁵ and requirements for import licenses.⁵²⁶ Tariffs on some 300 goods on the list were increased for 1 year to prevent a surge in imports and to allow time for Brazilian industries to become more competitive. Brasilia has indicated that it will reduce

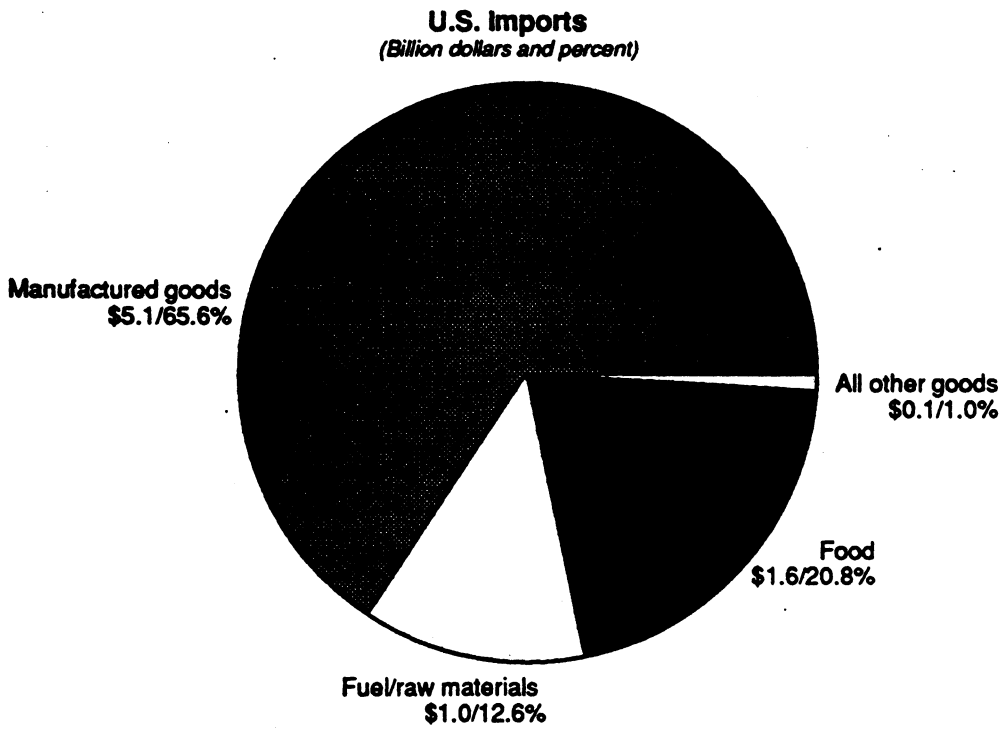
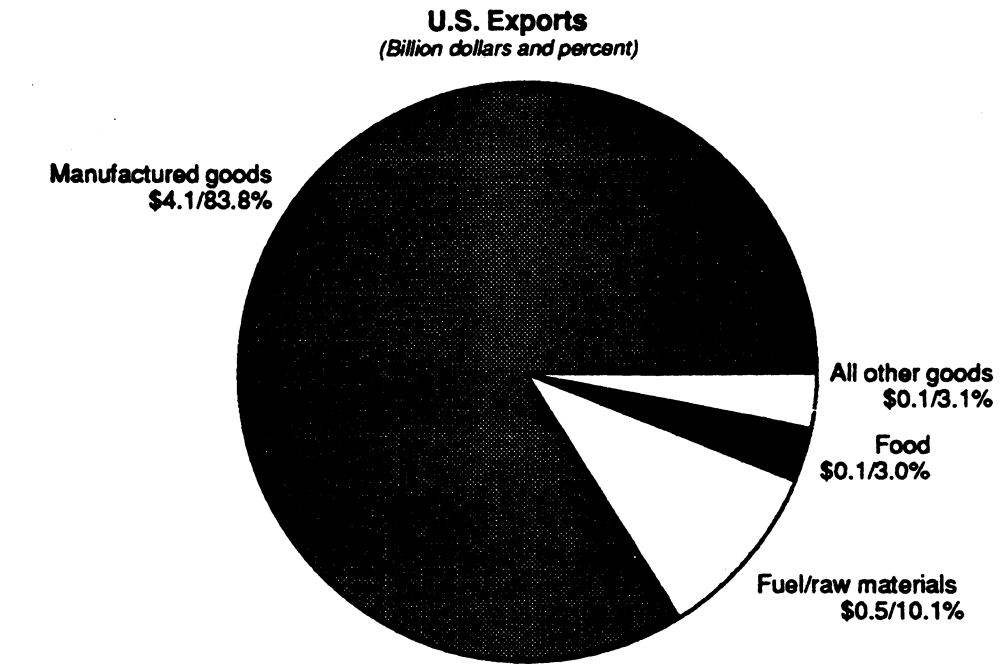
⁵²⁴ Brazil maintained a list of some 1,200 prohibited imports. The list of prohibited imports was reduced from 2,300 items to 1,200 items in November 1988, and was scheduled to be reduced further in December 1989 pending Government approval. Items on the list included automobiles, electronic goods, household appliances, motorcycles, powdered milk, toys, and videocassettes. For a detailed discussion of Brazil's import restrictions, see USITC, *OTAP, 36th Report, 1984*, USITC Publication 1725, July 1985, pp. 183-184. See also U.S. Department of State Telegram, Dec. 7, 1989, Brasilia, message reference No. 14341.

⁵²⁵ The quantitative ceiling, lasting through July 30, 1990, was applied to nonessential imports as a one-time measure to avoid a surge in imports.

⁵²⁶ Import licenses reportedly only will be used for statistical and exchange-control purposes. Brasilia denied itself the right to refuse licenses in most cases. See U.S. Department of State Telegram, Apr. 3, 1990, Brasilia, message reference No. 03581.

Figure 11

U.S. trade with the Brazil by product sector, 1990



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

these tariffs as the domestic industries for these goods become more competitive.⁵²⁷

Other Trade Liberalization

President Collor freed most imports, except computer equipment and software,⁵²⁸ from Brazil's "law of similars" (a collection of laws and regulations that deny import licenses to products "similar" to competing products already produced or capable of being produced in Brazil) and from company- and sector-specific import quotas.⁵²⁹ A new Department of Foreign Trade (DENCEX) was created under the Ministry of Economy to oversee liberalization of import licensing as tariffs become the only policy instrument to control imports.⁵³⁰ Collor also eliminated Brazil's export-subsidy programs for manufactured and processed agricultural products⁵³¹ and phased out an ocean freight surcharge that had been used to generate income for the Brazilian merchant marine.⁵³² In June 1990 Brasilia announced modifications to Brazil's foreign investment regulations to remove restrictions on foreign capital.⁵³³ This June announcement also lifted restrictions on profit and dividend remittances and on capital transfers.⁵³⁴ Legislation being considered in early 1991 would eliminate excise taxes on imported machinery, would reduce export taxes, and would reduce the domestic content required for Brazilian capital goods to qualify for official export financing

⁵²⁷ U.S. Department of State Telegram, May 7, 1990, Brasilia, message reference No. 04940.

⁵²⁸ See discussion on informatics below.

⁵²⁹ Company- and sector-specific quotas were issues prompting the United States to initiate a Super 301 investigation of Brazil's trading practices in 1989. For additional information on this U.S. Super 301 investigation, see discussion of United States-Brazilian bilateral trade issues below.

⁵³⁰ Almost all imports required a prior import license from the Foreign Trade Department of the Bank of Brazil (CACEX). CACEX held discretionary power to delay or deny import permission for a wide range of products. The new Department of Foreign Trade will subsume CACEX.

⁵³¹ U.S. Department of State Telegram, Apr. 3, 1990, Brasilia, message reference No. 03581. The United States has examined Brazilian export subsidies during several countervailing duty investigations.

⁵³² On Jan. 14, 1990, Brasilia issued new regulations liberalizing the merchant marine industry. The new laws allow ship operators to work in any sector of maritime transport (general cargo, passenger, or solid or liquid bulk cargo) and to engage in international and cabotage transport, port services, and offshore oil platform support services. See James Bruce, "Brazil Frees Reins on Merchant Marine Industry," *Journal of Commerce*, Jan. 17, 1991, p. 1b.

⁵³³ U.S. Department of State Telegram, June 28, 1990, Brasilia, message reference No. 07115.

⁵³⁴ Under prior regulations, profit and dividend remittances were subject to authorization by Brazil's central bank and a 25 percent base tax. EIU, *Brazil: Country Profile 1990-91*, p. 48. These restrictions were lifted in November 1989, but payments remained subject to a two-month delay. In May 1990, the Collor administration eliminated the two-month delay, but blocked capital transfers being processed, valued at \$1.8 billion (held by Brazil's central bank). Payments on these blocked transfers were to have been made in monthly installments beginning in September 1991. The June 1990 announcement effectively freed all capital transfers including any blocked transfers. EIU, *Brazil: Country Report*, No. 3, 1990, p. 10.

from 70 percent to 60 percent.⁵³⁵ A new private-sector export finance bank, the Banco Commercias Exterior Brasileiro (EXIMBRAS) is to replace Brazil's Financing Exports program (FINEX).⁵³⁶ Unlike FINEX, which provided subsidized credits, the new EXIMBRAS will operate on commercial banking terms.⁵³⁷ Brasilia plans to model EXIMBRAS on western trade financing agencies.⁵³⁸

United States-Brazilian Bilateral Trade Issues

Informatics

Brazil's 1984 market reserve law,⁵³⁹ which allows only Brazilian-owned and Brazilian-controlled companies access to the Brazilian market for computers, software, computer parts, and all other devices incorporating digital technology—called "informatics" in Brazil—is scheduled to expire in 1992.⁵⁴⁰ Under President Collor's March 1990 trade reform measures,⁵⁴¹ imports of computer equipment and software remained subject to the market reserve requirement and to Brazil's "law of similars."⁵⁴²

In September 1990, President Collor announced his intentions to seek to begin phasing out the informatics market reserve and not to extend the reserve past its October 1992 scheduled expiration date.⁵⁴³ In October 1990, the administration issued a list of 46 products for which the market reserve would be temporarily retained,⁵⁴⁴ with products not on the list eligible for import in January 1991.⁵⁴⁵ Draft legislation under consideration at the end of 1990 included elimination of the "law of similars" test for computer software; 25-year copyright protection, from

⁵³⁵ James Bruce, "Brazil Hopes Reforms Boost Competitiveness," *Journal of Commerce*, Mar. 1, 1991.

⁵³⁶ Brazil's FINEX program provided subsidized long-term U.S. dollar and Brazilian currency trade financing to Brazilian enterprises.

⁵³⁷ "Brazil Gets an EXIMBANK," *Trade Finance*, November 1990, p. 10.

⁵³⁸ *Ibid.*

⁵³⁹ For a discussion of this Brazilian legislation, see USITC, *OTAP, 36th Report, 1985*, USITC Publication 1725, July 1985, pp. 184-185.

⁵⁴⁰ This law grants Brazil's executive branch broad authority to restrict imports and foreign investment. For a discussion of the U.S. investigation into Brazil's informatics policies, see USITC, *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 124.

⁵⁴¹ The only changes announced in March 1990 were a 1-year suspension of Government incentives and subsidies to the microelectronics sector and a 1-year suspension of research and development funding for the informatics sector. *Ibid.*

⁵⁴² U.S. Department of State Telegram, Mar. 27, 1990, Brasilia, message reference No. 03297.

⁵⁴³ U.S. Department of State Telegram, Sept. 27, 1990, Brasilia, message reference No. 10725.

⁵⁴⁴ These products included video monitors, disk drive units, impact printers, modems over 2,400 bps, point of sales and financial terminals, automatic teller machines, facsimile machines, digital equipment for voice mail, laser diodes and light-emitting diodes (LEDs), liquid crystal displays (LCDs), integrated circuits, and digital electronic ignition and electronic fuel injection equipment for automobiles. U.S. Department of State Telegram, Oct. 18, 1990, Brasilia, message reference No. 1583.

⁵⁴⁵ *Ibid.*

date of introduction into Brazil, for software programs; a reduction in tariffs on informatics from 45 to 65 percent to 20 to 40 percent by 1994; and liberalized investment rules to allow greater foreign participation in Brazilian informatics.⁵⁴⁶

Pharmaceuticals

Pharmaceutical products have not been patentable in Brazil since 1945. Processes were excluded from patent protection in 1969. A bilateral dispute about pharmaceuticals led to retaliatory U.S. trade action against Brazil in 1988.⁵⁴⁷ Since assuming office, President Collor has made numerous promises to change Brazil's patent laws to provide protection for pharmaceutical products and pledged to draft legislation recognizing international patents and

⁵⁴⁶ "Brazilian Legislation to Ease Software Import Barriers," *Washington Report on Latin America and the Caribbean*, Jan. 15, 1991, p. 1.

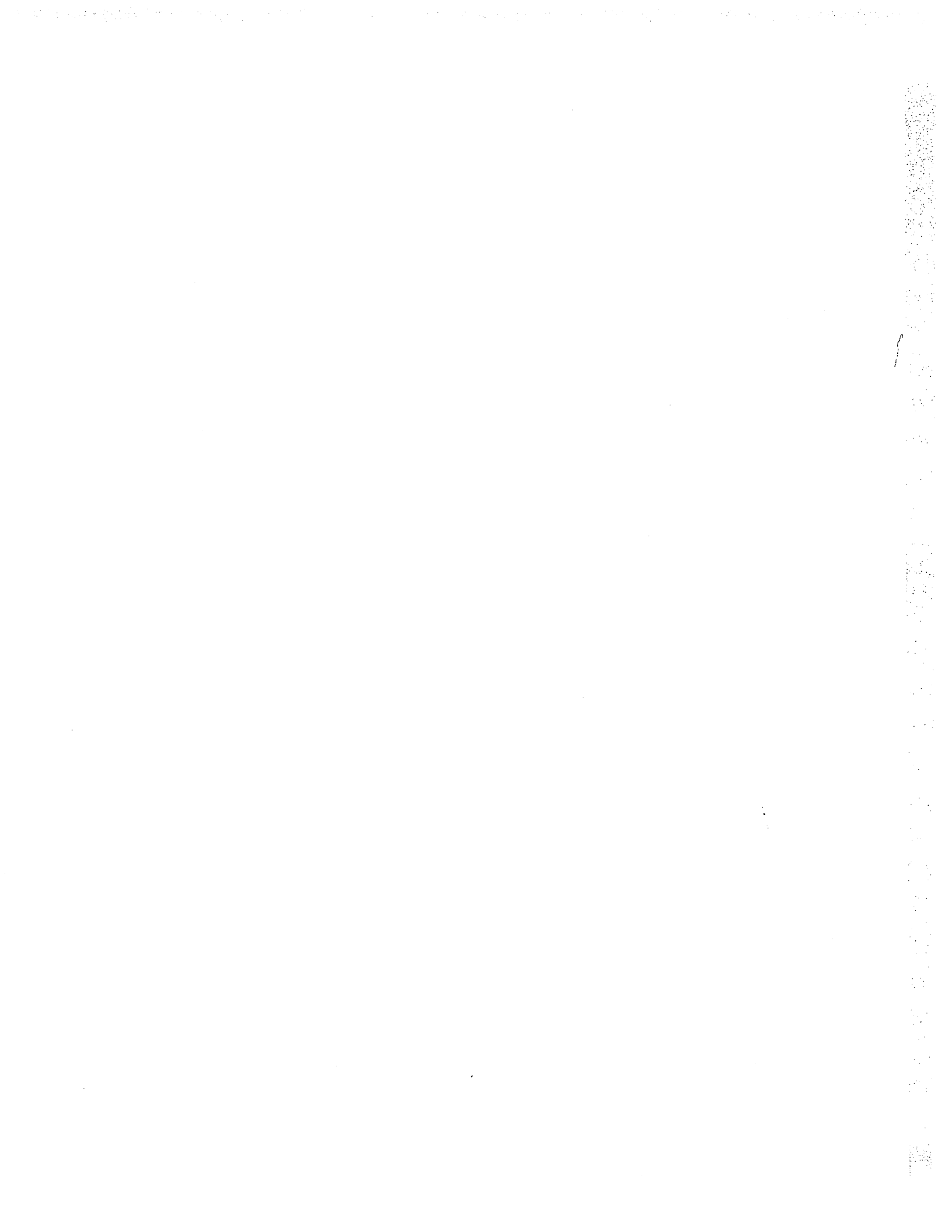
⁵⁴⁷ For a more detailed discussion on this super 301 investigation, see the discussion on Brazilian pharmaceuticals in ch. 5.

removing economic controls from production of medicines by spring 1991.⁵⁴⁸ To encourage foreign investment, Brasilia freed the prices of many pharmaceutical products effective August 1, 1990—ending 40 years of official price controls on pharmaceuticals.⁵⁴⁹ On April 30, 1991, President Collor introduced to the Brazilian Congress a bill that would recognize intellectual property rights for pharmaceuticals.⁵⁵⁰

⁵⁴⁸ BNR, "Brazil Pledges to Change Law, Give Patent Protection to Pharmaceuticals, Processes," *International Trade Reporter*, Aug. 1, 1990, pp. 1201-1202.

⁵⁴⁹ BNR, "Brazil's Lifting of Price Controls on Drugs Likely to Increase Multinational Investments," *International Trade Reporter*, Aug. 8, 1990, pp. 1234-1235.

⁵⁵⁰ James Bruce, "Brazil Proposes to Accelerate Pharmaceutical Patent Rights," *Journal of Commerce*, May 3, 1991.



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 1990. 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 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 et seq. of the Trade Act of 1974 (19 U.S.C. § 2251 et seq.) is the so-called U.S. "escape clause" law. It 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 when certain conditions exist. The U.S. International Trade Commission conducts investigations under section 201 upon receipt of a petition from an entity such as a trade association, firm, certified or recognized union or other group of workers that is representative of an industry; upon request from the President or the Office of the United States Trade Representative (USTR); upon resolution of the House Committee on Ways and Means or the Senate Committee on Finance; or upon its own motion.

Under section 201, the International Trade Commission determines within 120 days after receipt of the petition, request, resolution, or institution on its own motion 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. If the Commission finds such injury or threat, it recommends to the President the action that it believes will facilitate positive adjustment by the industry to import competition.¹ Within 180 days after receipt of the petition, request, resolution, or institution on its own motion, the Commission transmits its findings or recommendation, together with any dissenting or separate views, to the President.

¹ The Commission may recommend Presidential action in the form of an increase in or imposition of a duty; a tariff-rate quota; a modification or imposition of a quantitative restriction; one or more appropriate adjustment measures including the provision of trade adjustment assistance; initiation of international negotiations to address the underlying cause of the increase in imports or otherwise to alleviate the injury or threat; or any combination of the above actions.

Within 60 days from receipt of an affirmative Commission determination and recommendation of relief, the President is to take "all appropriate and feasible 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."² If the President takes action that differs from that recommended by the Commission or takes no action at all, Congress may, through a joint resolution within 90 days, direct the President to proclaim the action recommended by the Commission.³

The Commission monitors developments in industries for which action is taken. Upon its own motion or upon the request of the President, the Commission conducts followup investigations to advise the President on the probable economic effects of the extension, reduction, or termination of actions previously taken. In certain circumstances, the President may terminate or modify action, or may take additional action to eliminate circumvention of action previously taken.

The Commission conducted one investigation under section 201 in 1990. The investigation concerned certain hand-held cameras—specifically, fixed-focus 110-type cameras, and 35 mm cameras other than single-lens reflex cameras. The investigation was in response to a petition filed by Keystone Camera Co. of Clifton, NJ. The Commission unanimously determined that such cameras were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported cameras.⁴ Having made a negative injury determination, the Commission did not reach the issues of critical circumstances which the petition alleged, provisional relief, or final relief.

The Commission did not conduct any followup section 201 investigations in 1990. The most recent followup investigation was in 1988, concerning Western red cedar shakes and shingles.⁵

Market Disruption

Under section 406 of the Trade Act of 1974,⁶ the Commission conducts investigations to determine whether imports of an article produced in a Communist

² In addition to taking any of the kinds of actions the Commission is authorized to recommend, the President may provide relief in the form of an orderly marketing agreement limiting imports to the United States; an auction of import licenses; submission of legislative proposals; any other appropriate and feasible action; or a combination of the above actions.

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 to be representative of imports of that article. The period for action may be extended one time, but the total period, including any extension, may not exceed 8 years.

³ The statute also provides for the possibility of "provisional relief in cases involving either perishable agricultural products or "critical circumstances," as defined in the statute.

⁴ USITC, *Certain Cameras* (investigation No. TA-201-62), USITC publication 2315, September 1990.

⁵ USITC, *Western Red Cedar Shakes and Shingles* (investigation No. TA-203-18), USITC publication 2131, October 1988.

⁶ 19 U.S.C. 2436.

country are causing market disruption with respect to an article produced by a U.S. industry. "Market disruption" is defined to exist whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury or threat of material injury to the domestic industry.⁷

Adjustment Assistance

The Trade Adjustment Assistance (TAA) program, title II of the Trade Act of 1974, extends to the President authority to provide adjustment assistance to workers, firms, and industries dislocated as a result of national policy to liberalize trade barriers. The program, originally authorized through the Trade Expansion Act of 1962, is scheduled to expire September 30, 1993. The program and certain eligibility standards were modified by the Omnibus Budget Reconciliation Act (OBRA) of 1981 and by the Deficit Reduction Act of 1984.⁸ The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 discontinued financial assistance to firms effective April 7, 1986.⁹ The law was further modified, primarily to provide job training assistance and coverage of certain workers in the oil and gas industries, by the Omnibus Trade and Competitiveness Act (OTCA) of 1988.¹⁰ Adjustment assistance to workers is administered by the Department of Labor through its Office of Employment and Training Administration in the form of cash benefits for direct trade readjustment allowances and service benefits that include allocations for job search, relocation, and training. Trade adjustment technical services are provided to certified firms through consultants under direct contract with the Department of Commerce. Industry-wide technical consultation provided through Commerce Department-sponsored programs is designed to improve

⁷ If the Commission makes an affirmative determination, it recommends to the President the import restriction necessary to prevent or remedy the disruption. Following an affirmative Commission determination, the President is authorized to provide relief similar to that authorized under sec. 201 limited to imports from the subject Communist country.

⁸ The OBRA and Deficit Reduction Act of 1984 made changes in the law 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.

⁹ Authorization for the trade adjustment assistance program expired on Dec. 19, 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, 1993.

¹⁰ See Public Law 100-418, secs. 1421-1430. The OTCA of 1988 also provided for the imposition of an import fee, the proceeds of which are to be used to fund adjustment programs. The President is directed to negotiate an agreement to permit the fee under GATT. Given the lack of an agreement, the fee would go into effect 2 years from date of passage of the act, unless the President certifies that it is not in the national economic interest. With a joint resolution, the Congress could impose the fee, the President's certification notwithstanding.

the viability of U.S. industries adversely affected by international import competition.¹¹

Assistance to Workers

The Department of Labor instituted 1,455 investigations in fiscal year 1990 on the basis of petitions filed for eligibility to apply for trade adjustment assistance, representing a decrease of 36 percent from the 2,282 petitions instituted in fiscal 1989. The higher level of petition activity in fiscal year 1989 was attributable to special provisions of the OTCA of 1988 which allowed workers in the oil and gas industry a 90-day period in which to file petitions for eligibility retroactive to September 30, 1985.¹²

The results of investigations completed or terminated in fiscal 1990, including those instituted in the previous year, are shown in the following tabulation:¹³

Item	Number of investigations or petitions	Estimated number of workers
Completed certifications ...	585	60,728
Partial certifications	3	598
Petitions denied	836	96,813
Petitions terminated or withdrawn	77	657
Total	1,501	158,796

The number of completed and partial certifications in fiscal 1990 decreased to 588 from 1,115 in fiscal 1989. As a result of lower rates of eligibility stemming in part from the more stringent criteria contained in the Deficit Reduction Act of 1984 and subsequent omnibus budget acts,¹⁴ preliminary figures indicate that Department of Labor expenditures in fiscal 1990 on direct Trade Readjustment Allowances to certified workers decreased significantly, to \$92.1 million, approximately \$33.3 million less than the estimated \$125.4 million expenditure in the previous fiscal year.

¹¹ Certified firms are eligible to apply for technical services necessary to implement programs of economic recovery. Technical services include legal consultation designed to assist firms in assessing the appropriateness of pursuing remedies available through various trade statutes, and in-depth technical consultation in engineering, marketing, production methods, and financial management.

¹² Sec. 1421 of the OTCA of 1988 provided that employees of independent firms engaged in the exploration and drilling of oil and natural gas, which were separated after Sept. 30, 1985, had 90 days in which to file petitions requesting cash benefits for trade readjustment allowances covering the period. Petitions were accepted from Aug. 23 through Nov. 18, 1988.

¹³ Derived from official statistics of the U.S. Department of Labor.

¹⁴ The Omnibus Budget and Deficit Reduction Acts made changes in the law designed to tighten the criterion used to determine eligibility. The principal change affecting petitions filed retroactive to 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.

In addition to direct financial assistance, the Department of Labor provided training, job search, and relocation services valued at a preliminary estimate of \$57.6 million in fiscal 1990 for worker activities in the areas shown in the following tabulation:

Item	Estimated number of workers ¹
Training	18,400
Job search	600
Relocation allowances	1,200
Total	20,200

¹ Preliminary figures.

Preliminary data for fiscal 1990 indicate an estimated 20,200 workers utilized available service benefits, representing an increase of 18 percent from the 17,100 workers receiving such services in the previous year. The increase is in part a result of the OTCA of 1988, which made the receipt of trade-readjustment allowances contingent on the worker's participation in job training.

Assistance to Firms and Industries

The Department of Commerce through its Office of Trade Adjustment Assistance certified 171 firms as eligible to apply for trade adjustment assistance during fiscal year 1990.¹⁵ This figure represented a small decrease from the 175 firms certified in the previous fiscal year. The Office of Trade Adjustment Assistance administers its programs through a nationwide network of 12 Trade Adjustment Assistance Centers (TAACs). Technical services are provided to certified firms through consultants under direct contract with the Commerce Department's International Trade Administration. Funding for the TAACs during fiscal 1990 totaled \$5.8 million for provision of technical services to 732 firms.¹⁶

The Department of Commerce also awarded trade adjustment technical assistance grants totaling \$543,000 to four industry associations.¹⁷ These associations represented manufacturers of automotive equipment, engines, semiconductors, and electrical systems. Industrial technical assistance projects initially funded in previous years continued in effect throughout fiscal year 1990 for industries that process steel and produce electronics.¹⁸

¹⁵ Derived from official statistics of the U.S. Department of Commerce.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Laws Against Unfair Trade Practices

As a result of antidumping investigations conducted in 1990 by the Commission and the Department of Commerce, 14 new antidumping orders were issued. Commerce issued two countervailing duty (CVD) orders, both in cases in which no Commission injury determination was required.¹⁹ During 1990, the Commission completed 25 investigations under section 337 of the Tariff Act of 1930 involving allegations of patent, trademark, or copyright infringement or other unfair methods of competition. Four of those investigations resulted in the issuance of exclusion orders prohibiting the importation of merchandise; in three investigations, cease-and-desist orders were issued enjoining further violation of section 337.

In 1990, two section 301 investigations were instituted upon petitions filed by private parties, and one investigation was self-initiated by USTR. No new investigations pursuant to the "Super 301" provision contained in the Omnibus Trade and Competitiveness Act of 1988 were initiated in 1990. As described below, bilateral settlements were reached in several pending section 301 cases.

Antidumping Investigations

The antidumping law provides relief in the form of special additional duties that are intended to offset margins of dumping.²⁰ Antidumping duties are imposed when (1) the administering authority (under present law, the Department of Commerce) has determined that imports are being, or are likely to be, sold at less than fair value (LTFV) in the United States, and (2) the Commission has determined that a U.S. industry is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of such imports.

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 a "constructed" value. The antidumping duty equals the difference between the U.S. price and the foreign market value. Most investigations are conducted on the basis of a petition filed with Commerce and the Commission by, or on behalf of, a U.S. industry. The following tabulation summarizes antidumping investigations in 1990:

¹⁹ See discussion of sec. 303 of the Tariff Act of 1930, below.

²⁰ 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.

<i>Antidumping Duty Investigations</i>	<i>Number* 1989</i>	<i>1990</i>
Petitions filed	13	19
Preliminary Commission determinations		
Negative	5	6
Affirmative (includes partial affirmatives)	20	27
Terminated	0	1
Final Commerce determinations:		
Negative	2	0
Affirmative	36	16
Terminated	0	0
Suspended	0	0
Final Commission determinations:		
Negative	15	2
Affirmative (includes partial affirmatives)	23	14
Terminated	0	1
Suspended	0	0

* When a petition alleges dumping (or subsidies) with respect to more than one product and/or by more than one country, separate investigations generally are instituted for imports of each product from each country. For this reason, the numbers of investigations instituted and determinations made generally exceed the number of petitions filed. The above numbers do not include determinations made following court ordered remands.

Both Commerce and the Commission conduct preliminary and final antidumping investigations.²¹ In 1990, the Commission completed 34 preliminary and 17 final antidumping injury investigations.²² Imported products investigated included manmade-fiber sweaters, industrial nitrocellulose, and laser light-scattering instruments. Antidumping orders were imposed as a result of 14 of these investigations on a total of 6 products from 10 countries. Details of antidumping actions and orders, including suspension agreements²³ in effect in 1990, are presented in tables A-19 and A-20.

²¹ Upon the filing of a petition, the Commission has 45 days to make a preliminary determination of whether there is a reasonable indication of material injury or threat of material injury to an industry or material retardation of the establishment of an industry. If this determination is affirmative, Commerce continues its investigation and makes preliminary and final determinations concerning whether the imported article is being, or is likely to be, sold at LTFV.

If Commerce makes an affirmative final determination, the Commission makes a final injury determination. If Commerce's final determination is negative, the proceedings end and the Commission does not make a final injury determination.

²² This figure does not count court-remanded cases on which new votes were taken.

²³ An antidumping investigation may be suspended through an agreement prior to a final determination by the Department of Commerce. An investigation may be suspended if exporters accounting for substantially all of the imports of the merchandise under investigation agree either to eliminate the dumping or to cease exports of the merchandise to the United States within 6 months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of the imports. A suspended investigation is reinstated should LTFV sales recur. See 19 U.S.C. § 1673c.

Countervailing Duty Investigations

The U.S. countervailing duty 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 offset foreign subsidies on products imported into the United States.²⁴ In general, procedures for such investigations are similar to those of antidumping investigations. Petitions are filed with Commerce (the administering authority) and the Commission. Commerce must find a countervailable subsidy and, in most cases, the Commission must make an affirmative material injury, threat of material injury, or material retardation determination 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 Duties²⁵ or has otherwise been designated as a "country under the Agreement."²⁶ 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.²⁷ For imports not falling under this category or under section 701, a CVD order may be issued under section 303 on the basis of an affirmative subsidy determination by Commerce alone.

No new CVD orders were imposed in 1990 as a result of investigations involving both Commerce and the Commission. CVD orders were imposed following Commerce investigations of leather from Argentina and butt-weld pipe fittings from Thailand. In 1990, the Commission completed 5 preliminary but no final injury investigations.²⁸ Details of CVD actions and outstanding orders, including suspension agreements²⁹ in effect in 1990, are presented in tables A-21 and A-22. The tabulation on the next page is a summary of CVD investigations in 1990:

²⁴ A subsidy is defined as a bounty or grant bestowed directly or indirectly by any country, dependency, colony, Province, or other political subdivision on the manufacture, production, or export of products. See 19 U.S.C. §§ 1303(a)(1), 1677(5), and 1677-1(a).

²⁵ Agreement on Interpretation and Application of arts. VI, XVI, and XXIII of the General Agreement on Tariffs and Trade.

²⁶ See 19 U.S.C. § 1671.

²⁷ Sec. 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).

²⁸ This figure does not count court-remanded cases on which new votes were taken.

²⁹ 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 6 months or (2) extraordinary circumstances are present and the government or exporters described above agree to completely eliminate the injurious effect of the imports of the merchandise under investigation. A suspended investigation is reinstated if subsidization recurs. See 19 U.S.C. § 1671c.

Countervailing Duty Investigations	Number* 1989	1990
Petitions filed	7	5
Preliminary Commission determinations		
Negative	0	2
Affirmative (includes partial affirmatives)	3	3
Terminated	0	0
Final Commerce determinations:		
Negative	2	2
Affirmative	8	2
Terminated	1	0
Suspended	0	0
Final Commission determinations:		
Negative	4	0
Affirmative (includes partial affirmatives)	5	0
Terminated	0	0
Suspended	0	0

* The numbers of investigations instituted and determinations made generally exceed the number of petitions filed. The above numbers do not include determinations made following court ordered remands.

Reviews of Outstanding Antidumping and Countervailing Duty Orders

Section 751 of the Tariff Act of 1930, as amended, requires Commerce (the administering authority), if requested, to review annually outstanding antidumping and CVD orders to determine the amount of any net subsidy or dumping margin and to review suspension agreements to determine compliance.³⁰ 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 the existence of changed circumstances sufficient to warrant review and revocation. Based on either of the reviews above, Commerce may revoke a CVD or antidumping order in whole or in part or may terminate or resume a suspended investigation.

The Commission did not complete any investigations under section 751 in 1990. The last such investigation by the Commission was completed in 1987, concerning liquid-crystal display televisions.³¹ As a result of reviews conducted under section 751 in 1990, Commerce revoked CVD orders on such products as iron-metal construction castings and toy balloons and playballs from Mexico. In addition, after determining that the orders or findings were no longer of interest to interested parties, Commerce revoked antidumping or CVD orders or findings on such articles as textile mill products and apparel from Peru and Sri Lanka, pig iron and steel reinforcing bars from Canada, and birch

³⁰ 19 U.S.C. 1675.

³¹ USITC, *Liquid Crystal Display Television Receivers From Japan*, (investigation No. 751-TA-14), USITC publication 2042, December 1987.

three-ply doorskins from Japan. Also in 1990, Commerce terminated investigations that had been previously suspended concerning pectin and polypropylene film and yarn from Mexico, and reinstated a previously suspended investigation of steel sheet piling from Canada.

Section 337 Investigations

Section 337 of the Tariff Act of 1930, as amended,³² authorizes the Commission, on the basis of a complaint or on its own initiative, to conduct investigations with respect to certain practices in import trade. Section 337 declares unlawful the importation, sale for importation, or sale after importation of articles that infringe a valid and enforceable U.S. patent, registered trademark, registered copyright, or registered mask work, for which a domestic industry exists or is in the process of being established. Also unlawful under section 337 are other unfair methods of competition or unfair acts³³ in the importation of articles into the United States or in the sale of imported articles, the threat or effect of which is to destroy or substantially injure a domestic industry, to prevent the establishment of an industry, or to restrain or monopolize trade and commerce in the United States.

If the Commission determines that a violation exists, it can issue an order excluding the subject imports from entry into the United States or can order the violating parties to cease and desist from engaging in the unlawful practices.³⁴ The President may disapprove a Commission determination of violation within 60 days of its issuance for "policy reasons."

The Commission is required to complete section 337 investigations within 12 months of publishing notice of investigation in the Federal Register but may take up to 18 months to complete investigations it designates "more complicated." When a complainant requests temporary exclusion and/or cease-and-desist orders, the Commission must decide whether to issue that relief within 90 days (or 150 days in an investigation it designates "more complicated") from the date of publication of the notice of investigation.

In 1990, as in previous years, most complaints filed with the Commission alleged infringement of a U.S. patent by imported merchandise. The Commission completed a total of 25 investigations under section

³² 19 U.S.C. § 1337.

³³ Examples of "other" unfair acts are common-law trademark or copyright infringement, false advertising, false designation of origin, and trade secret misappropriation. Unfair practices that involve the importation of dumped or subsidized merchandise must be pursued under antidumping and CVD provisions and not under section 337.

³⁴ Sec. 337 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.

337 in 1990, including remands, advisory opinion proceedings, and enforcement proceedings, compared with 19 in 1989. These investigations pertained to products in a number of different industries, including semiconductors, pharmaceuticals, insecticides, industrial machinery, and various consumer products, ranging from power tools to athletic shoes. Seven investigations resulted in exclusion orders; in three investigations, cease-and-desist orders were issued. Several investigations were terminated by the Commission without determining whether section 337 had been violated. Generally, these terminations were based on settlement agreements or consent orders. At the close of 1990, there were 12 section 337 investigations, including advisory opinion, enforcement, and modification proceedings, pending before the Commission. Commission activities involving section 337 actions in 1990 are presented in table A-23.

As of December 31, 1990, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect. Thirty-four of these orders involved patent violations. Table A-24 lists the investigations that preceded the issuance of the orders.

*Enforcement of Trade Agreements and Response to Unfair Foreign Practices*³⁵

Chapter 1 of title III of the Trade Act of 1974, as amended³⁶ (sec. 301), gives the USTR,³⁷ 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.³⁸ 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 being violated, the USTR must take all appropriate and feasible action to enforce such rights or to obtain the elimination of such act, policy, or practice. For "unreasonable" or "discriminatory" acts, the USTR has discretion over whether to take action.³⁹

³⁵ Significant portions of this section were taken from two reports published by USTR: *Section 301 Table of Cases*, Jan. 17, 1991, and the *Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974*, January-June and July-December 1990. Additional information was taken from USITC, *Operation of the Trade Agreements Program (OTAP)*, 41st Report, 1989, USITC publication 2317, September 1990.

³⁶ 19 U.S.C. 2411, et seq.

³⁷ Prior to the enactment of the Omnibus Trade and Competitiveness Act of 1988, authority to act under sec. 301 resided with the President, and USTR was effectively responsible for administration of the cases. The new trade law placed sec. 301 authority directly in the hands of USTR. In another significant development, the new law enacted a so-called "Super 301" provision that called for the initiation of investigations in 1989 and 1990 of "priority practices" that restrict U.S. exports and investment that are maintained by "priority countries."

³⁸ 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.

³⁹ The statute provides a number of procedures and time limits for action by the USTR. The USTR has 45 days from receipt of a

An interagency committee headed by the USTR conducts the investigations, including hearings if requested. Section 301 investigations are usually initiated on the basis of petitions by interested parties, 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 it the benefits of trade-agreement concessions; (2) impose duties, fees, or other import restrictions on products and services, when appropriate; and (3) enter into an agreement with the subject countries 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 1990, three new section 301 investigations were initiated by the USTR. Two of the new investigations responded to petitions filed by private parties. One investigation was based on a petition filed by G. Heileman Brewing Co., Inc., alleging that Canada's import restrictions on beer are inconsistent with the GATT and the United States-Canada Free-Trade Agreement. Another investigation, brought by the International Intellectual Property Alliance (IIPA), the Motion Picture Export Association of America, Inc. (MPEAA), and the Recording Industry Association of America (RIAA), alleged that the Government of Thailand inadequately enforces its copyright laws, thereby denying market access opportunities to those who rely upon copyrights. The final investigation, initiated by the USTR on its own motion, related to the denial of benefits under a trade agreement by the European Communities (EC), arising from the accession of Spain and Portugal into the EC.⁴⁰ Further developments occurred in 10 of the investigations initiated prior to 1990. Additionally, all six of the "Super 301" investigations initiated in 1989 were terminated or suspended in 1990.

Therefore, 19 section 301 investigations were active during 1990. In 13, bilateral settlements were obtained and the investigations were consequently terminated, suspended, or withdrawn. Retaliatory measures

39—Continued

petition to determine whether or not to initiate an investigation. In all investigations, consultations are requested with the foreign country or instrumentality involved. If a case involves issues arising under a trade agreement, the United States employs the dispute settlement provisions of the agreement. The time period for a determination by the USTR concerning the practice in question, and any action to be taken, varies according to the type of practice alleged.

⁴⁰ On Nov. 28, 1990, the National Pork Producers Council and the American Meat Institute filed a petition for action under sec. 301 of the Trade Act, alleging that the EC Third Country Meat Directive denies the rights of the United States under the GATT and is otherwise unreasonable and burdens or restricts U.S. commerce (USTR docket No. 301-83). An investigation involving the same directive had been initiated prior to the enactment of the 1988 amendments to sec. 301 but had been suspended (USTR docket No. 301-60). On Jan. 10, 1991, the USTR initiated an investigation under sec. 302(b) of the Trade Act and invoked the provisions of sec. 303(a)(2)(A) to delay GATT consultations for up to 90 days (see 56 F.R. 1663).

were not instituted in any of the investigations active in 1990. Several of the cases active in 1990 were being pursued under GATT or Uruguay Round Code dispute-settlement mechanisms. Several longstanding dormant cases (not formally terminated) in which no further activity was reported in 1990 are listed at the end of this section.⁴¹ Table 19 summarizes the activity on section 301 cases during 1990 that is described in greater detail below.

Two petitions were withdrawn in 1990 prior to the commencement of an investigation.⁴² In one, following satisfactory action by the Japanese Government, the petitioner withdrew its petition, alleging that the Government of Japan interfered with its efforts to sell amorphous metal transformers.⁴³ The second petition, alleging that Taiwan restricted the importation, distribution, and sale of U.S. distilled spirits, was withdrawn after Taiwan announced plans to open its market to distilled spirits from foreign countries.⁴⁴

Cases Initiated in 1990

*Canada: Import Restrictions on Beer*⁴⁵

G. Heileman Brewing Co., Inc. filed a petition on May 15, 1990, alleging that Canada's import restrictions on beer—including listing requirements, discriminatory markups, and restrictions on distribution—are inconsistent with the GATT and the United States-Canada Free Trade Agreement.

On June 29, 1990, the USTR initiated an investigation and requested public comment on the allegations in the petition.⁴⁶ Also on that date the United States requested consultations with Canada under article XXIII:1 of the GATT. Consultations were held July 20, 1990. On September 14, 1990, the Stroh Brewing Co. filed a petition complaining about the distribution and pricing practices of the Province of Ontario with respect to imported beer. On October 17, 1990, the USTR decided to investigate the allegations contained in the Stroh petition in the context of the investigation launched in June.

*EC: Enlargement*⁴⁷

On November 15, 1990, the USTR initiated an investigation under section 302(b) of the Trade Act with respect to denial of benefits under a trade agreement by

⁴¹ Sec. 301 cases resolved prior to 1990, and for which no followup action was taken in 1990, are not listed below. Since the enactment of sec. 301 provisions from 1974 through the end of 1990, a total of 82 investigations have been handled.

⁴² See the report published by USTR, "Section 302 Petitions—No Investigation Initiated, Jan. 17, 1991."

⁴³ Filed Mar. 5, 1990, by Allied-Signal, Inc. Withdrawn Apr. 18, 1990.

⁴⁴ Filed on Dec. 3, 1990, by the Kentucky Distillers' Association, the Distilled Spirits Council of the United States, and the American Beverage Alcohol Association. Withdrawn Jan. 11, 1991.

⁴⁵ USTR docket No. 301-80.

⁴⁶ 55 F.R. 27731.

⁴⁷ USTR docket No. 301-81.

the EC, arising from the accession of Spain and Portugal into the EC. A previous investigation involving the EC's enlargement had been settled in 1987, resulting in an agreement that provided certain compensation to the United States through the end of 1990.⁴⁸

On November 19, 1990, the USTR requested public comments, and a public hearing was held November 26, 1990.⁴⁹ On December 5, 1990, the USTR published a notice of notification to the GATT contracting parties of the U.S. intent to suspend certain tariff concessions.⁵⁰ On December 20, 1990, a settlement agreement with the EC was reached that extended the rights accorded to the United States under the 1987 agreement through the end of 1991. The United States and EC expressed the intention to resume review of the situation by June 1991 in order to achieve a final understanding by September 30, 1991. The investigation was formally terminated on December 21, 1990.⁵¹

*Thailand: Copyright Enforcement*⁵²

On November 15, 1990, the IIPA, MPEAA, and RIAA filed a petition under section 302(a) of the Trade Act of 1974, alleging that the Government of Thailand inadequately enforces its copyright laws, thereby denying market access to those who rely upon copyrights.

On December 21, 1990, the USTR initiated an investigation under section 302(b) of the Trade Act with respect to the Thai Government's acts, policies, and practices relating to the enforcement of copyrights. The USTR also requested consultations with the Royal Thai Government.⁵³

Other Cases Active in 1990

*Norway: Toll Equipment*⁵⁴

On July 11, 1989, a petition was filed on behalf of Amtech Corp. alleging, among other things, that practices by the Government of Norway deny U.S. rights under the GATT Government Procurement Code, thus adversely affecting U.S. trade in the sale of highway toll electronic identification systems.

The USTR initiated an investigation on August 2, 1989.⁵⁵ In an exchange of letters between the United States and Norway on April 26, 1990, Norway agreed to take actions to offset the negative impact of this procurement on petitioner. These included notification that the AMTECH system met the requirements of the Oslo Toll Ring project and a statement by the Norwegian PTT that the AMTECH system is proven, reliable, competitive, type-approved, and commercially available. Norway also agreed to take steps to ensure that

⁴⁸ USTR docket No. 301-54. USITC, OTAP, 41st Report, 1989. USITC Publication 2317, p. 140.

⁴⁹ 55 F.R. 48197.

⁵⁰ 55 F.R. 50269.

⁵¹ 55 F.R. 53376.

⁵² USTR docket No. 301-82.

⁵³ 56 F.R. 292.

⁵⁴ USTR docket No. 301-79.

⁵⁵ 54 F.R. 36089.

Table 19
Summary of activity on sec. 301 Investigations during 1990

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/ country</i>	<i>Status at yearend 1990</i>
301-82 Nov. 1990	Int'l Intellectual Property Alliance, et al.	Copyright laws/ Thailand	On December 21, 1990, the USTR initiated an investigation under section 302(b). The USTR also requested consultations with the Royal Thai Government.
301-81 Nov. 1990	No petition. Initiated by USTR.	Accession of Spain & Portugal/EC	Settlement reached and investigation terminated on December 21, 1990.
301-80 May 1990	G. Heileman Brewing Company, Inc.	Beer/Canada	Consultations under Article XXIII:1 of GATT were held July 20, 1990. Petition filed by Stroh Brewing Company on September 14, 1990 has been incorporated into this investigation.
301-79 July 1989	Amtech Corp.	Highway toll electronic ID systems/ Norway.	The U.S. withdrew its complaint and terminated the investigation on April 26, 1990, following a satisfactory settlement.
301-78 June 1989	No petition. Initiated by USTR.	Insurance/India	In light of India's participation in the GATT Uruguay Round, the investigation was terminated on June 14, 1990.
301-77 June 1989	No petition. Initiated by USTR.	Investment/India	In light of India's participation in the GATT Uruguay Round, the investigation was terminated on June 14, 1990.
301-76 June 1989	No petition. Initiated by USTR.	Forest Products/ Japan	In light of commitments by the Japanese Government, the investigation was suspended on June 15, 1990.
301-75 June 1989	No petition. Initiated by USTR.	Supercomputers/ Japan	In light of commitments by the Japanese Government, the investigation was suspended on June 15, 1990.
301-74 June 1989	No petition. Initiated by USTR.	Satellites/Japan	In light of commitments by the Japanese Government, the investigation was suspended on June 15, 1990.
301-73 June 1989	No petition. Initiated by USTR.	Import Licensing/ Brazil	In light of actions taken by the Brazilian Government, the investigation was terminated on May 21, 1990.
301-72 April 1989.	U.S. Cigarette Export Assoc.	U.S. cigarettes/ Thailand.	In light of actions and commitments of the Royal Thai Government, the USTR terminated the investigation on November 23, 1990.
301-70 Nov. 1988	Copper and Brass Fabricators Council.	Metal scrap/EC-United Kingdom.	On the basis of an agreement concluded January 4, 1990, the petitioner withdrew its petition on February 26, 1990, and the investigation was terminated.
301-69 Nov. 1988	Required by sec. 1305 of Omnibus Trade and Competitiveness Act of 1988.	Construction services/Japan.	On November 21, 1989, the USTR determined that certain acts, policies, and practices with respect to the procurement of architectural, engineering and related consulting services by the Japanese Government are unreasonable and burden or restrict U.S. commerce. No retaliatory measures were taken because of certain commitments made by the Government of Japan. No action reported in 1990.

Table 19—Continued
Summary of activity on sec. 301 investigations during 1990

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/ country</i>	<i>Status at yearend 1990</i>
301-65 Feb. 1988	American Meat Institute.	Beef licensing/Korea.	On the basis of an agreement initialed between the U.S. and Korea on April 26, 1990, the investigation was terminated. The USTR continues to monitor Korea's implementation of the agreement pursuant to section 306 of the Trade Act.
301-63 Dec. 1987	American Soybean Association.	Oilseeds/EC.	Based on an agreement with the EC, the USTR terminated the investigation, and monitors the EC's implementation of the agreement.
301-62 Nov. 1987	President acted on his own motion.	Animal Hormone Directive/EC.	A task force of high-level United States and EC officials continue to seek a resolution to the hormones dispute. In 1989, the USTR suspended the additional duty on pork hams and shoulders and certain tomato sauces. On May 16, 1990, the USTR made a technical amendment to the subheadings on tomato sauces.
301-61 June 1987	Pharmaceutical Manufacturers Association.	Lack of patent protection/Brazil.	Based on Brazilian assurances that patent protections will be enacted, the USTR terminated the application of increased duties on June 27, 1990.
301-60 July 1987	American Meat Inst., et al.	Third Country Meat Directive/EC.	Pending. 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 US plants. No action reported in 1990.
301-55 Apr. 1986	Icicle Seafoods and Associated Processors. Canada.	Ban on unprocessed herring and salmon exports/	The U.S. and Canada reached an agreement in February 1990 that permits U.S. buyers to purchase 20% of British Columbia roe herring and salmon directly from B.C. fishing grounds in 1990. The percentage will increase to 25% during 1991-93. The investigation was terminated on June 1, 1990.
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. The USTR then resumed consultations and Argentina suspended the rebate. Consultations continue.
301-52 Nov. 1985	No petition. Self-initiated by USTR.	Intellectual property/Korea.	Implementation of agreement between Korea and the U.S. continues to be monitored. Follow-up discussions are being held with the Korean Government.
301-50 Sept. 1985	USTR initiated at President's direction.	Tobacco products/Japan.	In October 1986, the US and Japan concluded an agreement. The President approved the agreement and suspended the investigation, directing that it be terminated when Japan fully implements the agreement. No action reported in 1990.
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. In August 1988, the U.S. Government modified some aspects of implementation of the semiconductor agreement at the request of U.S. industry. No action reported in 1990.

Table 19—Continued
Summary of activity on sec. 301 investigations during 1990

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/ country</i>	<i>Status at yearend 1990</i>
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 1990.
301-44 Sept. 1983	Air Courier Conference of America.	Air transpor- tation of time- sensitive com- mercial documents/ Argentina.	On May 25, 1989, agreement reached which provides for non-discriminatory treatment of foreign air couriers in Argentina. When fully implemented, ACCA is expected to withdraw its petition. No action reported in 1990.
301-42 Apr. 1983	National Soybean Processors Association.	Soybean oil and meal/Spain.	Pending. US and Spain consulted under GATT Art. XXII on December 1, 1983. No action reported in 1990.
301-41 Apr. 1983	National Soybean Processors Association.	Soybean oil and meal/Portugal.	US and Portugal consulted under GATT Art. XXII on November 29, 1983. In June 1984, Portugal began lifting its restrictions on soymeal imports. No action reported in 1990.
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 1990.
301-37 Oct. 1982	Footwear Industries of America, Inc.	Nonrubber footwear/ Korea	The U.S. and Korea consulted on February 5, 1983 and in August 1983. Korea reduced tariffs on footwear items and removed all leather items from the import surveillance list. No action reported in 1990.
301-36 Oct. 1982	Footwear Industries of America, Inc.	Nonrubber footwear/ Japan.	In December 1985, Japan agreed to provide an estimated \$236 million in compensation through reduced (or bound) Japanese tariffs. The United States has raised tariffs on an estimated \$24 mil- lion in imports into the United States of leather and leather goods from Japan. No action reported in 1990.
301-35 Oct. 1982	Footwear Industries of America, Inc.	Nonrubber footwear/ Brazil.	Pending. In November 1985, Brazil offered to liberalize its import surcharge and reduce tariffs. No action reported in 1990.
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 1990.
301-23 Sept. 1981	National Broiler Council.	Poultry/EC.	Pending. No action in 1990.
301-22 Oct. 1981	Great Western Sugar Company	Sugar export sub- sidies/EC	On July 29, 1987 the petitioners requested that the investigation be reactivated. The USTR denied their request. No action reported in 1990.
301-18 May 1979	American Institute of Marine Under- writers.	Marine insurance/ Argentina.	The USTR suspended the investigation on July 25, 1980 upon Argentina's commitment to participate in multilateral negotiations. No action reported in 1990.
301-14 Nov. 1977	American Institute of Marine Under- writers.	Marine insurance/ USSR.	On July 12, 1979, the USTR suspended the inves- tigation pending review of the operation of the US- USSR agreement. The suspension remains in effect. No action reported in 1990.

Table 19—Continued
Summary of activity on sec. 301 investigations during 1990

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/ country</i>	<i>Status at yearend 1990</i>
301-13 Aug. 1977	Tanners Council of America.	Leather/Japan.	See Docket No. 301-36 above.
301-6 Nov. 1975	Millers National Federation.	Wheat flour/EC.	GATT Subsidies Code panel declined to rule whether EC violated code rules. No action in 1990. The issues raised by the panel report are the subject of the Uruguay negotiations.

Procurement Code procedures are followed in its future government procurements and that the award of the Oslo Toll Ring contract to a Norwegian firm does not prejudice the ability of foreign companies to win contracts for future toll ring projects in Norway.

On the basis of this exchange of letters, the United States withdrew its complaint from the Committee on Government Procurement and terminated the investigation on April 26, 1990.⁵⁶

*India: Insurance*⁵⁷

On June 16, 1989, the USTR initiated an investigation under section 302(b)(1) of the Trade Act of 1974 concerning India's barriers to foreign insurance providers. These practices had been identified on May 26, 1989, as "priority practices" of a "priority country" under section 310 of the Trade Act (i.e., Super 301).

On April 27, 1990, USTR reviewed the identification of India as a "priority country" and of insurance market barriers as a "priority practice."⁵⁸ A request for public comment was published on May 11, 1990.⁵⁹

On June 14, 1990, the USTR determined that India's practices were unreasonable and burdened or restricted U.S. commerce. However, the investigation was terminated on that date because the USTR determined that no responsive action under section 301 was appropriate, given the potential for results through India's participation in the GATT Uruguay Round.⁶⁰ The USTR indicated its intention to review the status of India's practices after the conclusion of the Uruguay Round and determine at that time whether action under section 301 would be warranted.

*India: Investments*⁶¹

On June 16, 1989, USTR initiated an investigation of trade-restricting measures imposed by the Government of India on foreign investors. This investigation resulted from identification of this practice as a Super 301 "priority practice."

⁵⁶ 55 F.R. 19692.

⁵⁷ USTR docket No. 301-78.

⁵⁸ 55 F.R. 18693.

⁵⁹ 55 F.R. 19818.

⁶⁰ 55 F.R. 25766.

⁶¹ USTR docket No. 301-77.

On April 27, 1990, USTR reviewed the identification of India as a "priority country" and its investment barriers as a "priority practice."⁶² A request for public comment was published on May 11, 1990.⁶³

On June 14, 1990, the USTR determined that India's practices were unreasonable and burdened or restricted U.S. commerce. The investigation was terminated on that date, however, because the USTR determined that no responsive action under section 301 was appropriate, given the potential for results through India's participation in the GATT Uruguay Round.⁶⁴ The USTR indicated its intention to review the status of India's practices after the conclusion of the Uruguay Round and determine at that time whether action under section 301 would be warranted.

*Japan: Forest Products*⁶⁵

On June 16, 1989, USTR initiated an investigation of Japan's policies and practices affecting imports of forest products, including technical barriers to trade. This investigation resulted from identification of this practice as a Super 301 "priority practice."

Following extensive consultations, the United States and Japan agreed on April 25, 1990, to a comprehensive package of measures intended to improve market access for U.S. exporters of forest products and to expand the opportunities for wood construction in Japan. Among other things, Japan agreed to reduce overall tariff rates on certain wood products, to base building standards on performance requirements, to revise and adopt new certification standards for wood products, and to establish certain committees to monitor these changes. On June 15, 1990, the investigation was suspended.⁶⁶

*Japan: Supercomputers*⁶⁷

On June 16, 1989, USTR initiated an investigation of the Government of Japan's procurement practices with respect to supercomputers. This investigation re-

⁶² 55 F.R. 18693.

⁶³ 55 F.R. 19818.

⁶⁴ 55 F.R. 25765.

⁶⁵ USTR docket No. 301-76.

⁶⁶ 55 F.R. 25763. For further details, see the Japan section of ch. 4.

⁶⁷ USTR docket No. 301-75.

sulted from identification of this practice as a Super 301 "priority practice."

On March 23, 1990, the USTR announced that an understanding had been reached with Japan on a basic text of an agreement to supersede a 1987 bilateral agreement on supercomputers. It was further agreed that efforts to finalize the new agreement and to ensure market opportunities for U.S. supercomputer suppliers would continue. Among other things, Japan agreed to have procuring entities follow open, competitive, and transparent procedures in making acquisitions of supercomputers, to establish purchaser specifications based on users' actual minimum needs, and to establish new procedures for considering complaints regarding acquisition of supercomputers. On June 15, 1990, the investigation was suspended.⁶⁸

Japan: Satellites⁶⁹

On June 16, 1989, USTR initiated an investigation of the Government of Japan's ban on government procurement of foreign satellites. This investigation resulted from identification of this practice as a Super 301 "priority practice."

On April 3, 1990, the USTR announced that the United States had reached an understanding with the Government of Japan on an agreement intended to provide open access to the Japanese public satellite market for U.S. companies. Among other things, Japan committed itself to removing the explicit restriction on the procurement of foreign satellites by government entities and agreed to establish open, transparent, and non-discriminatory procedures for making acquisitions of nonresearch satellites. On June 15, 1990, the investigation was suspended.⁷⁰

Brazil: Import Licensing⁷¹

On June 16, 1989, USTR initiated an investigation of certain import restrictions maintained by the Government of Brazil, including its "suspended" list, company- and sector-specific import quotas, and lack of transparency of its import-licensing regime. This investigation resulted from identification of this practice as a Super 301 "priority practice."

During GATT consultations, Brazil indicated its intent to significantly reduce its prohibited import list⁷² and expand the de facto quotas. Some minor liberalization of the de facto quotas occurred in February 1990. However, when action to reduce the prohibited import list did not occur, the United States informed Brazil of its intention to request dispute-settlement proceedings under GATT article XXIII:2 if no resolution was forthcoming.

⁶⁸ 55 F.R. 25764. For further details, see the Japan section of ch. 4.

⁶⁹ USTR docket No. 30-74.

⁷⁰ 55 F.R. 25761. For further details, see the Japan section of ch. 4.

⁷¹ USTR docket No. 301-73.

⁷² For a more detailed discussion of Brazil's list of prohibited imports, see the discussion of Brazil in ch. 4.

On May 14, 1990, the Government of Brazil informed USTR that its Ministry of Economy had implemented the resolution eliminating quantitative restrictions on imports, including the "prohibited" list. On May 21, 1990, the USTR terminated the investigation because the practices that were the subject of the investigation had been removed.⁷³

Thailand: Cigarettes⁷⁴

On April 10, 1989, the U.S. Cigarette Export Association (CEA) filed a petition alleging that the Royal Thai Government and its instrumentality, the Thailand Tobacco Monopoly (TTM), engage in practices that are unreasonable, discriminate against imports, and burden and restrict U.S. commerce.

The USTR initiated an investigation on May 25, 1989, and requested public comment.⁷⁵ On December 22, 1989, the United States requested consultations under article XXIII:1 of the GATT. Since those consultations failed to result in a satisfactory solution, the United States requested the establishment of a panel under GATT article XXIII:2. The panel, established on April 3, 1990, issued its report on September 21, 1990, concluding that Thailand's import restrictions on cigarettes are contrary to the provisions of GATT article XI. On October 15, USTR requested public comment on actionability.⁷⁶

On November 23, 1990, the USTR determined that U.S. rights under the GATT were violated by Thailand's restrictions on imports of cigarettes. However, in light of subsequent actions and commitments of the Royal Thai Government intended to allow foreign cigarettes to be sold in Thailand on the basis of nondiscrimination, national treatment, and normal commercial practices and considerations, the USTR decided to terminate the investigation.⁷⁷ USTR will monitor Thai implementation of its commitments pursuant to section 306 of the Trade Act.

EC: Copper Scrap Restrictions⁷⁸

In November 1988, the Copper and Brass Fabricators Council, Inc., filed a petition 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 copper 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.⁷⁹ On January 27, 1989, a USTR representative

⁷³ 55 F.R. 22876.

⁷⁴ USTR docket No. 301-72.

⁷⁵ 54 F.R. 23724.

⁷⁶ 55 F.R. 41781.

⁷⁷ 55 F.R. 49724.

⁷⁸ USTR docket No. 301-70.

⁷⁹ 54 F.R. 338.

announced that USTR would not proceed separately against the United Kingdom because the United Kingdom had represented that its restrictions were not being maintained independently of the EC restrictions.⁸⁰

A dispute-settlement panel was established by the GATT Council on July 19, 1989.⁸¹ After the first panel meeting was held in November 1989, the United States and the EC resumed settlement negotiations, resulting in an agreement on January 4, 1990, in which the EC agreed not to reimpose the export restrictions in 1990.⁸²

On the basis of this trade agreement, the United States withdrew its complaint from the GATT dispute-settlement panel. On February 26, 1990, the petitioner withdrew its petition and the investigation was terminated.⁸³

Korea: Beef Licensing System⁸⁴

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 1988, the USTR initiated an investigation.⁸⁵ In May 1988, the GATT Council agreed to establish a dispute-settlement panel, which issued a report favorable to the United States on May 27, 1989.⁸⁶ However, Korea did not agree to the adoption of the panel report.

Effective September 28, 1989, the USTR determined that rights to which the United States is entitled were being denied by Korea.⁸⁷ On November 8, 1989, Korea allowed the GATT panel report to be adopted and consultations commenced on an acceptable implementation by Korea of the panel results.⁸⁸

On March 21, 1990, an agreement was initiated by the United States and Korea, and on April 26-27, letters were exchanged. Among other things, Korea agreed to liberalize fully its beef market and to increase annually its quotas through 1992. The investigation was terminated on April 26, 1990.⁸⁹ Pursuant to section 306 of the Trade Act, the USTR will monitor Korea's implementation of the agreement.⁹⁰

EC: Oilseeds⁹¹

On December 16, 1987, the American Soybean Association (ASA) filed a petition complaining that the EC's policies and practices relating to oilseeds and oilseed substitutes nullify and impair benefits accruing

to the United States under GATT and, specifically, are inconsistent with a zero tariff binding agreed to by the EC. ASA alleged that the practices also are unjustifiable, unreasonable, and burden or restrict U.S. commerce.

On January 5, 1988, the USTR initiated an investigation and requested consultations with the EC.⁹² The GATT panel, convened under GATT article XXIII:1, ruled in favor of the United States. The panel report that was circulated to GATT contracting parties on December 14, 1989. On January 25, 1990, the panel report was adopted by consensus by the GATT Council of Representatives and the EC representative confirmed the EC's intention to take measures to comply with the panel's conclusions.⁹³

On January 31, 1990, consistent with the panel's conclusions, the USTR determined that rights of the United States under a trade agreement are being denied by the EC's production and processing subsidies on oilseeds and animal feed proteins and that EC production subsidies deny benefits to the United States. The USTR also noted that the EC had agreed to take satisfactory measures to grant the rights of the United States under a trade agreement. Therefore, the USTR decided to terminate the investigation and to monitor the EC's implementation of its commitment under section 306 to take satisfactory measures by the 1991 marketing year to comply with the panel report.⁹⁴

Brazil: Pharmaceuticals⁹⁵

The Pharmaceutical Manufacturers Association filed a petition on June 11, 1987, complaining of Brazil's lack of patent protection for pharmaceutical products and the process of their production as an unreasonable practice that burdens or restricts U.S. commerce.⁹⁶

On July 23, 1987, the USTR initiated an investigation and requested consultations with Brazil.⁹⁷ On July 21, 1988, the President determined Brazil's policy to be unreasonable and a burden and restriction on U.S. commerce. On October 20, 1988, the President used section 301 authority to proclaim tariff increases to 100 percent ad valorem on certain paper products, nonbenzenoid drugs, and consumer electronics items from Brazil.⁹⁸

On June 26, 1990, Brazilian President Fernando Collor announced that he would seek to draft legislation to provide product and process patent protection for pharmaceuticals. The Brazilian administration indicated its intention to ensure the presentation of a bill to the Brazilian Congress for this purpose in early 1991, and to seek its approval and implement such legislation immediately after it comes into force.

⁸⁰ USTR, *Report to Congress on Section 301 Developments*, January-June 1990, note. 32 at 11.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ 55 F.R. 7859.

⁸⁴ USTR docket No. 301-65.

⁸⁵ 53 F.R. 10995.

⁸⁶ Australia was also authorized a panel on the same matter.

⁸⁷ 54 F.R. 40769.

⁸⁸ USTR, Section 301 Table of Cases, *supra* note 32, at 37.

⁸⁹ 55 F.R. 20376.

⁹⁰ For further details, see the Korea section of ch. 4.

⁹¹ USTR docket No. 301-63.

⁹² 53 F.R. 984.

⁹³ USTR, *Report to Congress on Section 301 Developments*, *supra* note 32, at 16.

⁹⁴ 55 F.R. 4294. For further details, see the "Dispute Settlement" section of ch. 2.

⁹⁵ USTR docket No. 301-61.

⁹⁶ For additional information on Brazil's pharmaceutical policies, see the discussion of Brazil in ch. 4.

⁹⁷ 52 F.R. 28223.

⁹⁸ 53 F.R. 41551.

Consequently, on June 27, 1990, the USTR terminated the application of the increased duties with respect to articles entered or withdrawn from warehouses for consumption on or after July 2, 1990.⁹⁹ The USTR also announced that the United States would monitor closely the Government of Brazil's efforts to enact such legislation. On April 30, 1991, President Collor introduced to the Brazilian Congress a bill that would recognize intellectual property rights for pharmaceuticals.¹⁰⁰

*Canada: Salmon and Herring*¹⁰¹

Iceberg 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 cost advantage that burdens U.S. exports in third-country markets. The USTR initiated an investigation in May 1986.¹⁰² In November 1987, a GATT dispute-settlement panel ruled in favor of the United States. The panel report was adopted by the GATT Council in March 1988.¹⁰³

The USTR determined on March 28, 1989, that Canada's export prohibition denied a right to which the United States was entitled under the GATT.¹⁰⁴ On April 25, 1989, Canada repealed its export prohibition and replaced it with regulations requiring all Pacific roe herring and salmon caught in Canadian waters to be brought to shore in British Columbia prior to export. On October 13, 1989, an FTA dispute-settlement panel issued a report finding that the landing requirements violated FTA article 407, which prohibits GATT-inconsistent export restrictions.¹⁰⁵

In mid-February 1990, the United States and Canada reached agreement on an interim settlement of the dispute, which permits U.S. buyers to purchase 20 percent of British Columbia (B.C.) roe herring and salmon directly from B.C. fishing grounds during the 1990 fishing season. The percentage will increase to 25 percent during 1991-93. Under the arrangement, roe herring shipped to the United States from Canada must be processed before re-export to third countries to the same extent required under Canadian law.¹⁰⁶

Canada and the United States will review the operation of this arrangement in 1993. The investigation was terminated on June 1, 1990.¹⁰⁷

⁹⁹ 55 FR. 27324.

¹⁰⁰ James Bruce, "Brazil Proposes to Accelerate Pharmaceutical Patent Rights," *Journal of Commerce*, May 3, 1991.

¹⁰¹ USTR Docket No. 301-55.

¹⁰² 51 FR. 19648.

¹⁰³ USTR, *Report to Congress on Section 301 Developments, January-June 1990*, *supra*, note 32, at 18.

¹⁰⁴ *Ibid.*

¹⁰⁵ USTR, "Section 301 Table of Cases," note 32, at 27.

¹⁰⁶ *Ibid.*, p. 28.

¹⁰⁷ 55 FR. 23322.

*Argentina: Differential Export Taxes on Soybeans and Soybean Products*¹⁰⁸

The USTR initiated the investigation in April 1986 at the request of the National Soybean Processors Association.¹⁰⁹ The petitioner alleged that Argentina's system of differential export taxes, under which soybeans are charged a higher export tax than soybean oil, burdens U.S. exports to third-country markets.

In February 1988, Argentina reduced the export tax differential by 3 percent. However, Argentina established a 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.¹¹⁰ Consultations with Argentina were continuing as of the end of 1990.

Followup on Cases Settled Prior to 1990

*EC: Animal Hormone Directive*¹¹¹

On December 24, 1987, on his own motion, the President proclaimed, but immediately suspended, increased duties on specified products of the EC in response to the EC's scheduled implementation of its Animal Hormone Directive.¹¹² The EC implemented its directive on January 1, 1989. In response, the USTR terminated the suspension of the increased duties, effective January 1, 1989, with some modifications.¹¹³

In 1989, the USTR suspended the additional duty on pork hams and shoulders and certain tomato sauces, as the result of EC agreement to an interim measure allowing entry of nontreated U.S. meat.¹¹⁴ On May 16, 1990, the USTR made a technical amendment to the subheadings on tomato sauces.¹¹⁵

*Korea: Intellectual Property Rights*¹¹⁶

On November 4, 1985, the USTR self-initiated an investigation of Korea's lack of effective protection of U.S. intellectual property rights.¹¹⁷ In 1986, the White House, announcing the conclusion of an agreement with Korea aimed at improving protection of intellectual property rights, terminated the investigation.¹¹⁸

Implementation of the agreement continues to be monitored. Followup discussions are being held with the Korean Government.¹¹⁹

¹⁰⁸ USTR docket No. 301-53.

¹⁰⁹ 51 FR. 16764.

¹¹⁰ USTR, "Section 301 Table of Cases," Nov. 15, 1988.

¹¹¹ USTR docket No. 301-62.

¹¹² 52 FR. 49131.

¹¹³ 53 FR. 53115.

¹¹⁴ 54 FR. 50673.

¹¹⁵ 55 FR. 20376.

¹¹⁶ USTR docket No. 301-52.

¹¹⁷ 50 FR. 45883.

¹¹⁸ 51 FR. 29446.

¹¹⁹ USTR, "Section 301 Table of Cases," p. 23, footnote 32. For further details, see also the Korea section of ch. 4.

Cases Inactive in 1990

Outstanding cases in which no further action occurred in 1990 include:¹²⁰

- EC: Export Subsidies on Wheat Flour;¹²¹
- Japan: Leather;¹²²
- USSR: Marine Insurance;¹²³
- Argentina: Marine Insurance;¹²⁴
- EC: Sugar Export Subsidies;¹²⁵
- EC: Poultry Export Subsidies;¹²⁶
- Canada: Tax and Customs Measures on Front-End Loaders;¹²⁷
- Brazil,¹²⁸ Japan,¹²⁹ and Korea;¹³⁰ Import Restrictions on Nonrubber Footwear;
- Brazil,¹³¹ Portugal,¹³² and Spain;¹³³ Barriers to U.S. Exports of Soybean Oil and Meal;
- Argentina: Air Couriers;¹³⁴
- EC: Technical Standards For Fertilizers;¹³⁵
- Japan: Semiconductors;¹³⁶
- Japan: Tobacco Production;¹³⁷
- EC: Third Country Meat Directive;¹³⁸ and
- Japan: Construction-Related Services.¹³⁹

Other Import Administration Laws

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 domestic agricultural commodity prices. The President acts on the basis of a formal investigation and recommendation by the U.S. International Trade Commission. Following receipt of the Commission's report, the President may impose quantitative restrictions on imports or 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

¹²⁰ For further details on these cases see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC publication 1995, July 1987, pp. 5-10 and 4-7.

¹²¹ USTR docket No. 301-6. Initiated in December 1975.

¹²² USTR docket No. 301-13. Initiated in August 1977.

¹²³ USTR Docket no. 301-14. Initiated in June 1978 (suspended).

¹²⁴ USTR docket No. 301-18. Initiated in July 1979 (suspended).

¹²⁵ USTR docket No. 301-22. Initiated in October 1981.

¹²⁶ USTR docket No. 301-23. Initiated in October 1981.

¹²⁷ USTR docket No. 301-34. Initiated in October 1982.

¹²⁸ USTR docket No. 301-35. Initiated in December 1982.

¹²⁹ USTR docket No. 301-36. Initiated in December 1982.

¹³⁰ USTR docket No. 301-37. Initiated in December 1982.

¹³¹ USTR docket No. 301-40. Initiated in May 1983.

¹³² USTR docket No. 301-41. Initiated in May 1983.

¹³³ USTR docket No. 301-42. Initiated in May 1983.

¹³⁴ USTR docket No. 301-44. Initiated in November 1983.

¹³⁵ USTR docket No. 301-47. Initiated in October 1984.

¹³⁶ USTR docket No. 301-48. Initiated in July 1985.

¹³⁷ USTR docket No. 301-50. Initiated in September 1985 (suspended).

¹³⁸ USTR docket No. 301-60. Initiated in July 1987.

¹³⁹ USTR docket No. 301-69. Initiated in November 1988.

Commission's investigation and report. Such emergency action continues in effect during the pendency of the above proceedings.

On November 13, 1990, the President suspended indefinitely the existing quota on cotton waste products.¹⁴⁰ This action followed formal section 22 proceedings by the International Trade Commission to determine whether the existing import quota on cotton waste should be maintained, terminated, or if the current, country-specific allocations should be modified. The Commission's investigation, initiated at the direction of the President, was instituted on July 25, 1989, with findings and recommendations forwarded to the President on January 25, 1990.¹⁴¹

On December 3, 1990, the Commission on its own motion instituted investigation No. 22-52 to assess the import effects of peanuts on USDA price-support programs. The investigation was ongoing at the end of 1990.¹⁴²

Quantitative import restrictions established pursuant to section 22 authority, through presidential proclamations of previous years, remained in place throughout 1990 on cotton products of certain specified staple lengths, cotton waste, peanuts, certain dairy products, and certain sugar-containing articles. Compensatory import fees remained in effect on refined sugar.¹⁴³

Meat Import Act of 1979

The Meat Import Act of 1979 (Public Law 88-482), successor to the Meat Act of 1964, became effective on January 1, 1980. The act requires the President to impose quotas on imports of bovine meat, primarily fresh, chilled, or frozen beef¹⁴⁴ if the projected aggregated quantity of the subject bovine products for the calendar year, as estimated by the USDA, is expected to exceed a specified "trigger" level.¹⁴⁵ This "trigger" level, calculated on the basis of a congressionally prescribed formula outlined in the law, is modified annually by a production-adjustment and counter-cyclical factor. The "trigger" level is equivalent to 110 percent of the applicable quota for meat imports in a given year. Quantitative limitations may be applied if unrestrained imports are expected to exceed "trigger" levels.

¹⁴⁰ For details, see Presidential Proclamation No. 6228 dated Nov. 13, 1990.

¹⁴¹ A detailed description of the Commission's findings and recommendations is contained in USITC, *Cotton Comber Waste: Report to the President on Investigation No. 22-51 Under section 22 of the Agricultural Adjustment Act, as Amended*, USITC publication 2334, Nov. 1990.

¹⁴² On Mar. 22, 1991, the USITC transmitted to the President its report on the section 22 investigation of peanut imports. The President as of May 6, 1991, had not responded to the Commission's finding.

¹⁴³ Outstanding sec. 22 cases in which no further Presidential action occurred in 1990 included sugar (investigation No. 22-49), sugar-containing articles (investigation No. 22-48), and ice cream (investigation No. 22-50).

¹⁴⁴ The law, which also encompasses imports of veal, mutton, and goat meat, does not apply to imports of pork, lamb, fish, or poultry meat.

¹⁴⁵ U.S. imports from Canada became exempt from the law on Jan. 1, 1989, with the implementation of the United States-Canada Free Trade Agreement (FTA).

Meat import quantities subject to the law are reviewed quarterly by the Secretary of Agriculture for conformance to "trigger" levels, at which time an estimate is made of total imports for the year. If the annual unrestrained meat import level is projected to exceed the "trigger" level, attempts may be made to negotiate "voluntary restraint agreements" (VRAs) with major suppliers. VRAs, if negotiated, stipulate that import totals remain below applicable Meat Import Law "trigger" levels. No quotas pursuant to the immediate law have been imposed since the provisions took effect in 1980.

On December 29, 1989, USDA announced that the applicable quota level for meat imports in 1990 was 1,242.0 million pounds, translating into a 1,366.2 million-pound "trigger" level. USDA also estimated that in the absence of limitations, 1,150 million pounds of quota meat would be imported during 1990, approximately 216.2 million pounds below the 1990 "trigger" level, mandating imposition of quantitative limitations.¹⁴⁶ Actual imports of quota meat subject to the act in 1990, according to preliminary statistics of the U.S. Customs Service, totaled 1,356.7 million pounds allocated among participating suppliers as follows (in million pounds):

Source	Quantity
Australia	815.2
New Zealand	407.7
Costa Rica	42.1
Guatemala	37.8
Dominican Republic	25.7
Honduras	22.1
Mexico	2.6
Sweden	2.5
El Salvador	1.0
Total	1,356.7

Since the 1,356.7 million pounds of meat imported in 1990 was below the 1,366.2 million "trigger" level, the quota was not imposed. This margin under the quota resulted from particularly light shipments from Australia in the final two quarters of the year. Industry sources indicate that Australia has in recent months diverted a significant portion of its beef for export to Japan and the Pacific Rim countries.

On December 31, 1990, the USDA released its annual estimate of 1991 meat imports in the absence of restraints. Meat imports subject to the law were estimated to total 1,120 million pounds, 198.5 million pounds below the 1991 "trigger" level of 1,318.5 million pounds that would mandate quantitative restrictions.¹⁴⁷

National Security Import Restrictions

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) authorizes the President, on the basis

¹⁴⁶ 55 F.R. 335, Jan. 4, 1990.

¹⁴⁷ 56 F.R. 510, Jan. 7, 1991.

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. The President, unless he reverses the Secretary's finding, must take whatever action he considers necessary to control the contested articles' importation. 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 through the Department of Commerce's Office of Industrial Resource Administration (OIRA) since January 1980. Previous responsibility for the program resided with the Department of Treasury and the Office of Emergency Preparedness. The Secretary, pursuant to the Omnibus Trade and Competitiveness Act¹⁴⁸ of 1988, must present his recommendations to the President within 270 days after the initial date of the complaint rather than within the 1 year previously allowed. The President has 90 days in which to decide on appropriate action after receipt of the Secretary's findings. Previously, no deadline mandating Presidential action was in place.

The most recent investigation conducted under this section that led directly to import restrictions was the 1986 case that focused on imports of machine tools. The President, rather than acting unilaterally under authority of section 232, directed the United States Trade Representative to negotiate voluntary restraint agreements with countries showing significant exports to the United States. Agreements were subsequently negotiated with Japan and Taiwan.¹⁴⁹ The agreements to date have obviated the need for unilateral Presidential action under section 232. No new investigations were initiated pursuant to provisions under authority of section 232 in calendar year 1990. Section 232 has been used sparingly in the past by the President. The most notable use of this section has been in connection with the imposition of quotas, fees, or economic sanctions¹⁵⁰ on imports of petroleum products.

Caribbean Basin Economic Recovery Act (CBERA)

In 1990, the Caribbean Basin Economic Recovery Act (CBERA) marked its seventh year of operation.¹⁵¹

¹⁴⁸ See title I, subtitle E of the 1988 act.

¹⁴⁹ Japan and Taiwan agreed in 1986 to limit for a 5-year period, through December 1991, exports of machine tools to the United States. Negotiations with West Germany and Switzerland failed to produce similar agreements, prompting notification by the United States that it was prepared to take unilateral action should imports from these countries exceed prescribed levels. No action to limit machine tool imports from West Germany or Switzerland has been taken by the U.S. Government to date. For further details, see Presidential Notice dated Dec. 16, 1986 on the Machine Tool Revitalization Program.

¹⁵⁰ Libyan policies and actions supported through revenues from the exportation of oil to the United States were initially declared to be adverse to U.S. national security in March 1982. Economic sanctions based on Presidential Proclamations of previous years continued in effect throughout 1990 on U.S. imports of crude and refined petroleum products originating in Libya.

¹⁵¹ The CBERA became operative by Presidential proclamation on Jan. 1, 1984 (Public Law 98-67, title 11).

The CBERA, centerpiece of the Caribbean Basin Initiative (CBI),¹⁵² is designed to encourage economic development in the Caribbean Basin principally by providing customs-duty-free entry to the United States for a wide range of products from CBI-beneficiary countries.

The Caribbean Basin is defined as consisting of 28 Caribbean, Central American, and South American countries and territories.¹⁵³ The Caribbean Basin countries are categorized as either "designated," which signifies CBERA-beneficiary status, or "nondesignated." In this report, the designated country group (also referred to as "CBERA" countries) varies according to the year under discussion.¹⁵⁴ In 1990, Nicaragua became a designated country for the first time¹⁵⁵ and Panama¹⁵⁶ regained eligibility as a designated country.

The CBERA was originally implemented as a 12-year program scheduled to expire on September 30, 1995. On August 20, 1990, President Bush signed into law the Caribbean Basin Economic Recovery Expansion Act of 1990.¹⁵⁷ This legislation extended the CBERA program indefinitely. Other key provisions of 1990 CBERA legislation include (1) a 20-percent duty reduction, to be implemented in five equal annual stages beginning in January 1992, for certain leather apparel, work gloves, and flat goods;¹⁵⁸ (2) a revision to language on workers' rights to prohibit the President from designating any country as a CBERA beneficiary if that country has not or is not taking steps to afford

¹⁵² The CBI refers to a broader program launched in 1983 to expand foreign and domestic investment in nontraditional sectors of the Caribbean Basin countries, to diversify their economies, and to expand their exports. For more detailed information on provisions under the CBI, see Latin America/Caribbean Business Development Center, *1991 Guidebook: Caribbean Basin Initiative*, U.S. Department of Commerce, International Trade Administration, November 1990.

¹⁵³ These include the 27 countries and territories originally specified as potential beneficiaries in sec. 212(b) of the act, and Aruba (treated as part of the Netherlands Antilles until 1986).

¹⁵⁴ For the years 1985-87, the "CBERA countries" comprised a group of 22 beneficiaries. For 1988, the list of CBERA beneficiaries was expanded to include Guyana, while Panama was removed from the list of designated countries for 1989.

¹⁵⁵ The President's authority to designate Nicaragua a beneficiary country was granted under the Caribbean Basin Economic Recovery Expansion Act of 1990. See discussion of the act below. Worker rights criteria required of all beneficiary countries (sec. 212(b) of the CBERA) were waived for Nicaragua for national security reasons by Presidential Determination No. 91-8 of Nov. 7, 1990, 55 F.R. 49499, Nov. 29, 1990. Nicaragua became an eligible CBERA beneficiary effective Nov. 8, 1990. Presidential Proclamation 6223, 55 F.R. 47447, Nov. 13, 1990.

¹⁵⁶ Panama was suspended from eligibility on Apr. 9, 1988, for lack of full cooperation with the United States in preventing the exportation of illegal narcotics, making it the first CBERA beneficiary to lose its designated status. See USITC, *OTAP 40th Report, 1988*, USITC publication 2208, July 1989, p. 156. Panama was reinstated as a CBERA beneficiary effective Mar. 17, 1990, 55 F.R. 7685, Mar. 2, 1990.

¹⁵⁷ Public Law 101-382, title 11. See "Statement on Signing the Customs and Trade Act of 1990," *Presidential Documents*, Aug. 20, 1990, p. 1266.

¹⁵⁸ These leather goods must be products of a CBERA beneficiary country. Footwear is excluded. Sec. 212(a) of the 1990 CBERA expansion act establishes a maximum annual reduction of 2.5 percent ad valorem, meaning that the full 20-percent reduction will not apply to any product with a tariff rate higher than 12.5 percent.

internationally recognized worker rights to workers in the country, as defined in the GSP statute;¹⁵⁹ and (3) the granting of duty-free entry to articles produced in Puerto Rico that are sent to a CBERA-beneficiary country to be "by any means advanced in value or improved in condition."¹⁶⁰

The 1990 CBERA legislation also stipulated changes to the U.S. HTS and to other legal provisions affecting CBERA-beneficiary countries. These changes:

- 1) Increase the duty-free allowance for tourists returning from the Caribbean from \$400 to \$600 (the allowance for tourists to U.S. insular possessions was increased from \$800 to \$1,200) and increase the duty-free alcoholic beverage allowances by 1 liter for CBERA-produced alcoholic beverages;¹⁶¹
- 2) Establish a new provision granting duty-free entry into the United States for articles "assembled or processed" in CBERA-beneficiary countries from U.S. "components, materials, or ingredients";¹⁶²

¹⁵⁹ This makes workers' rights criteria under the CBERA conform to the workers' rights criteria required under the U.S. GSP. The President may waive this requirement for U.S. economic or national security reasons.

¹⁶⁰ Any materials added to such articles must be of U.S. or CBERA-beneficiary country origin. To be eligible for duty free treatment, the goods must be imported directly into the customs territory of the United States from the CBERA country. This special treatment does not extend to products excluded from duty free treatment under the CBERA. One source estimates the main impact of this provision will be on operations that U.S. Customs previously found did not meet substantial transformation requirements or did not create a product of the CBERA beneficiary country, such as enameling, minor assembly, or finishing operations, and repairs or alterations to merchandise. See Latin America/Caribbean Business Development Center, *1991 Guidebook: Caribbean Basin Initiative*, U.S. Department of Commerce, International Trade Administration, November 1990, p. 58.

¹⁶¹ This provision amends headings in subch. IV of ch. 98 of the HTS.

¹⁶² Textiles, apparel, and petroleum products and derivatives are excluded. Before the expanded CBERA was enacted, articles assembled in beneficiary countries from U.S.-produced components were treated as foreign articles and thereby subject to U.S. duties and quotas upon reentry into the United States. Furthermore, inputs not locally grown or manufactured in beneficiary countries were required to have been substantially transformed to be eligible for duty free treatment in the United States. For products manufactured in CBERA-beneficiary countries wholly from U.S. components and ingredients, this new provision eliminates the substantial transformation requirement. Thus, previously excluded products such as footwear, handbags, and luggage produced from U.S. materials and components are eligible for duty-free treatment under the expanded CBERA. The new provision also eliminates a former requirement that at least 35 percent of the cost or value of the article must be attributable to direct costs of processing in one or more CBERA-beneficiary countries. This provision amends note 2 of subch. II of ch. 98 of the U.S. HTS. For further discussion of this new provision, see Latin America/Caribbean Business Development Center, *1991 Guidebook: Caribbean Basin Initiative*, U.S. Department of Commerce, International Trade Administration, November 1990, pp. 58-59.

- 3) Instruct the USITC to undertake an investigation to assess whether revised rules of origin for CBERA country products are appropriate;¹⁶³
- 4) Provide more liberal provisions (separate cumulation) for CBERA-beneficiary countries in assessing the impact of imports under U.S. countervailing duty and antidumping laws;¹⁶⁴
- 5) Amend the 1989 Steel Liberalization Act (19 U.S.C. 2703 note) effective date;¹⁶⁵
- 6) Amend the U.S. GSP rules-of-origin requirements to conform to the more stringent requirements under the CBERA;¹⁶⁶ and
- 7) Formalize the Government of Puerto Rico's commitment to provide a minimum of \$100 million in 936¹⁶⁷ funds annually.¹⁶⁸

¹⁶³ Results of this study are to be published in May 1991 as USITC, *Assessment of Rules of Origin Under the Caribbean Basin Economic Recovery Act*, (investigation No. 332-298).

¹⁶⁴ When imports from a CBERA-beneficiary country are under investigation under antidumping or countervailing duty laws, the imports from that country will no longer be aggregated with imports from non-CBERA countries under investigation. This measure reduces the likelihood that the CBERA country's exports will be viewed as causing material injury. This amends sec. 771(7)(C)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)).

¹⁶⁵ This act provides specific rules-of-origin requirements for ethyl alcohol or ethanol imported into the United States from CBERA-beneficiary countries using feedstock of both CBERA and of non CBERA origin. The original legislation required that, beginning in 1986, the percentage of ethanol produced with CBERA feedstock was to increase to reach 75 percent by 1989 to qualify for duty-free treatment. The 1990 CBERA legislation extends the grandfather provision of the original legislation by allowing companies to operate under pre-1986 criteria subject to an overall cap of 60 million gallons of ethanol made entirely from non-CBERA inputs.

¹⁶⁶ This adds the rules-of-origin requirements for eligible articles under sec. 213 of the CBERA to the U.S. sec. 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)). Although this change does not materially affect the CBERA program, it "may indirectly make certain CBI-produced goods more competitive, as it may cause selected goods produced in non-CBI countries that do not meet these rules of origin requirements to lose GSP status." Latin America/Caribbean Business Development Center, *1991 Guidebook: Caribbean Basin Initiative*, U.S. Department of Commerce, International Trade Administration, November 1990, p. 60.

¹⁶⁷ Sec. 936 of the U.S. Internal Revenue code exempts U.S. companies doing business in Puerto Rico from U.S. corporate income taxes on profits deposited in the Puerto Rican banking system. Local financial institutions lend these funds at below-market interest rates for business ventures and development projects in eligible CBERA countries to stimulate trade between the island and countries in the region. In 1986, Puerto Rico committed to provide a minimum of \$100 million in 936 funds annually to projects in qualifying countries. For a discussion of sec. 936 funds, see USITC, *Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers*, USITC publication 2321, September 1990, pp. 1-9 through 1-14.

¹⁶⁸ This provision amends sec. 936(d) of the Internal Revenue Code of 1986.

The 1990 CBERA legislation also included the following provisions:

- 1) A requirement directing the Agency for International Development (AID) to establish and administer a program of scholarship assistance for students from beneficiary countries to study in the United States;
- 2) A declaration that tourism should be a central part of the CBERA program and direction to the Secretary of Commerce to complete a study of Caribbean tourism development strategies that was begun in 1986;
- 3) A requirement that the Commissioner of Customs, in fiscal years 1991 and 1992, establish a pilot program in an appropriate Caribbean country for testing the extent to which having customs preclearance operations can enhance the development of tourism in the region;
- 4) Authorization for the President to designate Nicaragua as a beneficiary country under CBERA for 1990; and
- 5) A request that the President review the merits of extending the benefits provided under CBERA to the Andean region to help revitalize the national economies of the Andes and to further U.S. antinarcotics policy in the region.

As part of the CBI, the United States assists eligible countries promoting business and facilitating private sector investment in the area. In 1990, the Department of Commerce continued to lead these activities through its Caribbean Basin Information Center (CBIC), which was superseded by the Latin America/Caribbean Business Development Center (LA/C Center) as of October 27, 1990. The LA/C Center, which is funded in part by the U.S. AID, conducts trade-and investment-promotion projects including business counseling; seminars on trade and investment opportunities; numerous publications; matchmaker events to link investors and suppliers with specific regional needs and interests; and business development missions to the region.

In 1990, U.S. imports from designated beneficiaries of the Caribbean Basin amounted to \$7.5 billion, up from \$6.6 billion in 1989 (table 20). Imports from CBERA countries increased for the third consecutive year, following years of decline that accompanied depressed petroleum prices. Almost all U.S. imports from the Caribbean Basin originate in CBERA-designated countries. In 1990, CBERA beneficiaries accounted for 99.0 percent of all imports from the region, compared with 94.5 percent in 1989. The increase in the CBERA share was due largely to Panama's redesignation on March 17, 1990 (table A-25). Crude and refined petroleum products, which are not eligible for duty-free treatment under the CBERA, are the leading imports

Table 20
U.S. imports for consumption from countries designated under CBERA,¹ by duty treatment, 1988-90

Item	1988	1989	1990
	Value (1,000 dollars, customs value)		
Total imports	6,061,054	6,637,440	7,525,208
Dutiable value ²	1,975,850	2,101,839	2,573,813
HTS 9802.00.60 and 9802.00.80	427,144	504,882	520,107
HTS 9802.00.80.10	57,636	106,055	112,770
HTS 9802.00.80.50	369,483	398,241	406,235
Other	1,548,706	1,596,957	2,053,706
Duty-free value ³	4,085,204	4,535,601	4,951,395
MFN ⁴	1,927,912	1,854,400	1,968,007
CBERA ⁵	790,941	905,762	1,022,686
GSP ⁵	353,079	415,859	472,303
HTS 9802.00.60 and 9802.00.80	906,518	1,089,694	1,153,325
HTS 9802.00.80.10	161,708	286,437	318,106
HTS 9802.00.80.50	744,723	785,766	815,542
Other duty free ⁶	106,754	269,886	335,072
	Percent of total		
Total imports	100.0	100.0	100.0
Dutiable value ²	32.6	31.7	34.2
HTS 9802.00.60 and 9802.00.80	7.0	7.6	6.9
HTS 9802.00.80.10	1.0	1.6	1.5
HTS 9802.00.80.50	6.1	6.0	5.4
Other	25.6	24.1	27.3
Duty-free value ³	67.4	68.3	65.8
MFN ⁴	31.8	27.9	26.2
CBERA ⁵	13.0	13.6	13.6
GSP ⁵	5.8	6.3	6.3
HTS 9802.00.60 and 9802.00.80	15.0	16.4	15.3
HTS 9802.00.80.10	2.7	4.3	4.2
HTS 9802.00.80.50	12.3	11.8	10.8
Other duty free ⁶	1.8	4.1	4.5

¹ Panama is included as a beneficiary country in figures for 1988, and again in 1990. Data for Guyana are included from 1988.

² Reported dutiable value has been reduced by the duty-free value of imports entering under HTS subheadings 9802.00.60 and 9802.00.80 and increased by the value of ineligible items that were reported as entering under the CBERA and GSP programs.

³ The total duty-free value is calculated as total imports less dutiable value.

⁴ Figures for MFN duty-free imports represent the value of imports which have a col. 1-general duty rate of zero.

⁵ Values for CBERA and GSP duty-free imports have been reduced by the value of MFN duty-free imports and ineligible items that were misreported as entering under the programs.

⁶ The value for other duty-free imports was calculated as a remainder and represents imports entering free of duty under special rate provisions. For example, data for 1989 includes \$264.6 million worth of U.S. imports of aromatic drugs derived from carboxylic acids (HTS subheading 2918.90.30) from the Bahamas that entered the United States free of duty, most probably under a special duty-rate suspension for one product in the group.

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

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

from the Caribbean Basin. Several CBERA countries, the Bahamas, the Netherland Antilles, and Trinidad and Tobago, are petroleum producers and exporters. A portion of the 1990 increment of overall U.S. imports from CBERA-designated countries can be attributed to the higher values of crude and refined petroleum, which reflected the rise in world oil prices in the wake of the Persian Gulf crisis.

Duty-free imports entering under the CBERA as a share of overall U.S. imports from designated beneficiaries were 13.6 percent in 1990, the same as in 1989 (table 20). In value terms, CBERA imports amounted to \$1.0 billion in 1990, up 10.4 percent. The leading 20 import items duty free under the CBERA are listed in

table 21. Cane sugar with imports of \$205.6 million remained the top CBERA item, up from \$172.4 million the prior year.¹⁶⁹ Frozen bovine meat ranked second, also with higher imports in 1990 than in 1989. Imports of medical-surgical-dental instruments surged in 1990, ranking as the third-largest CBERA import item. The list of leading 1990 CBERA imports also includes cigars, pineapples (fresh or dried), baseballs, and softballs. Rising imports were registered for these and most other top 20 CBERA import items (table 21).

¹⁶⁹ The extended combined sugar import quota for the CBERA beneficiaries in Jan. 1, 1989, through Sept. 30, 1990, was 1,910,696 short tons (raw value), of which 1,330,178 short tons were delivered.

Table 21

Leading U.S. Imports for consumption entered under CBERA provisions, by descending of duty-free imports, 1990

(Customs value, in thousands of dollars)

HTS item	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
1701.11.00	Cane sugar, raw, not containing added flavoring or coloring	205,569	94,462	45.9	Guatemala
0202.30.60	Non retail cuts of meat of bovine animals, frozen, boneless, nesl	85,376	84,320	98.8	Costa Rica
9018.90.80	Instruments and appliances-medical, surgical, dental, other	83,451	55,164	66.1	Dominican Republic
0201.30.60	Non retail cuts of meat of bovine animals, fresh, chilled, boneless, nesl	45,657	45,525	99.7	Costa Rica
2402.10.80	Cigars, cheroots and cigarillos containing tobacco, valued over \$.23	36,967	35,459	96.2	Dominican Republic
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates	40,475	34,195	84.5	Costa Rica
9506.69.20	Baseballs and softballs	43,249	33,607	77.7	Haiti
7113.19.50	Articles of jewelry of precious or semiprecious stones	54,346	27,099	49.9	Dominican Republic
6406.10.65	Footwear uppers, other than formed, of leather	116,656	25,148	21.6	Dominican Republic
0807.10.20	Cantaloupes, fresh, if entered from September 15 to August 1	23,639	22,466	95.0	Costa Rica
8536.90.00	Electrical apparatus nesl, for switching/making connections	35,847	21,802	60.8	Haiti
1701.11.01	Cane sugar, raw, not containing added flavoring or coloring	20,988	20,988	100.0	Dominican Republic
2009.11.00	Orange juice, frozen, unfermented and not containing added spirit	20,412	20,412	100.0	Belize
0302.69.40	Fish, nesl, excl. filets, livers and roes, fresh, chilled	33,562	16,828	50.1	Costa Rica
2207.10.60	Undenatured ethyl alcohol of 80 percent volume alcohol, for non-beverage use	17,179	14,534	84.6	Jamaica
2208.40.00	Rum and tafia	15,251	13,669	89.6	Jamaica
2401.20.80	Tobacco, partly or wholly stemmed (stripped), thresh	13,275	13,272	99.9	Guatemala
8538.90.00	Parts nesl, suitable for use solely or principally with apparatus of heading 8535, 8536, 8537	17,457	12,457	71.4	Dominican Republic
0201.30.40	Non retail cuts of meat of bovine animals, fresh, chilled, boneless, nesl	12,110	12,110	100.0	Guatemala
7213.31.30	Bars and rods, hot-rolled, of iron or non-alloy steel	10,211	10,211	100.0	Trinidad and Tobago
	Total of above items	931,578	613,729	65.9	
	Total, all items entering under CBERA	2,327,449	1,022,696	43.94	

¹ CBERA countries refers to designated beneficiaries.² Indicates leading CBERA source based on total U.S. imports for consumption.

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

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

Significant portions of imports from designated CBERA countries enter the United States free of duty under provisions other than the CBERA. In 1990, 26.2 percent of U.S. imports from beneficiaries were duty free under MFN general (column 1) duty rates (table 20). Altogether, 65.8 percent of all U.S. imports from designated CBERA countries were duty free under various headings during the year under review.

CBERA preferences constitute one of the three major special duty-remission or duty-reduction programs available to Caribbean Basin countries from the United States. The other two, which have been in effect for years, are the GSP¹⁷⁰ and HTS provisions 9802.00.60 and 9802.00.80 (formerly TSUS items 806.30 and 807.00). Table 20 lists U.S. imports from CBERA beneficiaries under these special programs during 1988-90. Duty-free imports under GSP rose in value from \$415.9 million in 1989 to \$472.3 million in 1990, when they accounted for 6.3 percent of total U.S. imports from designated countries.

HTS heading 9802.00.80 provides for exemption of duties for U.S.-origin inputs into products that have been assembled in a foreign country and then returned to the United States for additional processing. HTS subheading 9802.00.60 provides similar treatment for certain U.S. metal products processed in a foreign country and then reimported. In 1990, \$1.2 billion, or 15.3 percent, of overall imports from designated CBERA beneficiaries were accounted for by inputs that reentered duty-free under HTS provisions 9802.00.60 and 9802.00.80 combined.

Growing imports under HTS heading 9802.00.80 largely reflect the upward trend in textile and apparel imports from CBERA beneficiaries in recent years. Textiles and apparel are not eligible for duty-free entry under CBERA provisions. In 1990, HTS heading 9802.00.80 imports from CBERA beneficiaries—including both the dutiable and duty-free part—reached \$1.7 billion, compared with \$1.6 billion in 1989 and \$786.0 million in 1985. Both the dutiable and duty-free components of this subheading have increased (table 20).

Considering the significance of textiles and apparel to the region's economy, in February 1986 the President instituted a "special access program" under HTS heading 9802.00.80 for CBERA countries. The program was designed to provide greater access to the U.S. market for textile and apparel products that CBERA countries would ordinarily ship under HTS heading 9802.00.80 and that were assembled solely from fabric produced and cut in the United States.¹⁷¹

¹⁷⁰ For a discussion of the GSP, see the next section in this chapter.

¹⁷¹ CBERA countries were invited to enter into bilateral agreements with the United States that would guarantee levels of access for their textile and apparel exports that qualify. These guaranteed access levels (GALS) are separate from quotas applicable to those products that were not assembled solely from U.S.-made and U.S.-cut fabric. Costa Rica, the Dominican Republic, Haiti, Jamaica, and Trinidad and Tobago have had GAL agreements for several years. Guatemala signed a GAL agreement with the United States on Nov. 9, 1989. The agreement with Guatemala provided for a transition period; the GAL limits did not become effective until Mar. 1, 1990.

Items imported under this special access program (formerly referred to as 807-A or Super 807) enter the U.S. customs territory under HTS heading 9802.00.80.10. In 1990, the United States imported 430.9 million dollars' worth of textiles and apparel, or 5.7 percent of its overall imports, from CBERA beneficiaries under this subheading. Comparable data for 1989 were \$392.5 million, or 5.9 percent of the total. Both U.S. components reentering duty free and the value added by CBERA countries have increased (table 20).

Generalized System of Preferences

The U.S. Generalized System of Preferences is a temporary tariff preference scheme designed to offer nonreciprocal duty-free entry for designated articles shipped directly from 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 chairs an interagency Trade Policy Staff Committee (TPSC), which administers the U.S. GSP program. The original U.S. 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. GSP benefits are afforded to approximately 4,150 products from 130 designated beneficiary countries and territories.

Country Eligibility Changes in 1990

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 workers' rights. In addition, a respect for "internationally recognized worker rights" is a mandatory criterion for GSP country eligibility.

An examination of the eligibility status of Haiti, Liberia, and Syria, based on the worker rights criterion, was carried over from the 1988 annual review.¹⁷² Liberia was suspended from GSP eligibility effective July 1, 1990.¹⁷³ Decisions on Haiti and Syria were deferred until the 1990 annual review.¹⁷⁴ Burma, Nicaragua, and Romania remain suspended from GSP benefits as a result of prior worker rights reviews.

As part of the 1989 annual review, the TPSC accepted petitions to reexamine the eligibility status of Benin, the Dominican Republic, Indonesia, Nepal, and Thailand based on allegation of worker rights violations. The President certified that Indonesia and Thai-

¹⁷² See USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 151.

¹⁷³ Presidential Proclamation 6123, Apr. 26, 1990, 55 F.R. 18075, May 1, 1990.

¹⁷⁴ See discussion below on the 1990 annual review.

land¹⁷⁵ are taking steps to afford internationally recognized worker rights.¹⁷⁶ Benin, the Dominican Republic, and Nepal, however, will continue to be examined under the 1990 review.¹⁷⁷

Costa Rica, Peru, Uruguay, and Venezuela were examined during the 1989 annual review because of allegations of expropriation of certain U.S.-owned properties without compensation.¹⁷⁸ The reviews of Peru and Venezuela were terminated at the request of the petitioners.¹⁷⁹ The United States terminated reviews of Costa Rica and Uruguay without prejudice, noting that "modification of GSP eligibility is not warranted at this time."¹⁸⁰

Effective July 1, 1990, Bahrain was reinstated to the list of GSP beneficiaries.¹⁸¹ Bahrain had been "graduated"¹⁸² from the list of beneficiaries in 1988 because in 1985 it was judged to have exceeded the statutory GNP limit of \$8,763 per capita mandated by subsection 504(f) of the Trade Act of 1974 as amended.¹⁸³ Subsequent revised national income data¹⁸⁴ indicated that Bahrain did not exceed the GSP statutory limit for 1985 or succeeding years. On the basis of the revised statistics, the United States determined that the previous finding was in error and that Bahrain was eligible to be reinstated.

Other changes implemented in 1990 include the designation of Poland as a beneficiary,¹⁸⁵ the reinstatement of beneficiary-country status to Panama,¹⁸⁶ and the addition of Kiribati, Mauritania, Mozambique, Tuvalu, and Vanuatu to the list of least developed GSP

¹⁷⁵ The TPSC accepted petitions to reexamine the GSP duty free status of Indonesia and Thailand for its 1989 annual review based on their compliance with internationally recognized worker rights. See USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 153.

¹⁷⁶ 55 F.R. 19692, May 10, 1990.

¹⁷⁷ *Ibid.*

¹⁷⁸ USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 153.

¹⁷⁹ *Ibid.*

¹⁸⁰ 55 F.R. 19692, May 10, 1990.

¹⁸¹ Presidential Proclamation 6152, June 29, 1990, 55 F.R. 27441, July 3, 1990.

¹⁸² 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.

¹⁸³ USITC, *OTAP, 39th Report, 1987*, USITC publication 2095, 1988, p. 5-15.

¹⁸⁴ The revision was based on a new methodology used by the World Bank in calculating the impact of offshore banking income on Bahraini national accounts. By counting one-half of Bahrain's offshore banking income as earned domestically and one-half as earned abroad, the World Bank revised Bahrain's GNP downward. U.S. Department of State Telegram, Jan. 10, 1990, Manama, message reference No. 009560.

¹⁸⁵ Presidential Proclamation 6087, Jan 5, 1990, 55 F.R. 7685, Mar. 2, 1990.

¹⁸⁶ Presidential Proclamation 6103, Feb. 28, 1990, 55 F.R. 7685, Mar. 2, 1990. Panama was suspended from GSP duty free treatment in March 1988 under the authority granted to the President under sec. 802(b) of the Trade Act of 1974 as amended by the Anti-Drug Abuse Act of 1986. USITC, *OTAP, 40th Report, 1988*, USITC publication 2208, July 1989.

beneficiaries.¹⁸⁷ Namibia was admitted to the U.S. GSP program effective February 1991.¹⁸⁸

Product Coverage Changes in 1990

On April 27, 1990, 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 1989 review, duty-free entry was terminated for beneficiary-country imports worth a total of over \$2 billion in 1989 trade, and GSP eligibility for items valued at over \$1.4 billion was either reinstated or newly added to the list of eligible products. The GSP modifications mandated by the annual review took effect on July 1, 1990. Details of the program changes are discussed below.

Under the mandatory "competitive-need" procedure,¹⁸⁹ the annual review resulted in new exclusions of products from GSP eligibility of imports valued at \$1.2 billion. As a result of the GSP de minimis provision,¹⁹⁰ imports of \$353 million were exempted from the percentage competitive-need limit and will continue to receive GSP treatment.

At the President's discretion, countries previously excluded from receiving GSP duty-free entry for particular products may be redesignated for GSP benefits if their shipments to the United States of these individual items subsequently fall below the competitive-need limits.¹⁹¹ In the course of the 1990 GSP annual review, the TPSC restored eligibility on products valued at \$1.37 billion in 1989 trade.¹⁹² The TPSC restored eligibility on 209 products from Mexico,¹⁹³ with a 1989 trade value of \$1.3 billion.¹⁹⁴ The TPSC also redesignated 90 products from Brazil valued at \$345 mil-

¹⁸⁷ Presidential Proclamation 6123 of Apr. 26, 1990, 55 F.R. 18075, May 1, 1990.

¹⁸⁸ Presidential Proclamation 6245, Feb. 4, 1991, 56 F.R. 4921, Feb. 6, 1991.

¹⁸⁹ Competitive-need limits are a statutory feature of the U.S. GSP program limiting the level of GSP benefits that any beneficiary country can enjoy on a product-specific basis. Under the more generally applied upper competitive-need limit, if in a calendar year a country accounts for 50 percent or more of total U.S. imports of a specific product or if imports from the country exceed a specific dollar figure (\$88,878,327 for the 1989 review year), the beneficiary country loses GSP eligibility for that product. The competitive-need dollar limit is adjusted each year to reflect changes in U.S. nominal GNP.

¹⁹⁰ This provision grants the President the 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 1989 review was \$10.4 million.

¹⁹¹ Under sec. 504(c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), the President has discretionary authority to redesignate for GSP eligibility articles from a beneficiary country previously excluded under sec. 504(c)(1), after application of sec. 504(c)(2), if imports of such articles did not exceed the limitations in sec. 504(c)(1) during the previous calendar year.

¹⁹² U.S. Department of State Telegram, May 31, 1990, Geneva, message reference No. 05820.

¹⁹³ In 1989, imports from Mexico accounted for \$4.7 billion, or 77 percent of all competitive-need exclusions. USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 152.

¹⁹⁴ Bureau of National Affairs, Inc. (BNA), "GSP: Mexico is Major Beneficiary This Year as USTR Announces Results of GSP Review," *International Trade Reporter*, May 2, 1990, p. 622.

lion in 1989 trade to receive GSP duty-free treatment.¹⁹⁵ The Brazilian articles had been graduated from GSP eligibility in 1988.¹⁹⁶ The United States approved¹⁹⁷ a decision on eligibility for redesignation of 108 Brazilian products with a 1989 trade value of \$517 million until after Brazil's complete package of economic and trade reforms was announced.¹⁹⁸

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 removed six products from GSP eligibility. The six products, valued at \$20.7 million in terms of 1989 trade, included inedible gelatin and animal glue (HTS subheading 3503.00.20), cellulose nitrates (HTS subheading 3912.20.00), and four entries for steel-wire rope (HTS subheadings 7312.10.50, 7312.10.60, 7312.10.70, and 7312.10.90).

Effective July 1, 1990, the TPSC added 23 new items to the list of GSP-eligible products as a result of product petitions. Five of these items, string beans (HTS subheading 0710.22.25), frozen mangoes (HTS subheading 0811.90.52), other cereal flour mixtures (HTS subheading 1102.90.30), yellow potatoes (HTS subheading 2004.10.40), and marigold powder (HTS subheading 2308.90.50), were added as part of the U.S.-proposed Andean trade initiative.¹⁹⁹ These five items received duty-free status on an accelerated schedule effective May 1, 1990.

Section 226 of the Caribbean Basin Economic Expansion Act of 1990²⁰⁰ amended the U.S. GSP program to make GSP rules-of-origin requirements conform to the more stringent requirements of the CBERA. The amendment, applied to section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) provides new language that specifies that articles eligible for duty-free treatment under GSP must be "wholly the growth, product, or manufacture of a beneficiary developing country or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country," and that products produced by simple combining, packaging, or dilution are ineligible.

¹⁹⁵ Ibid.

¹⁹⁶ Under sec. 504(c)(1) of the Trade Act of 1974, the President has discretionary power to "withdraw, suspend, or limit" GSP duty-free treatment with respect to any article or eligible country. For information on Brazil's graduation from GSP eligibility, see USITC, *OTAP, 40th Report, 1988*, USITC publication 2208, July 1989, p. 155.

¹⁹⁷ Presidential Proclamation 6152, June 29, 1990, 55 F.R. 27441, July 3, 1990.

¹⁹⁸ See discussion on Brazil's economic and trade related reforms in ch. 4.

¹⁹⁹ See discussion of U.S. proposed Andean initiative in ch. 1.

²⁰⁰ See discussion of the CBERA above.

1990 Annual Review

At the request of the Governments of the Central African Republic,²⁰¹ Chile,²⁰² and Paraguay,²⁰³ the TPSC initiated a review of the suspensions of these three countries in April 1990. The three countries had been suspended from GSP eligibility for their failure to provide internationally recognized worker rights. Following favorable reviews, the TPSC reinstated these countries into the U.S. GSP program effective February 1991.²⁰⁴ The USTR declined to accept petitions for investigations of workers' rights practices in Colombia, Guatemala, Malaysia, and Turkey, but will examine the eligibility status of Bangladesh, El Salvador, and Sudan during its 1990 review. Consideration of the GSP status of Benin, the Dominican Republic, Haiti, Nepal, and Syria was extended from the 1989 review. On December 4, the USTR announced that a request by Czechoslovakia for GSP designation would be reviewed.

In November 1990, the USTR accepted a petition filed by American International Group, Inc., regarding an alleged expropriation by the Government of Peru.²⁰⁵ The petition had been filed in June 1990, but the USTR deferred a decision until November. One other alleged expropriation petition was withdrawn, and two were rejected.

On March 1, 1990, the USTR accepted 141 petitions covering 129 products filed by Bolivia, Colombia, Ecuador, and Peru as part of a special 1990 GSP review.²⁰⁶ This special GSP review marked the first review ever done outside the TPSC's normal review schedule. On July 23, President Bush granted preferential trade treatment to 67 of the products, whose 1989 trade was valued at \$26.6 million.

On August 16, 1990, the USTR announced decisions on petitions accepted for the 1990 GSP annual review. Of a total of 406 product petitions received, 158 were accepted for the 1990 annual review.

²⁰¹ The Central African Republic was suspended from GSP benefits in July 1989. USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 151.

²⁰² Chile was removed from the list of GSP beneficiaries in February 1988. USITC, *OTAP, 40th Report, 1988*, USITC publication 2208, July 1989, p. 154.

²⁰³ Paraguay was suspended from GSP benefits in 1987. USITC, *OTAP, 39th Report, 1987*, USITC publication 2095, July 1988, p. 5 14.

²⁰⁴ Presidential Proclamations 6244 and 6245, Feb. 4, 1991, 56 F.R. 121, Feb. 11, 1991.

²⁰⁵ USTR, "Generalized System of Preferences, Notice of Review of Petition and Public Hearing," 55 F.R. 43196, Nov. 19, 1990.

²⁰⁶ On Nov. 1, 1989, President Bush announced the results of an interagency effort aimed at developing a package of trade initiatives designed to contribute to the U.S. administration's war on illicit drugs. One element of the proposed trade package included an offer to the Governments of Bolivia, Colombia, Ecuador, and Peru to submit petitions to request the designation of additional articles as eligible for GSP treatment, waive the competitive-need limits with respect to specific GSP eligible articles, and otherwise expand GSP coverage. USITC, *OTAP, 41st Report, 1989*, USITC publication 2317, September 1990, p. 153.

U.S. Imports Under the GSP

In 1990, U.S. imports from beneficiaries totaling \$27.2 billion were nominally eligible for duty-free entry under the GSP program (table 22). Of these imports, approximately \$9.2 billion were subject to statutory competitive-need exclusions.²⁰⁷ Of the remaining \$18.0 billion in GSP-eligible imports, \$11.1 billion actually entered the United States free of duties under the GSP.²⁰⁸ This figure is 10.7 percent more than the \$10.0 billion that entered free of duty a year earlier. GSP imports receiving duty-free entry in 1990 were responsible for 11.7 percent of total imports from the beneficiary countries and 2.3 percent of U.S. imports from the world. Of the 28.6 percent of imports from beneficiary countries that were GSP eligible, 40.8 percent entered duty free under GSP (table 22).

The 10 leading beneficiary countries collectively accounted for 80.4 percent of all U.S. imports that received duty-free entry under the program in 1990. Table 23 shows separately the value of GSP duty-free imports from each of these top 10 countries as well as the ratio of such imports to the GSP-eligible and total U.S. imports from each of these countries. The four leading beneficiary countries—Mexico, Malaysia, Thailand, and Brazil—together account for or over half of the duty-free imports in the GSP program. In 1990, Macao replaced Venezuela as the 10th most significant beneficiary country.

In 1990, Mexico continued to be the leading country among the GSP-eligible countries in terms of the value of its shipments to the United States. Duty-free U.S. imports from Mexico under the GSP amounted to \$2.7 billion, and were responsible for 24.2 percent of total 1990 U.S. imports under the program. The ratio of imports entering under GSP provisions to the overall imports from each of these 10 countries ranged from 36.4 percent for Yugoslavia to 9.1 percent for Mexico. Mexico's share of only 9.1 percent of all U.S. imports under the GSP is explained by the dominance of petroleum in the composition of U.S. imports from that country. Petroleum is not a GSP-eligible article. Nevertheless, the value of GSP duty-free imports from Mexico grew by 8.7 percent in 1990.

Based on the eight-digit (rate line) level of the Harmonized Tariff System, cane sugar (HTS subheading 1701.11.00) retained its position as the import item with the largest duty-free value among all eligible articles entering the United States under the GSP in 1990 (table A-26). Sugar was the leading GSP product before 1986, but dropped to lesser significance in 1987 and 1988 as a result of major U.S. quota reductions.

Other leading items, unchanged from the previous year, are jewelry of precious metal other than silver (HTS subheading 7113.19.50), leather footwear uppers

²⁰⁷ For the percentage and dollar limits set under the competitive-need provisions, see the discussion on product coverage changes in 1990 in the section above.

²⁰⁸ Some items that are eligible for GSP duty-free entry enter the United States under other preference programs, such as the CBERA or the U.S. Israel FTA.

(HTS subheading 6406.10.65), wooden furniture other than bent-wood (HTS subheading 9403.60.80), and Christmas tree lighting sets (HTS subheading 9405.30.00). Among the top 10 GSP-eligible items that were significantly higher on the list in 1990 were telephone sets (HTS subheading 8517.10.00) and telephone answering machines (HTS subheading 8520.20.00). The leading GSP supplier for each of these telephonic devices is Malaysia (see table A-26). Mexico is the principal GSP supplier for 17 of the 50 leading items imported under the GSP scheme.

Table A-27 lists GSP-eligible imports aggregated by sections of the Harmonized Tariff System (HTS), showing also the percentage of duty-free imports in total U.S. imports for the categories in question. Table A-28 gives the same information by two-digit divisions of the Standard Industrial Classification (SIC) system. Included in both tables are data on the GSP share of imports, the leading GSP source, and the value of the competitive-need exclusions for imports in each category.

The Steel Import Program

Background of Voluntary Restraint Agreement Program

On September 18, 1984, the President determined, following an investigation under section 201 of the Trade Act of 1974 (the U.S. escape clause law) by the Commission, that import relief for the steel industry was not in the national economic interest (49 F.R. 36813). In this investigation (No. TA-201-51), the Commission found that imports of certain steel products were a substantial cause of serious injury or threat thereof to domestic steel industries.²⁰⁹ Instead of granting formal import relief in the form of quotas or higher import duties, the President outlined a program of voluntary restraint agreements (VRAs) particularly designed to assist the domestic steel industry in competing with imports.²¹⁰ Under the program the President directed the USTR to negotiate VRAs with countries whose steel exports to the United States had increased significantly due to an unfair surge in imports.²¹¹

²⁰⁹ For additional details on the steel import program, see the USITC *OTAP, 36th Report, 1984*, USITC Publication 1735, July 1985 p. 16.

²¹⁰ On July 19, 1983, the President announced his decision to grant import relief to the specialty steel industry for a period of 4 years (53 Federal Register 52897). The relief program was scheduled to expire on July 19, 1987. Under the relief program, quotas were placed on imports of stainless steel bars, stainless steel wire rod, and certain alloy tool steel products; and increased duties were imposed on stainless steel plates and stainless steel sheets and strip. On July 16, 1987, the President extended the import relief program in the form then in effect for a period from July 20, 1987, through September 30, 1989. Since the import relief program was not extended after its expiration on September 30, 1989, product coverage of the VRAs was extended to include specialty steel products that were previously subject to import relief. Countries which signed the VRAs agreed to limit their exports of stainless steel plates, sheets and strips to their market share level.

²¹¹ USITC, *Quarterly Report on the Status of the Steel Industry*, March 1991, USITC Publication 2364, p. xv.

Table 22
U.S. imports for consumption¹ from GSP beneficiaries and the world, 1990

Item	All GSP beneficiaries	World
	<i>Value (1,000 dollars)</i>	
Total	94,964,943	488,494,678
GSP eligible products	27,192,383	174,774,149
Duty-free under GSP	11,096,180	11,096,180
GSP program exclusion	9,150,806	9,150,806
Other	6,945,397	154,527,163
Noneligible product imports	67,772,560	313,720,529
	<i>Ratio of (percent)</i>	
GSP-eligible to total imports	28.6	35.8
GSP duty-free to GSP-eligible imports	40.8	6.3
GSP exclusions to GSP-eligible imports	33.7	5.2
Other imports to GSP-eligible imports	25.5	88.4
GSP duty-free to total imports	11.7	2.3

¹ Customs value basis.

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

VRAs were to be negotiated for the period October 1, 1984 to September 30, 1989. Imports of finished steel products, under VRAs, were expected to fall to a level of around 18.0 million tons or 18.5 percent of the domestic market. That share excluded semifinished steel imports which were expected to be limited to about 1.7 million tons annually.²¹²

As of 1988, VRAs were negotiated with 19 countries and the EC, excluding Spain and Portugal, which negotiated separate agreements.²¹³ The agreements contained market share arrangements and quotas or a combination thereof. Arrangements differed between countries with considerable variations in the number of products subject to limitation. Each arrangement, however, involved an agreement by the foreign country to limit exports of certain steel products to the United States. To bring these agreements into effect, U.S. producers withdrew their pending unfair trade petitions and the U.S. Government suspended antidumping and countervailing duties that were in effect on steel products.²¹⁴

Current Status of the VRAs

On July 25, 1989, the President announced a Steel Trade Liberalization Program under which the VRAs were extended until March 31, 1992.²¹⁵ Also, under the program, the President directed the U.S. Trade Representative to negotiate bilateral agreements (called Bilateral Consensus Agreements), with all major steel trading countries to open their markets and eliminate government subsidies that distort competition. Bilateral Consensus Agreements include commitments by countries to prohibit subsidies for steel production and

keep markets open for steel through the elimination of nontariff measures. They also contain a binding arbitration mechanism that will provide quick and effective remedies if countries violate these agreements.²¹⁶

VRAs were to be concluded at a base restraint level of 18.4 percent of the domestic market (which is the same as the 1988 VRA import penetration level). However, in order to provide incentives for countries to eliminate trade-distorting practices and in order to respond to concerns of steel consumers for adequate supply of raw materials, the President authorized up to an additional one percent import penetration annually that would be available to countries that entered into Bilateral Consensus Agreements.²¹⁷

On December 12, 1989, the United States Trade Representative announced that negotiations covering a 2 1/2 year extension of the VRAs had been completed with the European Community and the 16 other countries that previously had VRAs.²¹⁸ South Africa was the only country with which the United States did not renew the VRA. Imports of steel from South Africa were reduced by the Comprehensive Anti-Apartheid Act of 1986, which embargoes certain steel products. As a result of these negotiations, the restraint levels for steel mill products (including semifinished steel) increased to a 19.1 percent share of domestic consumption in the first period of the new VRA program (table 24). Additional increases in restraint levels were authorized for subsequent years for countries that entered into Bilateral Consensus Agreements with the United States. Countries with which the United States has negotiated bilateral consensus agreements are Australia, Austria, Brazil, the European Community, Finland, Japan, South Korea, Mexico, Trinidad and Tobago, and Yugoslavia. Those countries accounted for more than

²¹² Ibid.

²¹³ USITC *OTAP, 41st Report, 1989*, USITC Publication 2317, September 1990, p. 153.

²¹⁴ Ibid.

²¹⁵ Ibid.

²¹⁶ Ibid.

²¹⁷ USITC, *Quarterly Reports on the Status of the Steel Industry*, March 1991.

²¹⁸ Ibid.

Table 23
U.S. imports for consumption under the GSP from leading beneficiaries, and total, 1990

Rank	Beneficiary	Total imports	GSP-eligible imports		GSP duty-free imports			GSP share
			Value	Share of total	Value	Share of eligible	Share of total	
			Millions dollars	Percent	Millions dollars	Percent	Percent	
1	Mexico	29,505	12,466	42.2	2,686	21.5	9.1	24.2
2	Malaysia	5,224	1,923	36.8	1,276	66.4	24.4	11.5
3	Thailand	5,279	2,010	38.1	1,225	61.0	23.2	11.0
4	Brazil	7,732	2,700	34.9	1,163	43.1	15.0	10.5
5	Philippines	3,357	1,008	30.0	807	80.1	24.0	7.3
6	Israel	3,304	1,282	38.8	492	38.4	14.9	4.4
7	India	3,197	486	15.2	411	84.5	12.8	3.7
8	Argentina	1,455	484	33.3	319	66.0	22.0	2.9
9	Yugoslavia	769	383	49.8	280	73.0	36.4	2.5
10	Macao	732	294	40.1	264	89.9	36.0	2.4
	Total top 10	60,554	23,037	38.0	8,924	38.7	14.7	80.4
	Total	94,965	27,192	28.6	11,096	40.8	11.7	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.

Table 24
Countries subject to VRAs and their respective limits, under initial and extended restraint arrangements, 1984-92

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

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

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

Source: USTR press release, December 12, 1989, and USITC *Quarterly Report on the Status of the Steel Industry*, USITC Publication No. 2364.

90 percent of U.S. steel imports from countries included in the VRA program in 1990.²¹⁹ Product coverage under the VRAs remains essentially unchanged though the agreements have been modified to include those specialty steel products that were previously subject to relief under section 203 of the Trade Act of 1974.

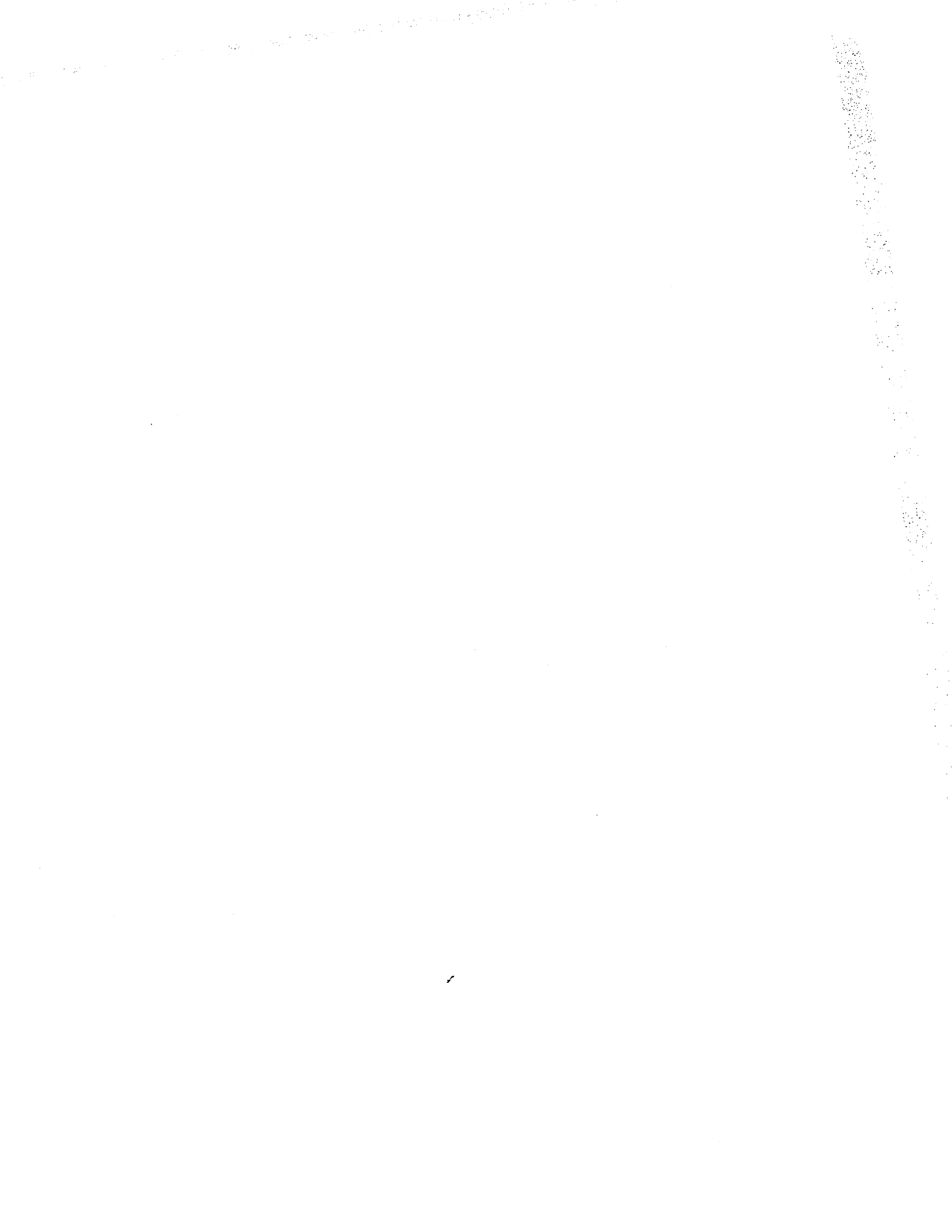
During 1986-90 when the VRAs were in effect, conditions in the domestic steel industry improved. Imports decreased by 15.7 percent, and exports increased by 360.0 percent. Domestic demand increased, and as a result domestic producers' shipments rose by 20.6 per-

²¹⁹ Ibid.

cent. Imports as a percentage of apparent consumption declined to 18.2 percent in 1990 from 23.5 percent in 1986. During 1987-90, imports from VRA countries as a percentage of apparent consumption fell to 13.8 percent from 15.0 percent whereas imports as a percentage of apparent consumption from non-VRA countries decreased to 4.5 percent from 6.7 percent.²²⁰ In 1990, Canada was the largest non-VRA supplier followed by Sweden, Taiwan, Argentina, Turkey, India, New Zealand, Singapore and Indonesia.²²¹ Table 24 shows countries subject to VRAs and their respective limits, under initial and extended restraint arrangements.

²²⁰ Data is available during the period 1987 through 1990.

²²¹ Ibid.



APPENDIX TABLES

Table A-1
Countervailing duty actions reported by signatories to the GATT Committee on Subsidies and Countervailing Measures, 1990

<i>Reporting country</i>	<i>Country of origin</i>	<i>Product</i>	<i>Initiation date</i>	<i>Provisional measures</i>	<i>Date and final outcome¹</i>
Australia	Colombia	Woven polypropylene primary carpet backing fabric	01-28-90	(N/APP)	08-22-90-NS
	France	Brandy	07-03-89	10-18-89	03-08-90-DD
	Denmark	Canned Ham	05-02-90		
	Ireland	Canned Ham	05-02-90		
	Netherlands	Canned Ham	05-16-90		
	Korea	Malleable cast iron pipe fittings	01-10-90	(N/AAP)	05-08-90-NI
	Taiwan	Malleable cast iron pipe fittings	01-10-90	(N/AAP)	05-10-90-NS
Canada	Brazil	Electric motors	01-15-90 (R)		
	Brazil	Refill paper	12-08-89	03-08-90	
	Brazil	Women's leather boots and shoes	08-25-89	01-03-90	
	Spain	Wide flange beams	02-12-90 (R)		
New Zealand	Australia	Aluminium passenger catamarans of 18 m in length or longer	(R)		08-27-90-NI
	Australia	Alloy wheels	12-17-90		

¹ Final outcome codes: CW = Case withdrawn, DD = Definitive duty, (N/APP) = Not applicable, ND = No dumping, NI = No injury, NS = No subsidy, PU = Price undertaking, (R) = Review of existing antidumping or countervailing measure, SU = Subsidy undertaking.

Table A-2
Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, 1990

<i>Reporting country</i>	<i>Country of origin</i>	<i>Product</i>	<i>Initiation date</i>	<i>Provisional measures</i>	<i>Date and final outcome¹</i>
Australia	Argentina	Low Density Polyethylene (LDPE)	09-26-90		
	Brazil	LDPE	09-26-90		
	Brazil	Agricultural ground engaging tools	10-18-90		
	Canada	LDPE	09-26-90		
	Denmark	Canned ham	05-02-90	08-29-90	
	Germany	Sodium cyanide	10-10-90		
	Finland	LDPE	09-26-90		
	France	Sorbitol (70% solution)	02-01-90	06-01-90	10-25-90-DD
	France	LDPE	09-26-90		
	Ireland	Canned ham	05-02-90	08-29-90	
	Ireland	Modular process cooling system	04-25-90		08-23-90-ND
	Italy	Sodium cyanide	10-10-90		
	Italy	LDPE	09-26-90		
	Israel	LDPE	09-26-90		
	Japan	LDPE	09-26-90		
	Japan	Sodium cyanide	10-10-90		
	Mexico	Sorbitol (70% solution)	02-01-90	06-01-90	10-25-90-DD
	Korea	Sorbitol (70% solution)	02-01-90	06-01-90	10-25-90-DD
	Korea	LDPE	09-26-90		
	Korea	Sodium cyanide	10-10-90		
	Netherlands	Canned ham	05-16-90		
	Taiwan	Sorbitol (70% solution)	02-01-90	06-01-90	
	Taiwan	Malleable cast iron pipe fittings	01-10-90	05-08-90	10-25-90-DD
	United States	Vibrating wire piezometers	12-20-89	03-26-90	
United States	Modular process cooling systems	04-25-90			
Thailand	Sorbitol (70% solution)	02-01-90	06-01-90		
United Kingdom	Diagnostic reagent strips	03-12-90			
EEC	Argentina	Fibre building board	06-17-89 (R)		05-31-90-NI
	Brazil	Artificial corundum	08-29-90 (R)		
	Brazil	Cotton yarn (not put up for retail sale)	03-22-90		
	Brazil	Ferro-silicon	05-03-90 (R)		
	Brazil	Certain semi-finished products of alloy steel	06-14-90		
	Canada	Vinyl acetate monomer	04-25-89 (R)		03-01-90-ND
	Czechoslovakia	Artificial corundum	03-17-90 (R)		
	Czechoslovakia	Potassium permanganate	08-22-89 (R)		02-16-90-DD
	Czechoslovakia	Methenamine	12-15-88		04-24-90-PU
	Czechoslovakia	Gloss textile fibers (rovings)	04-06-89 (R)		03-08-90-NI
	Egypt	Cotton yarn (not put up for retail sale)	03-22-90		
	Finland	Diesel engines	09-27-88		03-22-90-PU
	Finland	Fibre building board	08-17-89 (R)		05-31-90-NI
	Hong Kong	Video cassette tapes	01-27-90 (R)		
	Hong Kong	Photo albums	12-15-88		05-31-90-PU
	Hungary	Artificial corundum	03-17-90 (R)		
	Hungary	Methenamine	12-15-88		04-24-90-NI
	India	Cotton yarn (not put up for retail sale)	03-22-90		
	India	Polyester yarn (manmade staple fibers)	03-30-90		
	Japan	Aspartame	03-03-90		
Japan	DRAMs (dynamic random access memories)	07-09-87	01-25-90	01-25-90-DD	
Japan	Ferro-boron	12-01-88	03-20-90		
Japan	Compact disc players	07-07-87			

See footnote at end of table.

Table A-2—Continued
Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, 1990

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome ¹
	Korea	Thin polyester film	02-01-90		
	Korea	Pocket lighters (gas fueled, non-refillable)	04-07-90		
	Korea	Radio broad-cast receivers used on motor vehicles	05-08-90		
	Korea	Polyester yarn (manmade staple fibres)	03-30-90		
	Korea	Tungsten carbide and fused tungsten carbide	12-15-88		03-30-90-NI
	Korea	Compact disc players	07-07-87		01-17-90-DD
	Korea	Small screen colour television receivers	02-17-88		04-27-90-DD
	Korea	Glatomic acid	06-04-88	03-03-90	06-30-90-DD
	Korea	Photo albums	12-15-88		05-31-90-PU
	Korea	Ammonium paratungstate	12-15-88		03-30-90-NI
	Korea	Tungsten metal powder	12-15-88		03-30-90-NI
	Mexico	Steel coils	05-12-90 (R)		
	Mexico	Steel sheets	05-12-90 (R)		
	Norway	Atlantic salmon	02-02-90		
	Norway	Ferro-silicon	06-02-88 (R)		02-10-90-DD, PU
	Poland	Artificial corundum	03-17-90 (R)		
	Poland	Methenamine	12-15-88		04-24-90-PU
	Romania	Welded tubes of iron or non-alloy steel	09-16-88		04-06-90-DD, PU
	Romania	Methenamine	12-15-88		04-24-90-PU
	Sweden	Ferro-silicon	06-02-88 (R)		02-10-90-DD, PU
	Sweden	Diesel engines	09-27-88		03-22-90-PU
	Switzerland	Fibre building board	06-17-89 (R)		05-31-90-NI
	United States	Aspartame	03-03-90		
	United States	Vinyl acetate monomer	(R)		03-01-90-ND
	Yugoslavia	Steel sheets	05-12-90 (R)		
	Yugoslavia	Steel coils	05-12-90 (R)		
	Yugoslavia	Ferro-silicon	06-02-88		
	Yugoslavia	Welded tubes of iron or non-alloy steel	09-16-88		04-06-90-DD, PU
	Yugoslavia	Methenamine	12-15-88		04-24-90-
	Yugoslavia	Fibre building board	06-17-89 (R)		Other/No production 05-31-90-NI
Brazil	Argentina	Common Portland Cement	10-10-90		
Canada	Belgium	Graphite electrodes	04-20-90 (R)		
	Belgium	Wide flange beams	02-12-90 (R)		06-12-90-DD
	Brazil	Electric motors	01-15-90 (R)		06-01-90-DD
	Brazil	Refill paper	12-08-89	03-08-90	
	Brazil	Women's leather boots and shoes	08-25-89	01-03-90	05-03-90-DD
	Germany, F.R	Gasoline chain saws	10-16-89 (R)		01-12-90-DD
	Germany, F.R	Municipal tractors	03-21-90	06-19-90	
	Germany, F.R	Stainless steel pipe	10-02-89 (R)		01-30-90-DD
	Germany, F.R	Station post insulators	03-05-90 (R)		
	Germany, F.R	Wide flange beams	02-12-90 (R)		06-12-90-DD
	France	Ski poles	03-30-90 (R)		
	France	Wide flange beams	02-12-90 (R)		06-12-90-DD
	GDR	Carbon steel plate	11-10-89 (R)		04-07-90-PU

See footnote at end of table.

Table A-2—Continued

Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, 1990

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome ¹
	India	Stainless steel bars	05-03-90		
	Indonesia	Photo albums with self-adhesive leaves	06-08-90		
	Italy	Ski poles	03-30-90 (R)		
	Japan	Graphite electrodes	04-20-90 (R)		
	Japan	Stainless steel butt-weld fittings	11-17-89 (R)		02-15-90-DD
	Japan	Stainless steel pipe	10-02-89 (R)		01-30-90-DD
	Japan	Station post insulators	03-05-90 (R)		
	Japan	Wide flange beams	02-12-90 (R)		
	Korea	Stainless steel pipe	10-02-89 (R)		01-30-90-DD
	Korea	Wide-flange beams	02-12-90 (R)		06-12-90-DD
	Luxembourg	Wide-flange beams	02-12-90 (R)		06-12-90-DD
	China, P.R.	Womens's leather and non-leather boots and shoes	08-25-89	01-03-90	05-03-90-DD
	Poland	Women's leather boots	08-25-89	01-03-90	05-03-90-DD
	Romania	Women's leather boots	08-25-89	01-03-90	05-03-90-DD
	Spain	Wide-flange beams	02-12-90 (R)		06-12-90-DD
	Sweden	Gasoline chain saws	10-16-89 (R)		01-12-90-DD
	Sweden	Graphite electrodes	04-20-89 (R)		
	Sweden	Stainless steel pipe	10-02-89 (R)		01-30-90-DD
	Taiwan	Women's leather and non-leather boots and shoes	08-25-89	01-03-90	05-03-90-DD
	United Kingdom	Aluminum offset printing plates	10-25-89 (R)		01-26-90-DD
		Stainless steel pipe	10-02-89 (R)		01-30-90-DD
		Wide-flange beams	02-12-90 (R)		06-12-90-DD
	United States	Dry dog food	03-28-90		06-25-90—Other/terminated
	United States	Frozen prepared pies and compartment dinners	09-25-89 (R)		01-12-90-PU
	United States	Gasoline chain saws	10-16-89 (R)		01-12-90-DD
	United States	Graphite electrodes	04-20-90 (R)		
	United States	Grinding balls	01-31-90 (R)		05-31-90-PU
	United States	Metal storage cabinets	01-12-90 (R)		04-12-90-PU
	United States	Sour cherries	06-29-90 (R)		
	United States	Stainless steel pipe	10-02-89 (R)		01-30-90-DD
	United States	Tile backer board	10-02-89 (R)		01-30-90-PU
	Yugoslavia	Women's leather boots	08-25-89	01-03-90	05-03-90-DD
Finland	GDR	Polythene foil and sheet for agricultural or building purposes	02-23-88		04-11-90-PU
	GDR	Building cement	02-28-89		02-15-90-PU
	Poland	Polythene foil and sheet for agricultural or building purposes	02-23-88		08-13-90-DD
	Romania	Polythene foil and sheet for agricultural or building purposes	02-23-88		
Korea	France	Polyacrylamide	02-17-90		
	Japan	Polyacetal resin	08-25-90		
	United States	Polyacetal resin	08-25-90		

See footnote at end of table.

Table A-2—Continued
Antidumping actions reported by signatories to the GATT Committee on Anti-Dumping Practices, 1990

<i>Reporting country</i>	<i>Country of origin</i>	<i>Product</i>	<i>Initiation date</i>	<i>Provisional measures</i>	<i>Date and final outcome¹</i>
Mexico	Brazil	Shock absorbers, struts and cartridges, gas and hydrolic	08-30-89	12-10-90	
	Brazil	Special steel bars	09-06-88	09-15-88	06-25-90-ND, NI
	Brazil	Vat blue	04-05-89	04-12-89	09-05-90-Other/ No imports
	Brazil	Ceramic wall tiles	12-15-89	10-11-90	
	EEC	Steel products	09-14-88	09-21-88	
	Germany, F.R.	Vat blue	01-07-88	06-10-88	10-10-89-DD
	France	Sorbitol	03-07-89	09-04-88	07-13-90-ND, NI
	Hong Kong	Denim	05-25-90	05-31-90	
	India	Diiodohydroxyquinolene	09-26-90	10-11-90	
	Japan	Ball bearings	11-22-88	12-02-88	
	Japan	Tapered roller bearings	11-22-88	12-02-88	
	Spain	Vulcanized rubber	10-04-89	10-26-90	
	Taiwan	Articles of diecast and enamelled or porcelanized iron and/or steel	11-24-88	08-21-90	10-11-90-DD
	Venezuela	Corrugated rods used to reinforce concrete	11-19-90	11-28-90	
	United States	Corrugated rods used to reinforce concrete	11-19-90	11-28-90	
	United States	Kraft board for the manufacture of milk cartons, coated and uncoated	08-19-87	12-23-87	08-07-90-PU
	United States	Kraft board, uncoated	09-07-90	09-11-90	
	United States	2 Ethylhexanol	07-26-90	09-05-90	
	United States	Hot-rolled sheets	11-19-90	11-30-90	
	United States	Cold-rolled sheets	11-19-90	11-30-90	
	United States	Regenerated cellulose film (cellophane)	11-29-88	12-06-88	09-05-90-ND, NI
	United States	Plate, in coils	11-19-90	11-30-90	
	United States	Vinyl polychloride	01-19-90	08-21-90	
	United States	Acrylic fibers	09-18-89	06-28-90	
	United States	Denim fabric	05-25-90	05-31-90	
New Zealand	Australia	Aluminium foil	(R)		03-23-90-NI
	Australia	Manual arc welding electrodes			07-01-90-Other/ Revoked
	Australia	Aluminium sheets, plate and coil			07-01-90-Other/ Revoked
	Australia	Aluminium passenger catamarans of 18 m in length or longer			07-01-90-Other/ Revoked
	Australia	Bollard pull harbour tugs			07-01-90-Other/ Revoked
	China	Hog bristle paint brushes			08-27-90 (R)
	Thailand	Plasterboard			11-26-90 (R)

¹ Final outcome codes: CW = Case withdrawn, DD = Definitive duty, (N/APP) = Not applicable, ND = Not dumping, NI = No injury, NS = No subsidy, PU = Price undertaking, (R) = Review of existing antidumping or countervailing measure, SU = Subsidy undertaking.

Table A-3

Leading Items exported to Israel, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8803.30	Parts of airplanes or helicopters, nesi	\$133,528	\$215,737	\$183,393
9880.00	Estimated low-value shipments	41,149	53,771	87,964
1201.00	Soybeans, whether or not broken	128,455	76,043	84,024
8802.12	Helicopters, of an unladen weight exceeding 2,000 kg	167	14,684	83,828
8710.00	Tanks and other armored fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	-	77,715	78,468
1001.90	Wheat and meslin, excluding durum wheat	49,151	85,167	71,223
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	20,919	57,470	58,630
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof	16	40,536	57,845
8542.11	Digital monolithic electronic integrated circuits	16,489	32,024	56,024
8473.30	Parts and accessories of the machines of heading 8471	58,511	43,896	53,209
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	132,381	46,646	51,435
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15000 kg	41,600	-	48,762
8525.10	Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting or television	13,161	36,714	44,655
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	13,043	28,741	42,258
1007.00	Grain sorghum	33,550	40,866	40,304
8803.20	Under-carriages and parts thereof, of goods of heading 8801 or 8802	64	25,331	37,556
2402.20	Cigarettes containing tobacco	36,793	35,551	36,550
1005.90	Corn (maize) excluding seed	36,994	30,152	35,549
8411.82	Gas turbines (excluding turbojets or turbopropellers) of a power exceeding 5,000 kW	3,285	3,500	35,247
8409.10	Parts for aircraft engines	4,514	21,906	34,985
	Total	763,770	966,449	1,221,910
	Total, U.S. exports to Israel	2,439,395	2,696,621	2,893,599

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

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

Table A-4

Leading items imported from Israel, by HS items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
7102.39	Nonindustrial diamonds, nesi	\$1,208,070	\$1,282,848	\$1,166,005
7113.19	Articles of jewelry and parts thereof, of precious metal, (excluding silver)	69,261	134,260	148,312
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	66,622	59,997	102,350
8542.11	Digital monolithic electronic integrated circuits	32,062	64,388	93,361
8803.30	Parts of airplanes or helicopters, nesi	53,818	64,171	82,975
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2000 kg but not exceeding 15000 kg	24,622	50,239	70,638
8473.30	Parts and accessories of the machines of heading 8471	8,814	33,568	68,250
8411.91	Parts of turbojets or turbopropellers	34,492	36,564	53,737
8525.20	Transmission apparatus incorporating reception apparatus	18,058	57,519	50,346
8517.90	Parts of telephonic or telegraphic apparatus	35,342	47,502	38,618
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	31,206	13,562	29,956
3104.20	Potassium chloride	25,677	25,671	29,777
8543.80	Electrical machines and apparatus having individual functions, nesi	8,253	27,658	28,275
8406.90	Parts for steam turbines and other vapor turbines	9,409	8,630	26,640
9031.40	Measuring and checking optical instruments and appliances, nesi	2,688	25,864	25,063
7103.91	Rubies, sapphires and emeralds, worked but not strung, mounted or set	27,357	33,240	23,132
9015.80	Surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, nesi	10,990	17,417	21,704
9018.90	Medical, surgical, dental or veterinary sciences instruments, appliances, and parts and accessories thereof, nesi	10,591	12,260	19,457
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	46,474	19,998	19,133
6104.62	Women's or girls' trousers, bib and brace overalls, breeches and shorts, of cotton	1,838	6,316	16,957
	Total	1,725,644	2,021,673	2,114,687
	Total, U.S. imports from Israel	2,975,233	3,235,744	3,308,258

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

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

Table A-5
Leading Items exported to the European Community by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	\$3,255,032	\$5,406,160	\$7,191,458
8473.30	Parts and accessories of the machines of heading 8471	5,004,715	4,012,607	4,181,135
8803.30	Parts of airplanes or helicopters, nesi	1,199,666	2,831,544	3,219,192
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	1,630,945	1,920,901	2,284,385
8411.91	Parts of turbojets or turbopropellers	921,648	2,065,324	2,281,827
9880.00	Estimated low-value shipments	962,491	1,316,155	2,078,694
2402.20	Cigarettes containing tobacco	767,902	963,473	1,754,253
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	913,658	1,599,367	1,578,958
1201.00	Soybeans, whether or not broken	1,942,963	1,639,321	1,465,122
8471.93	Storage units of automatic data processing machines, whether or not entered with the rest of a system	833,082	1,150,263	1,265,322
8542.11	Digital monolithic electronic integrated circuits	617,221	1,043,186	1,115,430
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	1,258,686	1,149,555	1,113,056
8471.20	Digital automatic data processing machines, containing in the same housing at least a central processing unit and an input and output unit	1,140,918	1,107,514	1,087,273
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	232,771	308,724	906,222
4703.21	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached coniferous wood	633,494	810,646	781,276
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof	787	576,299	669,750
2303.10	Residues of starch manufacture and similar residues	579,477	644,266	659,635
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	297,879	458,185	643,491
7108.12	Nonmonetary gold (including gold plated with platinum) in unwrought forms (excluding powder)	181,050	282,038	612,754
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	190,997	509,909	579,707
	Total	22,565,383	29,795,436	35,468,939
	Total, U.S. exports to the European Community	71,305,625	82,524,708	93,059,526

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

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

Table A-6
Leading Items Imported from the European Community by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	\$5,544,885	\$5,182,101	\$5,293,155
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	2,033,397	2,315,892	2,943,893
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	2,214,764	2,194,927	2,696,104
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	2,453,466	1,710,656	2,583,778
8411.12	Turbojets of a thrust exceeding 25 kN	124,021	1,435,395	1,972,372
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	1,387,728	1,227,008	1,579,909
8411.91	Parts of turbojets or turbopropellers	735,688	1,101,288	1,401,680
8803.30	Parts of airplanes or helicopters, nesi	431,243	1,057,756	1,193,493
7113.19	Articles of jewelry and parts thereof, of precious metal, (excluding silver)	714,800	1,150,126	1,069,770
7102.39	Nonindustrial diamonds, nesi	1,117,705	1,156,574	1,069,333
9701.10	Paintings, drawings and pastels, executed entirely by hand, framed or not framed	555,626	726,941	967,133
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	1,094,054	945,695	961,100
8701.90	Tractors (other than tractors of heading 8709), nesi	539,103	619,945	904,805
9999.95	Estimated low-value shipments	724,636	718,844	902,740
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg	859,887	621,282	856,332
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	795,000	1,301,446	814,909
8473.30	Parts and accessories of the machines of heading 8471	294,789	635,040	718,409
6403.59	Footwear with outer soles and uppers of leather, not covering the ankle	121,842	526,876	642,081
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	701,366	488,884	580,445
2204.21	Wine (excluding sparkling wine); grape must with fermentation prevented or arrested by the addition of alcohol, in containers of 2 liters or less	521,135	559,610	559,280
	Total	22,965,138	25,676,285	29,710,721
	Total, U.S. imports from the European Community	84,036,204	84,025,352	90,798,948

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

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

Table A-7
Leading Items exported to Canada, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	\$734,957	\$2,534,412	\$3,111,597
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	992,853	1,643,770	3,077,938
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	3,834,804	4,291,924	2,815,797
8708.29	Parts and accessories nesi of bodies (including cabs) of the motor ehicles of headings 8701 to 8705	965,142	1,574,701	2,515,650
9880.00	Estimated low-value shipments	3,272,580	4,010,043	2,097,667
8534.00	Printed circuits	119,805	177,659	1,303,045
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	721,351	543,087	1,241,585
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, G.V.W. not exceeding 5 m tons	1,512,841	1,590,361	1,163,846
8708.40	Gear boxes of the motor-vehicles of headings 8701 to 8705	1,107,122	1,133,572	1,129,982
8542.11	Digital monolithic electronic integrated circuits	311,123	932,680	1,088,650
8473.30	Parts and accessories of the machines of heading 8471	1,295,497	908,604	980,142
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	237,065	573,632	896,093
8803.30	Parts of airplanes or helicopters, nesi	296,264	637,262	755,725
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	330,998	452,107	641,403
4901.99	Printed books, brochures, leaflets and similar printed matter, other than in single sheets	338,383	380,325	630,237
8409.91	Parts suitable for use solely or principally with spark-ignition internal combustion piston engines (including rotary engines)	583,690	481,531	612,831
7606.12	Rectangular plates, sheets and strip, of a thickness exceeding 0.2 mm, of aluminum alloys	134,485	121,966	562,631
4902.90	Newspapers, journals and periodicals except those appearing at least four times a week	356,294	345,460	549,561
2716.00	Electrical energy	-	180,300	491,142
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	774,515	682,909	488,692
	Total	17,919,769	23,196,305	26,154,213
	Total, U.S. exports to Canada	68,243,191	74,977,469	78,217,958

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

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

Table A-8
Leading Items Imported from Canada, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	\$7,957,470	\$3,392,485	\$8,489,162
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, G.V.W. not exceeding 5 m tons	2,744,598	4,645,634	4,824,102
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	2,997,013	3,132,631	4,413,806
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	4,844,581	8,979,657	4,341,767
4801.00	Newsprint, in rolls or sheets	4,553,071	4,382,853	4,162,479
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	2,295,990	2,770,703	3,456,245
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	3,485,635	3,690,155	3,227,979
4407.10	Coniferous wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm	2,735,521	2,839,023	2,494,067
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	1,313,163	1,555,961	1,990,417
2711.21	Natural gas, in gaseous state	1,732,838	1,576,062	1,974,833
4703.21	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached coniferous wood	1,708,665	1,972,811	1,902,993
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	1,347,752	691,982	1,222,928
8473.30	Parts and accessories of the machines of heading 8471	289,481	1,089,810	1,179,644
8534.00	Printed circuits	67,222	275,877	1,107,084
8803.30	Parts of airplanes or helicopters, nesi	249,840	759,976	1,033,275
8542.11	Digital monolithic electronic integrated circuits	500,083	835,596	919,944
9999.95	Estimated low-value shipments	655,039	720,136	878,370
7601.20	Unwrought aluminum alloys	769,725	918,154	791,551
7601.10	Unwrought aluminum, not alloyed	934,331	733,235	583,376
4802.60	Paper and paperboard, nesi, of which more than 10% by weight fiber content consists of fibers obtained by a mechanical process	252,125	542,197	565,538
	Total	41,434,144	45,504,939	49,559,560
	Total, U.S. imports from Canada	80,678,621	87,987,651	91,198,308

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

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

Table A-9
Leading Items exported to Japan, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	\$1,185,773	\$657,904	\$2,103,726
1005.90	Corn (maize) excluding seed	1,604,766	1,557,981	1,643,577
4403.20	Coniferous wood in the rough, whether or not stripped of bark or sapwood or roughly squared, not treated with preservatives	1,300,290	1,619,167	1,587,943
8473.30	Parts and accessories of the machines of heading 8471	1,050,509	1,083,340	1,369,300
2402.20	Cigarettes containing tobacco	606,318	871,155	1,312,380
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	389,962	790,778	1,016,946
8803.30	Parts of airplanes or helicopters, nesi	419,907	892,696	970,713
1201.00	Soybeans, whether or not broken	1,030,059	866,490	818,633
7601.10	Unwrought aluminum, not alloyed	664,082	855,746	752,082
0202.30	Boneless meat of bovine animals, frozen	697,402	713,395	669,013
8542.11	Digital monolithic electronic integrated circuits	287,998	606,232	661,275
2844.20	Uranium enriched in U235 and plutonium and their compounds; alloys, dispersions, ceramic products and mixtures containing these products	233,098	542,845	599,623
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	597,548	595,297	590,911
9701.10	Paintings, drawings and pastels, executed entirely by hand, framed or not framed	125,919	411,169	576,916
5201.00	Cotton, not carded or combed	483,958	543,659	575,294
0303.10	Pacific salmon, frozen, excluding filets, other meat portions and livers and roes	349,982	620,669	551,649
9880.00	Estimated low-value shipments	248,625	343,531	539,770
4407.10	Coniferous wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm	432,253	560,743	501,421
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	485,780	506,085	500,425
1001.90	Wheat and meslin, excluding durum wheat	378,704	468,634	420,045
	Total	12,572,931	15,107,515	17,761,640
	Total, U.S. exports to Japan	36,041,575	42,764,273	46,138,436

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 A-10
Leading Items Imported from Japan, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	\$20,947,434	\$20,859,320	\$19,419,358
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	3,551,284	2,980,465	3,073,198
8473.30	Parts and accessories of the machines of heading 8471	968,097	3,001,977	2,650,993
8542.11	Digital monolithic electronic integrated circuits	2,312,178	2,925,390	2,332,534
8471.93	Storage units of automatic data processing machines, whether or not entered with the rest of a system	1,991,052	1,901,216	2,277,390
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	377,136	539,883	2,020,935
8525.30	Television cameras	200,541	1,771,371	1,892,300
9504.10	Video games of a kind used with a television receiver and parts and accessories thereof	322,902	1,585,654	1,804,096
8521.10	Magnetic tape-type video recording or reproducing apparatus	228,534	2,014,598	1,781,981
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, G.V.W. not exceeding 5 m tons	3,043,699	2,511,936	1,671,877
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	1,524,876	1,323,837	1,389,003
8703.22	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine over 1,000 but not over 1,500 cc	757,682	1,527,596	1,370,789
9009.12	Electrostatic photocopying apparatus, operating by reproducing the original image via an intermediate onto the copy (indirect process)	916,801	974,480	1,000,257
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	445,035	548,630	747,669
8517.82	Electrical telegraphic apparatus, nesi	955,548	904,853	730,748
9009.90	Parts and accessories for photocopying apparatus incorporating an optical system or of the contact type, and thermocopying apparatus	655,965	698,945	629,190
8519.99	Sound reproducing apparatus nesi, not incorporating a sound recording device	505,245	535,478	575,081
9999.95	Estimated low-value shipments	438,639	470,455	528,482
8708.29	Parts and accessories nesi of bodies (including cabs) of the motor vehicles of headings 8701 to 8705	196,749	533,237	527,564
8414.30	Compressors of a kind used in refrigerating equipment (including air conditioning)	387,569	569,794	516,766
	Total	40,726,966	48,179,117	46,940,212
	Total, U.S. imports from Japan	89,110,486	91,841,766	88,834,279

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

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

Table A-11
Leading Items exported to Mexico, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	\$268,981	\$918,806	\$1,510,498
9880.00	Estimated low-value shipments	459,502	675,707	1,109,569
8708.29	Parts and accessories nesi of bodies (including cabs) of the motor vehicles of headings 8701 to 8705	278,084	454,108	662,230
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	177,442	557,668	592,706
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	296,537	439,174	537,197
1005.90	Corn (maize) excluding seed	388,702	437,030	402,109
8473.30	Parts and accessories of the machines of heading 8471	421,231	360,408	378,539
8538.90	Parts nesi, suitable for use solely or principally with the apparatus of heading 8535, 8536 or 8537	109,713	353,571	348,205
1007.00	Grain sorghum	144,160	320,044	346,950
8544.30	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	503,708	474,954	344,191
8504.90	Parts of electrical transformers, static converters and inductors	109,842	234,575	300,004
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	7,923	209,161	222,880
3926.90	Articles of plastics and articles of other materials of headings 3901 to 3914, nesi	58,723	182,134	212,630
1201.00	Soybeans, whether or not broken	350,129	308,896	211,375
8409.91	Parts suitable for use solely or principally with spark-ignition internal combustion piston engines (including rotary engines)	197,881	247,311	198,556
9801.10	Value of repairs or alterations of previously imported articles	56,611	314,696	194,013
8544.19	Insulated (including enameled or anodized) winding wire, other than of copper	5,825	129,506	192,072
9032.90	Parts and accessories of automatic regulating or controlling instruments and apparatus	16,007	141,928	191,211
9401.90	Parts of seats (other than those of heading 9402)	5,691	79,900	180,285
4819.10	Cartons, boxes and cases of corrugated paper or paperboard	116,371	156,607	169,594
	Total	3,973,064	6,996,185	8,304,812
	Total, U.S. exports to Mexico	19,853,345	24,117,255	27,467,595

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

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

Table A-12
Leading Items Imported from Mexico, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	\$2,853,843	\$3,999,140	\$4,821,484
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	1,434,538	1,334,279	2,279,610
8544.30	Insulated ignition wiring sets and other wiring sets of a kind used in vehicles, aircraft or ships	888,266	1,051,798	1,089,926
9801.00	U.S. articles exported and returned, not advanced or improved in condition; animals exported and returned	745,454	942,251	977,118
8528.10	Color television receivers	586,472	768,240	882,809
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	518,002	625,335	643,708
8708.21	Safety seat belts for bodies (including cabs) of the motor vehicles of headings 8701 to 8705	248,185	363,714	433,184
0102.90	Live bovine animals other than purebred breeding animals	262,004	284,226	419,153
0702.00	Tomatoes, fresh or chilled	150,266	222,316	370,556
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	307,635	372,552	364,356
8407.34	Reciprocating piston engines of a kind used for the propulsion of vehicles of chapter 87, of a cylinder capacity exceeding 1,000 cc	490,316	330,381	307,083
9999.95	Estimated low-value shipments	149,254	213,273	291,535
0901.11	Coffee, not roasted, not decaffeinated	282,432	434,184	285,535
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	397,685	329,992	282,731
8473.30	Parts and accessories of the machines of heading 8471	117,002	276,522	264,754
8544.51	Electric conductors, for a voltage exceeding 80 V but not exceeding 1,000 V, fitted with connectors	165,997	241,556	260,984
8704.31	Motor vehicles for transporting goods, with spark-ignition internal-combustion piston engine, G.V.W. not exceeding 5 m tons	717	118,874	229,258
8536.50	Switches nesi, for switching or making connections to or in electrical circuits, for a voltage not exceeding 1,000 V	175,795	175,845	225,336
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	229,145	121,258	205,565
8527.21	Radio broadcast receivers not capable of operating without an external source of power combined with sound recording or reproducing apparatus	426,559	318,413	203,623
	Total	10,429,566	12,524,147	14,838,308
	Total, U.S. imports from Mexico	22,617,177	26,556,570	29,505,962

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

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

Table A-13
Leading items exported to Taiwan, by HS items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
1005.90	Corn (maize) excluding seed	\$461,745	\$540,457	\$542,621
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	304,754	529,092	524,371
8542.11	Digital monolithic electronic integrated circuits	203,644	406,930	499,972
1210.00	Soybeans, whether or not broken	476,379	447,177	411,327
2701.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	217,357	300,348	263,233
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	37,056	109,21	249,169
8517.90	Parts of telephonic or telegraphic apparatus	26,438	26,119	195,735
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	186,541	169,950	177,896
7403.11	Cathodes and sections of cathodes of refined copper	747	90,111	175,790
2917.36	Terephthalic acid and its salts	15,951	177,655	144,636
9880.00	Estimated low-value shipments	85,800	92,580	143,884
8803.30	Parts of airplanes or helicopters, nesl	36,766	90,967	139,369
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof	62	90,075	135,913
8542.19	Monolithic electronic integrated circuits, other than digital	71,174	96,192	132,706
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	37,584	107,568	123,735
8473.30	Parts and accessories of the machines of heading 8471	222,194	162,226	122,211
8703.24	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, cylinder capacity over 3,000 cc	55,744	66,821	120,370
5201.00	Cotton, not carded or combed	78,626	68,022	114,828
1001.90	Wheat and meslin, excluding durum wheat	114,227	130,877	110,379
2402.20	Cigarettes containing tobacco	119,152	55,545	107,602
	Total	2,751,940	3,757,929	4,435,746
	Total, U.S. exports to Taiwan	11,599,286	10,974,696	11,141,956

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

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

Table A-14
Leading Items Imported from Taiwan, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	\$831,796	\$895,302	\$1,020,973
8473.30	Parts and accessories of the machines of heading 8471	369,245	660,638	936,368
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	323,323	452,471	510,123
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	350,759	485,468	442,559
6402.99	Footwear with outer soles and uppers of rubber or plastics, nesl	1,056,007	699,951	421,204
8712.00	Bicycles and other cycles (including delivery tricycles), not motorized	323,472	379,808	404,498
8542.11	Digital monolithic electronic integrated circuits	343,809	350,346	389,743
9403.60	Wooden furniture, other than of a kind used in the bedroom	120,415	401,048	354,342
6110.30	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of man-made fibers	386,424	545,515	334,791
8414.51	Table, floor, wall, window, ceiling or roof fans, with a self-contained electric motor of an output not exceeding 125 W	343,937	350,657	273,235
3925.30	Shutters, blinds (including venetian blinds) and similar articles and parts thereof, of plastics, nesl	175,109	223,532	233,298
8471.99	Units of automatic data processing machines, nesl	175,384	198,496	229,661
6403.91	Footwear, covering the ankles, with outer soles of rubber, plastics or composition leather and uppers of leather	148,904	229,730	213,319
3926.90	Articles of plastics and articles of other materials of headings 3901 to 3914, nesl	253,753	260,760	203,829
4202.92	Trunks, cases, bags and similar containers, with outer surface of plastic sheeting or of textile materials	170,774	172,287	197,336
9506.91	Gymnasium, playground or other exercise articles and equipment; parts and accessories thereof	200,939	240,882	188,432
9405.20	Electric table, desk, bedside or floor-standing lamps	99,172	158,039	177,866
8525.10	Transmission apparatus for radiotelephony, radiotelegraphy, radiobroadcasting or television	190,743	164,811	173,744
9505.10	Articles for Christmas festivities and parts and accessories thereof	80,774	183,086	169,042
9403.20	Metal furniture, other than of a kind used in offices	185,088	175,109	165,967
	Total	6,129,827	7,227,935	7,040,330
	Total, U.S. imports from Taiwan	24,710,730	24,203,285	22,566,115

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

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

Table A-15
Leading Items exported to Korea, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
4101.21	Whole raw hides and skins of bovine animals nesi, fresh or wet-salted	\$624,180	\$612,881	\$624,356
1005.90	Corn (maize) excluding seed	429,307	640,231	603,806
8542.11	Digital monolithic electronic integrated circuits	143,586	393,948	511,517
5201.00	Cotton, not carded or combed	445,111	428,077	480,737
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	102,382	90,260	453,623
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	441,570	708,301	406,023
8803.30	Parts of airplanes or helicopters, nesi	150,678	314,733	298,443
4403.20	Coniferous wood in the rough, whether or not stripped of bark or sapwood or roughly squared, not treated with preservatives	233,949	257,584	271,783
7204.49	Ferrous waste and scrap, nesi	157,918	237,667	238,648
8473.30	Parts and accessories of the machines of heading 8471	258,396	237,635	230,835
1001.90	Wheat and meslin, excluding durum wheat	254,653	297,903	216,230
1201.00	Soybeans, whether or not broken	260,148	219,999	193,819
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	158,459	171,786	185,664
8802.12	Helicopters, of an unladen weight exceeding 2,000 kg	3,431	56,317	175,643
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	38,990	112,454	171,856
8542.19	Monolithic electronic integrated circuits, other than digital	67,545	160,695	160,412
4703.29	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached nonconiferous wood	120,075	183,928	124,318
8479.89	Machines and mechanical appliances having individual functions, nesi	93,846	260,648	118,057
9306.90	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof	50	19,457	114,536
7404.00	Copper waste and scrap	109,262	107,609	112,398
	Total	4,093,536	5,512,113	5,692,704
	Total, U.S. exports to Korea	10,381,436	13,207,742	14,073,883

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

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

Table A-16
Leading Items Imported from Korea, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8542.11	Digital monolithic electronic integrated circuits	\$1,033,255	\$1,530,950	\$1,429,559
6403.91	Footwear, covering the ankles, with outer soles of rubber, plastics or composition leather and uppers of leather	212,298	725,049	1,040,371
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	504,519	834,200	935,482
4203.10	Articles of apparel of leather or of composition leather	567,826	839,342	850,895
8703.22	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine over 1,000 but not over 1,500 cc	125,525	608,213	813,169
8471.92	Automatic data processing machines with or without input or output units or containing storage units in the same housing	456,880	533,607	706,113
8521.10	Magnetic tape-type video recording or reproducing apparatus	63,854	551,535	383,717
6110.30	Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted, of man-made fibers	412,071	504,843	362,599
8516.50	Microwave ovens of a kind used for domestic purposes	338,575	376,305	287,772
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	2,259,496	974,009	280,445
9503.41	Stuffed toys representing animals or non-human creatures and parts and accessories thereof	338,486	297,545	241,836
6404.11	Sports footwear: tennis, basketball, gym, training shoes and the like, with outer soles of rubber or plastics and uppers of textile materials	900,368	238,325	220,120
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	227,682	413,719	210,332
8473.30	Parts and accessories of the machines of heading 8471	103,766	182,998	197,226
8542.19	Monolithic electronic integrated circuits, other than digital	161,706	149,301	194,804
8523.13	Prepared unrecorded magnetic tapes for sound recording or similar recording of other phenomena, of a width exceeding 6.5 mm	144,432	150,440	180,954
6205.30	Men's or boys' shirts, not knitted or crocheted, of man-made fibers	253,002	275,721	176,568
8527.21	Radio broadcast receivers not capable of operating without an external source of power combined with sound recording or reproducing apparatus	227,857	191,283	175,972
8525.20	Transmission apparatus incorporating reception apparatus	196,671	218,246	169,546
8427.20	Self-propelled works trucks fitted with lifting and handling equipment other than powered by an electric motor	78,333	157,853	147,255
	Total	8,606,605	9,753,485	9,004,734
	Total, U.S. imports from Korea	20,071,989	19,566,725	18,336,960

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

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

Table A-17
Leading items exported to Brazil, by HS items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
8802.40	Airplanes and other aircraft, of an unladen weight exceeding 15,000 kg	\$506,482	\$304,812	\$345,597
2701.12	Bituminous coal, whether or not pulverized, but not agglomerated	232,987	259,054	273,609
8803.30	Parts of airplanes or helicopters, nesi	97,950	188,194	208,034
8529.90	Parts suitable for use solely or principally with the apparatus of headings 8525 to 8528, excluding antennas and antenna reflectors of all kinds	98,376	258,410	195,675
8473.30	Parts and accessories of the machines of heading 8471	201,557	171,157	161,986
2207.20	Ethyl alcohol and other spirits, denatured, of any strength	-	5,863	146,270
8411.91	Parts of turbojets or turbopropellers	44,058	87,130	126,394
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg	58,571	113,073	109,580
9880.00	Estimated low-value shipments	39,738	54,652	88,137
8708.99	Parts and accessories, nesi, of the motor-vehicles of headings 8701 to 8705	24,989	78,756	73,086
3100.00	Fertilizers	-	52,173	71,006
8542.11	Digital monolithic electronic integrated circuits	44,248	59,822	60,677
8443.11	Reel-fed offset printing machinery	7,477	4,582	54,112
8431.41	Parts suitable for use solely or principally with the buckets, shovels, grabs and grips of headings 8426, 8429, 8430	9,546	60,358	48,869
8471.91	Digital processing units which may contain in the same housing one or two storage units, input units or output units	53,147	95,964	45,196
8409.99	Parts suitable for use solely or principally with the engines of heading 8407 or 8408, nesi	37,236	42,741	43,329
1005.90	Corn (maize) excluding seed	-	3,480	43,201
8540.91	Parts of cathode-ray tubes	28,507	38,565	38,578
9009.90	Parts and accessories for photocopying apparatus incorporating an optical system or of the contact type, and thermocopying apparatus	8,799	19,879	35,871
8803.10	Propellers and rotors and parts thereof, of goods of heading 8801 or 8802	5,167	16,186	32,610
	Total	1,498,836	1,914,850	2,201,817
	Total, U.S. exports to Brazil	4,106,260	4,636,110	4,876,461

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

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

Table A-18
Leading Items Imported from Brazil, by HS Items, 1988-90

(In thousands of dollars)

HS Item no.	Description	1988	1989	1990
6403.99	Footwear not covering the ankles, with outer soles of rubber or plastics or composition leather and uppers of leather	\$609,106	\$764,404	\$790,162
2009.11	Orange juice, frozen, unfermented and not containing added spirit	354,537	242,959	524,306
2710.00	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included	710,424	680,301	485,171
8802.30	Airplanes and other aircraft, of an unladen weight exceeding 2,000 kg but not exceeding 15,000 kg	163,835	178,932	342,971
0901.11	Coffee, not roasted, not decaffeinated	566,211	385,126	284,943
4703.29	Chemical woodpulp, soda or sulfate, other than dissolving grades, of semibleached or bleached nonconiferous wood	120,698	153,322	171,289
8408.20	Compression-ignition internal combustion piston engines of a kind used for the propulsion of vehicles of chapter 87	185,393	151,175	171,218
7207.12	Semifinished products of iron or nonalloy steel, by weight less than 0.25% of carbon, of rectangular cross section (not square)	31,715	109,797	139,860
8703.23	Passenger motor vehicles with spark-ignition internal-combustion reciprocating piston engine, over 1,500 but not over 3,000 cc	516,738	492,364	139,850
1701.11	Cane sugar, raw, not containing added flavoring or coloring matter, in solid form	47,091	22,511	137,545
6403.59	Footwear with outer soles and uppers of leather, not covering the ankle	96,299	152,300	123,190
2401.20	Tobacco, partly or wholly stemmed/stripped	120,420	93,198	98,029
8409.59	Parts suitable for use solely or principally with the engines of heading 8407 or 8408, nesl	74,860	87,762	97,750
8414.30	Compressors of a kind used in refrigerating equipment (including air conditioning)	64,679	81,966	86,480
0801.30	Cashew nuts, shelled or in shell, fresh or dried	95,634	69,770	83,550
8527.21	Radio broadcast receivers not capable of operating without an external source of power combined with sound recording or reproducing apparatus	98,999	97,973	83,429
6403.91	Footwear, covering the ankles, with outer soles of rubber, plastics or composition leather and uppers of leather	145,357	55,337	79,276
1804.00	Cocoa butter, fat and oil	114,731	67,267	76,756
2601.11	Iron ores and concentrates, other than roasted iron pyrites, not agglomerated	21,609	64,764	75,495
2606.00	Aluminum ores and concentrates	20,231	43,122	59,270
Total		4,158,568	3,994,351	4,050,541
Total, U.S. imports from Brazil		9,058,916	8,483,765	7,762,112

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

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

Table A-19

Antidumping cases active in 1990, 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	
<i>Affirmative:</i>								
731-TA-354 ³	Stainless steel pipe and tube	Sweden	10/20/86	A	A	A	A	12/17/90
731-TA-379 ³	Brass sheet and strip	Japan	7/20/87	A	A	A	A	1/17/90
731-TA-380 ³	Brass sheet and strip	Netherlands	7/20/87	A	A	A	A	1/17/90
731-TA-427	Business telephone systems	Korea	12/28/88	A	A	A	A	1/31/90
731-TA-429	Mechanical transfer presses	Japan	1/12/89	A	A	A	A	2/8/90
731-TA-439	Industrial nitrocellulose	Brazil	9/19/89	A	A	A	A	6/28/90
731-TA-440	Industrial nitrocellulose	Japan	9/19/89	A	A	A	A	6/28/90
731-TA-441	Industrial nitrocellulose	China	9/19/89	A	A	A	A	6/28/90
731-TA-442	Industrial nitrocellulose	Korea	9/19/89	A	A	A	A	6/28/90
731-TA-443	Industrial nitrocellulose	United Kingdom	9/19/89	A	A	A	A	6/28/90
731-TA-444	Industrial nitrocellulose	Germany	9/19/89	A	A	A	A	6/28/90
731-TA-445	Industrial nitrocellulose	Yugoslavia	9/19/89	A	A	A	A	10/10/90
731-TA-448	Manmade fiber sweaters	Hong Kong	9/22/89	A	A	A	A	9/10/90
731-TA-449	Manmade fiber sweaters	Korea	9/22/89	A	A	A	A	9/10/90
731-TA-450	Manmade fiber sweaters	Taiwan	9/22/89	A	A	A	A	9/10/90
731-TA-451	Portland hydraulic cement	Mexico	9/26/89	A	A	A	A	8/23/90
731-TA-455	Light scattering instruments	Japan	3/19/90	A	A	A	A	11/2/90
<i>Negative:</i>								
731-TA-433	Residential door locks	Taiwan	4/24/89	A	A	A	N	2/2/90
731-TA-435	Steel pails	Mexico	5/31/89	A	A	A	N	5/7/90
731-TA-452	Polyvinyl chloride battery covers	Germany	1/19/90	N	(4)	(4)	(4)	3/5/90
731-TA-453	Electromechanical digital counters	Brazil	2/27/90	N	(4)	(4)	(4)	4/13/90
731-TA-460	Polyethylene terephthalate film	Taiwan	4/27/90	N	(4)	(4)	(4)	6/11/90
731-TA-467	Sodium sulfur compounds	Turkey	7/9/90	N	(4)	(4)	(4)	8/23/90
731-TA-477	Steel wire rope	Chile	11/5/90	N	(4)	(4)	(4)	12/20/90
731-TA-484	Word processors	Singapore	11/6/90	N	(4)	(4)	(4)	12/21/90
<i>Terminated:</i>								
731-TA-438	Limousines	Canada	7/24/89	A	A	A	T	3/29/90
731-TA-456	Phototypesetting machines	Germany	3/20/90	A	T	(4)	(4)	10/22/90
731-TA-463	Benzyl paraben	United Kingdom	6/29/90	T	T	(4)	(4)	7/16/90
<i>In Progress:⁵</i>								
731-TA-167 ⁽³⁾	Table wine	France	1/27/84	A	(4)	(4)	(4)	(4)
731-TA-168 ⁽³⁾	Table wine	Italy	1/27/84	A	(4)	(4)	(4)	(4)
731-TA-52 ⁽⁶⁾	Steel sheet piling	Canada	11/24/81	A	A	(4)	(4)	(4)
731-TA-454	Salmon	Norway	2/28/90	A	A	(4)	(4)	(4)
731-TA-457	Forged handtools	China	4/4/90	A	A	A	(4)	(4)

See footnotes at end of table.

Table A-19—Continued

Antidumping cases active in 1990, 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	Commission	ITA ¹	
<i>In Progress⁵—Continued:</i>								
731-TA-458	Polyethylene terephthalate film	Japan	4/27/90	A	A	(4)	(4)	(4)
731-TA-459	Polyethylene terephthalate film	Korea	4/27/90	A	A	(4)	(4)	(4)
731-TA-461	Portland hydraulic cement	Japan	5/18/90	A	A	(4)	(4)	(4)
731-TA-462	Benzyl paraben	Japan	6/29/90	A	A	(4)	(4)	(4)
731-TA-464	Sparklers	China	7/2/90	A	A	(4)	(4)	(4)
731-TA-465	Sodium sulfur compounds	Germany	7/9/90	P	P	(4)	(4)	(4)
731-TA-466	Sodium sulfur compounds	China	7/9/90	P	P	(4)	(4)	(4)
731-TA-468	Sodium sulfur compounds	United Kingdom	7/9/90	P	P	(4)	(4)	(4)
731-TA-469	High-information content flat panel displays	United Kingdom	7/9/90	P	P	(4)	(4)	(4)
731-TA-470	Silicon metal	Japan	7/18/90	A	(4)	(4)	(4)	(4)
731-TA-471	Silicon metal	Argentina	8/24/90	A	(4)	(4)	(4)	(4)
731-TA-472	Silicon metal	Brazil	8/24/90	A	(4)	(4)	(4)	(4)
731-TA-473	Electric fans	China	8/24/90	A	(4)	(4)	(4)	(4)
731-TA-474	Chrome-plated lug nuts	China	10/31/90	A	(4)	(4)	(4)	(4)
731-TA-475	Chrome-plated lug nuts	China	11/1/90	A	(4)	(4)	(4)	(4)
731-TA-476	Steel wire rope	Taiwan	11/1/90	A	(4)	(4)	(4)	(4)
731-TA-478	Steel wire rope	Argentina	11/5/90	A	(4)	(4)	(4)	(4)
731-TA-479	Steel wire rope	India	11/5/90	A	(4)	(4)	(4)	(4)
731-TA-480	Steel wire rope	Mexico	11/5/90	A	(4)	(4)	(4)	(4)
731-TA-481	Steel wire rope	China	11/5/90	A	(4)	(4)	(4)	(4)
731-TA-482	Steel wire rope	Taiwan	11/5/90	A	(4)	(4)	(4)	(4)
731-TA-483	Word processors	Thailand	11/5/90	A	(4)	(4)	(4)	(4)
731-TA-485	Gene amplification thermal cyclers	Japan	11/6/90	A	(4)	(4)	(4)	(4)
731-TA-486	Coated groundwood paper	United Kingdom	11/14/90	A	(4)	(4)	(4)	(4)
731-TA-487	Coated groundwood paper	Austria	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-488	Coated groundwood paper	Belgium	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-489	Coated groundwood paper	Finland	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-490	Coated groundwood paper	France	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-491	Coated groundwood paper	Germany	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-492	Coated groundwood paper	Italy	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-493	Coated groundwood paper	Netherlands	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-494	Coated groundwood paper	Sweden	12/28/90	(4)	(4)	(4)	(4)	(4)
731-TA-494	Coated groundwood paper	United Kingdom	12/28/90	(4)	(4)	(4)	(4)	(4)

¹ U.S. Department of Commerce, International Trade Administration (ITA).

² For cases in which the final action was taken by the ITA, the date shown is the Federal Register notice date of that action.

³ The Commission's redetermination in the above-referenced case was pursuant to a remand order from the U.S. Court of International Trade.

⁴ Not applicable.

⁵ Five investigations covering a variety of products remained suspended in 1990 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1990, see the table immediately following.

⁶ The above-referenced case was suspended in 1981 and at the request of the petitioner reinitiated in 1990.

Source: U.S. International Trade Commission, Office of Economics, CASIS Database Information System.

Table A-20
Antidumping orders and findings in effect as of Dec. 31, 1990

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Argentina:	
Rectangular pipes and tubes	May 26, 1989
Carbon steel wire rod	Nov. 23, 1984
Barbed wire	Nov. 13, 1983
Australia: Canned bartlett pears	
	Mar. 23, 1973
Austria: Railway track equipment	
	Feb. 17, 1978
Belgium:	
Phosphoric acid	Aug. 20, 1987
Sugar	June 13, 1979
Brazil:	
Nitrocellulose	July 10, 1990
Disk wheels	May 28, 1987
Orange juice	May 5, 1987
Brass sheet and strip	Jan. 12, 1987
Butt-weld pipe fittings	Dec. 7, 1986
Pipe fittings	May 21, 1986
Construction castings	May 9, 1986
Canada:	
Steel rail	Sept. 15, 1989
Color picture tubes	Jan. 7, 1988
Fresh cut flowers	Mar. 18, 1987
Brass sheet and strip	Jan. 12, 1987
Oil country tubular goods	July 16, 1986
Construction castings	Mar. 5, 1986
Raspberries	June 24, 1985
Sugar and syrups	Apr. 9, 1980
Paving equipment	Sept. 7, 1977
Racing plate	Feb. 27, 1974
Elemental sulphur	Dec. 17, 1973
Pig iron	July 24, 1971
Steel jacks	Sept. 13, 1966
Steel bars and shapes	Sept. 25, 1964
Steel reinforcing bars	Apr. 21, 1964
Chile:	
Standard carnations	Mar. 20, 1987
Sodium nitrate	Mar. 25, 1983
China:	
Nitrocellulose	July 10, 1990
Tapered roller bearings	June 15, 1987
Cookware	Dec. 2, 1986
Candles	Aug. 28, 1986
Construction castings	May 9, 1986
Paint brushes	Feb. 14, 1986
Barium chloride	Oct. 17, 1984
Chloropicrin	Mar. 22, 1984
Potassium permanganate	Jan. 31, 1984
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:	
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Spherical plain bearings	May 15, 1989
Brass sheet and strip	Mar. 6, 1987
Nitrocellulose	Aug. 10, 1983
Sorbitol	Apr. 9, 1982
Anhydrous sodium metasilicate	Jan. 7, 1981
Sugar	June 13, 1979
Rayon staple fiber	Mar. 21, 1979
Large power transformers	June 14, 1972
Greece: Electrolytic manganese dioxide	
	April 17, 1989

See footnote at end of table.

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1990

Country and commodity	Effective date of original action ¹
Hong Kong:	
Manmade-fiber sweaters	Sept. 24, 1990
Photo albums	Dec. 16, 1985
Hungary: Tapered roller bearings	
	June 19, 1987
India:	
Pipes and tubes	May 12, 1986
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:	
Synchronous industrial belts and V-belts	June 14, 1989
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Granular polytetrafluoroethylene resin	Aug. 30, 1988
Tapered roller bearings	Aug. 14, 1987
Brass sheet and strip	Mar. 6, 1987
Brass fire protection equipment	Mar. 1, 1985
Woodwind pads	Sept. 21, 1984
Spun acrylic yarn	Apr. 8, 1980
Pressure sensitive tape	Oct. 21, 1977
Large power transformers	June 14, 1972
Clear sheet glass	Dec. 9, 1971
Japan:	
Laser light-scattering instruments	Nov. 19, 1990
Nitrocellulose	July 10, 1990
Mechanical transfer presses	Feb. 16, 1990
Drafting Machines	Dec. 29, 1989
Small business telephone systems	Dec. 11, 1989
Industrial belts	June 14, 1989
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Spherical plain bearings	May 15, 1989
Electrolytic manganese dioxide	April 17, 1989
Microdisks	April 3, 1989
Granular polytetrafluoroethylene resin	Aug. 28, 1988
Brass sheet and strip	Aug. 12, 1988
Nitrile rubber	June 16, 1988
Forklift trucks	June 7, 1988
Stainless steel butt-weld pipe fittings	March 25, 1988
Color picture tubes	Jan. 7, 1988
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
Titanium sponge	Nov. 30, 1984
Cyanuric acid	Apr. 27, 1984
Dichloroisocyanurates	Apr. 27, 1984
Trichloroisocyanuric acid	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
Polychloroprene rubber	Dec. 6, 1973
Steel wire rope	Oct. 15, 1973

See footnote at end of table.

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1990

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Japan—Continued:	
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:	
Manmade-fiber sweaters	Sept. 24, 1990
Nitrocellulose	July 10, 1990
Small business telephone systems	Feb. 7, 1990
Color picture tubes	Jan. 7, 1988
Stainless steel cookware	Jan. 20, 1987
Brass sheet and strip	Jan. 12, 1987
Pipe fittings	May 23, 1986
Photo albums	Dec. 16, 1985
Television receiving sets	Apr. 30, 1984
Mexico:	
Cement	Aug. 30, 1990
Fresh cut flowers	Apr. 23, 1987
Cookware	Dec. 2, 1986
Netherlands:	
Brass sheet and strip	Aug. 12, 1988
Animal glue	Dec. 22, 1977
New Zealand: Brazing copper wire and rod	
	Dec. 4, 1985
Romania:	
Ball bearings	May 15, 1989
Urea	July 4, 1987
Tapered roller bearings	June 19, 1987
Singapore:	
V-belts	June 14, 1989
Ball bearings	May 15, 1989
Color picture tubes	Jan. 7, 1988
Rectangular pipes and tubes	Nov. 14, 1986
South Africa: Brazing copper wire and rod	
	Jan. 29, 1986
Spain: Potassium permanganate	
	Jan. 19, 1984
Sweden:	
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Seamless stainless steel hollow products	Dec. 3, 1987
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:	
Manmade-fiber sweaters	Sept. 24, 1990
Small business telephone systems	Dec. 11, 1989
Rectangular tubing	Mar. 27, 1989
Stainless steel cookware	Jan. 20, 1987
Butt-weld pipe fittings	Dec. 17, 1986
Cookware	Dec. 2, 1986
Oil country tubular goods	June 18, 1986
Pipe fittings	May 23, 1986
Circular pipes and tubes	May 7, 1984
Television receiving sets	Apr. 30, 1984
Fireplace mesh panels	June 7, 1982
Carbon steel plate	June 13, 1979
Clear sheet glass	Aug. 21, 1971
Thailand:	
Ball bearings	May 15, 1989
Pipe fittings	Aug. 20, 1987
Circular welded pipes and tubes	Mar. 11, 1986

See footnote at end of table.

Table A-20—Continued
Antidumping orders and findings in effect as of Dec. 31, 1990

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Turkey:	
Aspirin	Aug. 25, 1987
Pipes and tubes	May 15, 1986
United Kingdom:	
Nitrocellulose	July 10, 1990
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Crankshafts	Sept. 21, 1987
U.S.S.R.:	
Urea	July 14, 1987
Titanium sponge	Aug. 28, 1968
Venezuela:	
Aluminum sulfate	Dec. 15, 1989
Electrical conductor redraw rods	Aug. 22, 1988
West Germany:	
Nitrocellulose	July 10, 1990
Industrial belts (except synchronous and V-belts)	June 14, 1989
Ball bearings	May 15, 1989
Cylindrical roller bearings	May 15, 1989
Spherical plain bearings	May 15, 1989
Crankshafts	Sept. 23, 1987
Brass sheet and strip	Mar. 6, 1987
Barium carbonate	June 25, 1981
Sugar	June 13, 1979
Animal glue	Dec. 22, 1977
Drycleaning machinery	Nov. 2, 1972
Yugoslavia:	
Nitrocellulose	July 10, 1990
Tapered roller bearings	Aug. 14, 1987
Animal glue	Dec. 22, 1977
Revocations in 1990:	
Canada:	
Pig Iron	July 24, 1971
Steel bars and shapes	Sept. 25, 1964
Steel reinforcing bars	Apr. 21, 1964
Chile: Sodium nitrate	Mar. 25, 1983
France: Rayon staple fiber	Mar. 21, 1979
Italy: Rayon staple fiber	June 13, 1979
Japan:	
Birch 3-ply doorskins	Feb. 18, 1976
Calcium pentothenate	Jan. 17, 1974
Expanded metal	Jan. 16, 1974
Mexico: Elemental sulphur	June 28, 1972
United Kingdom: Diamond tips	Apr. 1, 1972
Suspension agreements in effect:	
Canada: Potassium chloride	Jan. 19, 1988
Hungary: Truck trailer axles	Jan. 4, 1982
Japan:	
Erasable programmable read-only memory chips	Aug. 1, 1986
256K 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 A-21

Countervailing cases active in 1990, 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 ³
				Commission	ITA ²	ITA ²	Commission	
<i>Affirmative:</i>								
(⁴)	Leather	Argentina	3/7/90	(⁵)	A	A	(⁵)	10/2/90
(⁴)	Butt-weld pipe fittings	Thailand	8/30/89	(⁵)	A	A	(⁵)	1/18/90
701-TA-297 ⁶	Steel rails	Canada	9/26/88	A	A	A	A	8/31/90
701-TA-298 ⁷	Pork products	Canada	1/5/89	A	A	A	A	10/23/9
<i>Negative:</i>								
(⁴)	Software products	Singapore	9/6/89	(⁵)	A	N	(⁵)	4/21/90
701-TA-300	Limousines	Canada	7/24/89	A	N	N	(⁵)	3/26/90
701-TA-303	Sodium sulfur compounds	Turkey	7/9/90	N	(⁵)	(⁵)	(⁵)	8/23/90
701-TA-306	Steel wire rope	Israel	11/5/90	N	(⁵)	(⁵)	(⁵)	12/20/90
<i>In Progress:⁸</i>								
(⁴)	Steel wire rope	Thailand	11/5/90	(⁵)	(⁵)	(⁵)	(⁵)	(⁵)
701-TA-210 ⁷	Table wine	France	1/27/84	A	(⁵)	(⁵)	(⁵)	(⁵)
701-TA-211 ⁷	Table wine	Italy	1/27/84	A	(⁵)	(⁵)	(⁵)	(⁵)
701-TA-302	Salmon	Norway	2/28/90	A	A	(⁵)	(⁵)	(⁵)
701-TA-304	Silicon metal	Brazil	8/24/90	A	N	(⁵)	(⁵)	(⁵)
701-TA-305	Steel wire rope	India	11/5/90	A	(⁵)	(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. 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).

⁵ Not applicable.

⁶ Commerce's redetermination in the above-referenced case was pursuant to a remand order from the U.S. Court of International Trade.

⁷ The Commission's redetermination in the above-referenced case was pursuant to a remand order from the U.S. Court of International Trade.

⁸ Twelve investigations covering a variety of products remained suspended in 1990 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1990, see the table immediately following.

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.

Table A-22
Countervailing duty orders and findings in effect as of Dec. 31, 1990

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Argentina:	
Leather	Oct. 2, 1990
Welded carbon steel pipe and tube products	Sept. 27, 1988
Textiles and apparel	Mar. 12, 1985
Oil country tubular goods	Nov. 22, 1984
Cold-rolled steel sheet	Apr. 26, 1984
Wool	Apr. 4, 1983
Leather wearing apparel	Mar. 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:	
Pork products	Sept. 22, 1989
Steel rail	Sept. 22, 1989
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
India: Certain iron-metal castings	Oct. 6, 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
Korea: Stainless steel cookware	Jan. 20, 1987
Malaysia: Carbon steel wire rod	Apr. 22, 1988
Mexico:	
Porcelain cookware	Dec. 12, 1986
Textile mill products	Mar. 18, 1985
Auto glass	Jan. 14, 1985
Portland hydraulic cement and cement clinker	Sept. 21, 1983
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
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
Cotton sheeting and sateen	Feb. 1, 1983
Cotton yarn	Feb. 1, 1983
Saudi Arabia: Carbon steel wire rod	Feb. 3, 1986
Singapore: Antifriction bearings	May 3, 1989
South Africa: Ferrochrome	Mar. 11, 1981
Spain: Stainless steel wire rod	Jan. 3, 1983
Sweden:	
Certain carbon steel	Oct. 11, 1985
Viscose rayon staple fiber	May 15, 1979

See footnotes at end of table.

Table A-22—Continued
Countervailing duty orders and findings in effect as of Dec. 31, 1990

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Taiwan: Stainless steel cookware	Jan. 20, 1987
Thailand:	
Butt-weld pipe fittings	Jan. 18, 1990
Ball bearings	May 3, 1989
Pipe fittings	Feb. 10, 1989
Steel wire nails	Oct. 2, 1987
Rice	Apr. 10, 1986
Pipes and tubes	Aug. 14, 1985
Certain apparel	Mar. 12, 1985
Turkey:	
Acetylsalicylic acid (aspirin)	Aug. 25, 1987
Pipe and tube	Apr. 7, 1986
Uruguay: Leather wearing apparel	July 17, 1982
Venezuela:	
Aluminum sulfate	Dec. 19, 1989
Electrical conductor redraw rods	Aug. 22, 1988
Zimbabwe: Wire rod	Aug. 15, 1987
Revocations in 1990:	
Italy: Forged undercarriages	Jan. 4, 1984
Mexico:	
Bars, rebars, and shapes	Aug. 17, 1984
Iron-metal castings	Mar. 2, 1983
Toy balloons and playballs	Dec. 27, 1982
Peru: Textiles and apparel	Mar. 12, 1985
Sri Lanka: Textiles and apparel	Mar. 12, 1985
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
Cut flowers	Jan. 12, 1983
Leather wearing apparel	Apr. 2, 1981
Costa Rica: Fresh cut flowers	Jan. 3, 1987
Mexico: Float glass	Feb. 28, 1984
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 A-23
Section 337 Investigations Completed by the U.S. International Trade Commission during 1990 and those pending on Dec. 31, 1990

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
Completed:			
337-TA-170	Bag closure clips	Israel	Terminated advisory opinion proceeding on basis of non-infringement.
337-TA-190	Softball and polyurethane cores thereof	Taiwan	Issued a limited exclusion order.
337-TA-242	Dynamic random access memories, components thereof, and products containing the same	Japan	Issued a limited exclusion order.
337-TA-252	Heavy duty mobile scrap shears	England	No violation.
337-TA-281	Recombinant erythropoietin	Japan	Investigation terminated on the merits after remand by U.S. Court of Appeals for the Federal Circuit.
337-TA-284	Electric power tools, battery cartridges and battery chargers	Taiwan	Issued cease and desist order.
337-TA-290	Wire electrical discharge machining apparatus and components	Japan	Issued limited exclusion order and cease and desist orders. Subsequent enforcement proceeding terminated.
337-TA-291	Insulated security chests	Taiwan	No violation.
337-TA-292	Methods of making carbonated candy products	Spain	No violation.
337-TA-293	Crystalline cefadroxil monohydrate	Italy Spain Switzerland	Issued limited exclusion order and cease and desist orders.
337-TA-295	Novelty teleidoscopes	Hong Kong	Issued limited exclusion order.
337-TA-300	Doxorubicin and preparations containing same	England Italy Japan	No violation.
337-TA-301	Imported artificial breast prostheses and the manufacturing processes therefor	France Germany Ireland	Terminated on basis of settlement agreements.
337-TA-302	Self-inflating mattresses	Taiwan	Terminated on basis of complainant's withdrawal of complaint.
337-TA-304	Pressure transmitters	Brazil	Issued limited exclusion order.
337-TA-305	Aramid fiber honeycomb, unexpanded block or slice precursors of such aramid fiber honeycomb, and carved or contoured blocks or bonded assemblies of such aramid fiber honeycomb	Luxembourg	Terminated on basis of consent order.

Table A-23—Continued
Section 337 Investigations Completed by the U.S. International Trade Commission during 1990 and those pending on Dec. 31, 1990

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
337-TA-306	Bath accessories and components parts thereof	Taiwan	Terminated on basis of consent order.
337-TA-307	Catalyst components and catalysts for the polymerization of olefins	Japan	Terminated on basis of failure of indispensable party to join as complainant.
337-TA-308	Key blanks for keys of high security cylinder locks	Korea	Issued limited exclusion order.
337-TA-309	Athletic shoes with Viewing windows	Korea	Terminated on basis of settlement agreement.
337-TA-310	Pyrethroids and pyrethroid-based insecticides	England	Terminated on basis of settlement agreement.
337-TA-312	Dynamic random access memories, static random access memories, components thereof, and products containing same	Republic of Korea	Terminated on basis of settlement agreement.
337-TA-313	Process, apparatus, and components thereof, for the production of spunbond nonwoven fabric, and fabric made therefrom	Germany	Terminated on basis of consent order.
337-TA-317	Internal mixing devices and components thereof	Italy	Terminated on basis of arbitration provisions in licensing agreement of the parties.
337-TA-318	Anti-knock ignition systems and automobiles or automobile component parts containing same	Sweden	Terminated on basis of settlement agreement.
Pending:			
337-TA-228	Fans with brushless DC motors	Japan	Advisory opinion proceeding suspended pending final judgment of U.S. District Court.
337-TA-276	Erasable programmable read only memories, components thereof, products containing such memories and processes for making such memories	Korea	Enforcement proceeding pending before Commission.
337-TA-290	Wire electrical discharge machining apparatus and components	Japan	Modification proceeding pending before Commission.
337-TA-302	Self-inflating mattresses	Taiwan	Ancillary proceeding pending before ALJ.

Table A-23—Continued

Section 337 Investigations Completed by the U.S. International Trade Commission during 1990 and those pending on Dec. 31, 1990

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
337-TA-303	Polymer geogrid products and processes therefor	Italy	Suspended pending final judgment by U.S. district court.
337-TA-311	Air impact wrenches	Taiwan	Pending before ALJ.
337-TA-314	Battery-powered ride-on toy vehicles and components thereof	Taiwan	Pending before Commission.
337-TA-315	Plastic encapsulated integrated circuits	Korea, The Philippines Taiwan	Pending before ALJ.
337-TA-316	Power transmission chains, chain assemblies, components thereof, and products containing the same	Canada	Pending before Commission.
337-TA-319	Automotive fuel caps and radiator caps and related packaging and promotional material	Taiwan	Pending before ALJ.
337-TA-320	Rotary printing apparatus using heated ink composition, components thereof, and systems containing said apparatus and components	France Spain	Pending before ALJ.
337-TA-321	Soft drinks and their containers	Colombia	Pending before ALJ.

Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-24
Outstanding sec. 337 exclusion orders as of Dec. 31, 1990

<i>Investigation No.</i>	<i>Article</i>	<i>Country</i>	<i>Date patent expires</i>
337-TA-42	Certain electric slow cookers	Japan, Hong Kong	Apr. 29, 1992
337-TA-44	Certain roller units	Korea, Taiwan	May 24, 1994
337-TA-47	Certain flexible foam sandals	Taiwan	Sept. 7, 1993
337-TA-55	Certain novelty glasses	Hong Kong	Non-patent
337-TA-59	Certain pump-top insulated containers	Korea, Taiwan	Sept. 12, 1995
337-TA-62	Certain rotary scraping tools	Taiwan	May 25, 1993
337-TA-69	Certain airtight cast-iron stoves	Taiwan, Korea	Non-patent
337-TA-74	Certain rotatable photograph and card display units and components thereof	Hong Kong	Feb. 12, 1991
337-TA-83	Certain adjustable window shades and components thereof	Taiwan	Feb. 7, 1994
337-TA-87	Certain coin-operated audio-visual games and components thereof	Japan	Non-patent
337-TA-88	Certain spring assemblies and components thereof, and methods of their manufacture	Canada	Jan. 1, 1991
337-TA-105	Certain coin-operated audio visual games and components thereof	Feb. 18, 1992 Japan, Taiwan	Non-patent
337-TA-112	Certain cube puzzles	Taiwan, Japan, Canada	Non-patent
337-TA-114	Certain miniature plug-in blade fuses	Taiwan	Sept. 30, 1992
	Aug. 9, 1994		
	Nov. 8, 1994		
	Dec. 26, 1995		
337-TA-118	Certain sneakers with fabric uppers and rubber soles	Korea	Non-patent
337-TA-137	Certain heavy-duty staple gun tackers	Taiwan	Non-patent
337-TA-139	Certain caulking guns	Taiwan, Korea	Mar. 28, 1995
337-TA-140	Certain personal computers and components thereof	Taiwan, Hong Kong, Singapore, Switzerland	Jan. 23, 1996 July 14, 1998
337-TA-143	Certain amorphous metal alloys and amorphous metal articles	Japan, West Germany	Sept. 9, 1997
337-TA-146	Certain canape makers	Taiwan	Mar. 22, 1997
337-TA-148 /169	Certain processes for the manufacture of skinless sausage casings and resulting products	Spain	Non-patent
337-TA-152	Certain plastic food storage containers	Hong Kong, Taiwan	Non-patent
337-TA-161	Certain trolley wheel assemblies	Korea	Aug. 29, 1995
337-TA-167	Certain single handle faucets	Taiwan	Non-patent
337-TA-170	Certain bag closure clips	Israel	Nov. 2, 1999
	July 26, 2000		
337-TA-171	Certain glass tempering systems	Finland	Nov. 30, 1993
337-TA-174	Certain woodworking machines	Taiwan, South Africa	Nov. 13, 1996
	Mar. 13, 2001		
337-TA-184	Certain foam earplugs	West Germany, Sweden, Japan	May 21, 1991
337-TA-190	Certain softballs and polyurethane cores thereof	Taiwan	Sept. 24, 1993
337-TA-195	Certain cloisonne jewelry	Taiwan	Non-patent
337-TA-197	Certain compound action metal cutting snips and components thereof	Taiwan	Non-patent
337-TA-228	Certain fans w/brushless DC motors	Taiwan, Hong Kong	Jan. 15, 2002
337-TA-229	Certain nut jewelry and parts thereof	Philippines, Taiwan	Non-patent
337-TA-231	Certain soft sculpture dolls, popularly known as "Cabbage Patch Kids," related literature, and packaging thereof	None Named in Notice	Non-patent
337-TA-240	Certain laser inscribed diamonds and the method of inscription thereof	Israel	July 12, 2000
337-TA-242	Certain dynamic random access memories, components thereof, and products containing same	Japan	Aug. 23, 1994
	Mar. 28, 1995		
	Aug. 6, 2002		
	Sept. 24, 2002		
337-TA-254	Certain small aluminum flashlights and components thereof	Hong Kong, Taiwan	Mar. 18, 2003
337-TA-266	Certain reclosable plastic bags and tubing	Singapore, Taiwan, Korea, Thailand,	Mar. 23, 1993
	Hong Kong, Malaysia		
337-TA-267	Certain minoxidil powder, salts and compositions for use in hair treatment	Austria, Canada, Finland, Italy, Mexico, Switzerland	Feb. 13, 1996 Feb. 13, 1996
337-TA-268	Certain high intensity retroreflective sheeting	Japan	May 24, 1994

Table A-24—Continued
Outstanding sec. 337 exclusion orders as of Dec. 31, 1990

<i>Investigation No.</i>	<i>Article</i>	<i>Date patent Country</i>	<i>expires</i>
337-TA-275	Certain nonwoven gas filters elements	Holland	Nov. 1, 1994
337-TA-276	Certain erasable programmable read Only memories, components thereof, products containing such memories, and processes for making such memories	Republic of Korea July 25, 1995 July 12, 2000 May 21, 2002	Sept. 16, 1997
337-TA-279	Certain plastic light duty screw anchors	Taiwan	Non-patent
337-TA-285	certain chemiluminescent compositions and components thereof and methods of using, and products incorporating, the same	France Feb. 28, 1995 Feb. 2, 1999	June 10, 1992
337-TA-287	Certain strip lights	Taiwan	Mar. 15, 2000
337-TA-290	Certain wire electrical discharge machining Apparatus and components thereof	Japan	Dec. 23, 1992
337-TA-293	Certain crystalline cefadroxil monohydrate Switzerland	Italy, Spain	Mar. 12, 2002
337-TA-295	Certain novelty teleidoscopes	Hong Kong	Non-patent
337-TA-304	Certain pressure transmitters	Brazil	Apr. 2, 1991
337-TA-308	Certain key blanks for keys of high security cylinder locks	Korea	Jan. 13, 2004

Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-25

U.S. imports for consumption, designated and nondesignated countries under the CBERA, 1986-90

(In thousands of dollars, customs-value basis)

Country	1986	1987	1988	1989	1990
Designated:					
Antigua	11,849	8,621	6,893	12,274	4,120
Aruba ¹	1,797	2,452	647	1,156	967
Bahamas	440,985	377,881	268,328	460,723	506,772
Barbados	108,991	59,110	51,413	38,725	30,898
Belize	50,181	42,906	52,049	43,056	43,978
British Virgin Islands	5,904	11,162	684	1,112	1,999
Costa Rica	646,508	670,953	777,797	967,901	1,006,473
Dominica	15,185	10,307	8,530	7,664	8,345
Dominican Republic	1,058,927	1,144,211	1,425,371	1,636,931	1,725,430
El Salvador	371,761	272,881	282,584	243,922	237,538
Grenada	2,987	3,632	7,349	7,862	7,783
Guatemala	614,708	487,308	436,979	608,280	790,900
Guyana ²	(³)	(³)	50,432	55,858	52,260
Haiti	368,369	393,660	382,466	371,875	339,177
Honduras	430,906	483,096	439,504	456,790	486,330
Jamaica	297,891	393,912	440,934	526,726	563,723
Montserrat	3,472	2,413	2,393	2,285	562
Netherlands Antilles ⁴	453,333	478,836	408,100	374,358	421,789
Nicaragua ⁵	(³)	(³)	(³)	(³)	15,254
Panama ⁶	352,206	342,700	256,046	(³)	226,555
St. Kitts and Nevis	22,278	23,793	20,822	21,447	16,100
St. Lucia	12,269	17,866	26,044	23,985	26,920
St. Vincent and Grenadines	7,836	8,493	13,950	9,244	8,672
Trinidad and Tobago	786,405	802,838	701,738	765,265	1,002,661
Total	6,064,745	6,039,030	6,061,054	6,637,440	7,525,209
Nondesignated:					
Anguilla	89	168	497	348	227
Cayman Islands	14,611	27,670	18,195	48,041	21,387
Guyana ²	62,928	58,828	(³)	(³)	(³)
Nicaragua ⁵	1,071	1,231	1,121	31	(³)
Panama ⁶	(³)	(³)	(³)	258,319	(³)
Suriname	38,591	46,445	87,894	73,892	50,901
Turks and Caicos Islands	4,792	4,680	3,517	2,507	3,547
Total	122,081	139,022	111,224	383,137	76,062
Grand total	6,186,826	6,178,052	6,172,278	7,020,577	7,601,271

¹ Upon becoming independent of the Netherlands Antilles in April 1986, Aruba was designated separately as a beneficiary effective retroactively to Jan. 1, 1986. Trade data for Aruba, however, was not reported separately until June 1986. The 1986 figure for Aruba represents trade for June-December only.

² Guyana was designated as a CBERA beneficiary effective Nov. 24, 1988.

³ Not applicable.

⁴ See footnote 1.

⁵ Nicaragua was designated a beneficiary country under the CBERA in the Customs and Trade Act of 1990.

⁶ Panama lost its designation as a beneficiary effective Apr. 9, 1988; its designation was restored in March 1990.

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

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

Table A-26
U.S. Imports for consumption of leading GSP-eligible items, by descending value of GSP-duty free imports, 1990

HTS Rank	HTS item No.	Description	GSP-eligible			Duty-free GSP		Leading GSP source	Competitive need exclusions
			Total U.S. imports for consumption	Value	Share of total U.S. imports	Value	Share of eligible imports		
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent		
1	1701.11.00	Raw cane sugar not flavored or colored, under rate	757,964	697,273	94.4	436,986	60.3	Philippines	183,712
2	7113.19.50	Articles of jewelry and parts thereof of precious metals	1,438,200	467,340	32.5	225,042	48.2	Israel	156,879
3	8517.10.00	Telephone sets	943,335	247,076	26.2	209,181	84.7	Malaysia	0
4	6406.10.65	Footwear uppers, other than formed, of leather	222,938	204,715	91.8	140,966	68.9	Dominican Republic	23,725
5	9403.60.80	Wooden (except bent-wood) furniture other than seat	968,554	200,807	20.7	132,237	65.9	Mexico	35,834
6	8525.20.30	Transceivers nesi, for radiotelephony, radiotelegraphy, radiobroadcasting, or television	461,115	133,703	29.0	123,034	92.0	Malaysia	0
7	9405.30.00	Lighting sets used for Christmas trees	305,090	170,265	55.8	109,710	64.4	Thailand	55,001
8	8520.20.00	Telephone answering machines	312,879	111,814	35.7	106,647	95.4	Malaysia	0
9	8415.10.00	Window or wall type air conditioning machines, self-contained	232,968	111,442	47.8	103,224	92.6	Malaysia	4,762
10	9503.90.60	Toys, nesi, not having a spring mechanism	681,610	132,141	19.4	97,488	73.8	Macao	19,690
11	9503.49.00	Toys representing animals or non-human creatures	338,004	102,842	30.4	95,622	93.0	Macao	0
12	8521.10.00	Magnetic tape-type video recording or reproducing apparatus	2,519,786	289,315	11.5	94,018	32.5	Malaysia	120,837
13	7113.19.10	Rope, curb, etc. in continuous lengths, of precious metals	109,195	106,595	97.6	88,850	83.4	Peru	0
14	8544.30.00	Insulated ignition wiring sets and other wiring set	1,512,217	1,285,452	85.0	85,468	6.6	Thailand	1,162,350
15	8544.59.20	Insulated electric conductors nesi, of copper, for voltage above 600V	161,755	91,396	56.5	83,519	91.4	Mexico	0
16	6702.90.35	Artificial flowers, foliage and fruit, parts thereof	275,840	86,218	36.5	87,805	89.8	Thailand	0
17	8418.21.00	Refrigerators, household compression-type, electric	120,243	75,754	63.0	71,230	94.0	Mexico	0
18	1602.50.10	Corned beef in airtight containers	74,657	73,374	98.3	70,152	95.6	Argentina	0
19	7113.19.29	Necklaces and neck chains of gold, nesi	422,075	85,111	20.2	69,802	82.0	Israel	0
20	4015.19.10	Seamless gloves of vulcanized rubber, other than surgical or medical	84,680	73,600	86.9	67,397	91.6	Malaysia	0
21	8414.30.40	Compressors of a kind used in refrigerating equipment	174,144	64,726	37.2	62,468	96.5	Brazil	0
22	7007.21.10	Windshields of laminated safety glass	166,214	66,840	40.2	60,792	91.0	Mexico	0
23	9403.80.30	Furniture of cane, osier, bamboo or similar material	96,655	63,124	65.3	60,235	95.4	Philippines	0
24	8414.30.80	Compressors of a kind used in refrigerating equipment	662,113	69,399	10.5	58,980	85.0	Malaysia	0

Table A-26—Continued

U.S. Imports for consumption of leading GSP-eligible items, by descending value of GSP-duty free imports, 1990

HTS Rank	HTS item No.	Description	GSP-eligible			Duty-free GSP		Competitive need excludions	
			Total U.S. imports for consumption	Value	Share of total U.S. imports	Value	Share of eligible imports		Leading GSP source
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent		1,000 dollars
25	8527.90.80	Reception apparatus for radio-telephony, or radiotelegraphy	170,600	70,553	41.4	58,103	82.4	Philippines	0
26	8527.11.11	Radio-tape player combinations, nonrecording	607,365	138,672	22.8	57,733	41.6	Malaysia	508
27	3926.90.90	Articles of plastics and other materials of heading	1,036,615	96,304	9.3	57,096	59.3	Mexico	0
28	9503.90.70	Toys and models, nesi	194,301	63,976	32.9	54,899	85.8	Macao	0
29	4015.11.00	Surgical and medical gloves of vulcanized rubber	104,495	94,047	90.0	54,348	57.8	Malaysia	35,430
30	7103.99.10	Precious or semiprecious stones, cut but not set	113,581	67,804	59.7	52,827	77.9	Thailand	0
31	4414.00.00	Wooden frames for paintings, photographs, mirrors, or similar objects	85,568	53,729	62.8	50,246	93.5	Mexico	0
32	9403.50.90	Wooden furniture other than seats of a kind used in the bedroom	290,471	56,832	19.6	50,183	88.3	Mexico	933
33	2905.31.00	Ethylene glycol (Ethanediol)	105,628	50,129	47.5	48,993	97.7	Mexico	0
34	8516.50.00	Microwave ovens of a kind used for domestic purpose	472,064	57,255	12.1	47,491	82.9	Thailand	0
35	9401.50.00	Seats of cane, osier, bamboo or similar materials	70,845	48,470	68.4	46,374	95.7	Philippines	0
36	7616.90.00	Articles of aluminum, nesi	273,478	66,076	24.2	45,878	69.4	Mexico	0
37	0302.69.40	Fish, nesi, excl. fillets, livers and roes, fresh	91,339	74,776	81.9	45,720	61.1	Ecuador	0
38	4011.20.00	New pneumatic tires, of rubber, of a kind used on buses or trucks	1,015,862	75,511	7.4	45,648	60.5	India	25,211
39	4421.90.90	Articles of wood nesi	227,005	52,906	23.3	45,140	85.3	Mexico	0
40	8531.80.00	Electric sound or visual signaling apparatus, other	345,865	69,437	20.1	44,068	63.5	Philippines	0
41	8481.80.30	Taps, cocks, valves & similar appliances for pipes	231,522	48,598	21.0	43,693	89.9	Mexico	0
42	1704.90.20	Confections or sweetmeats ready for consumption	188,660	46,888	24.9	42,904	91.5	Brazil	0
43	9403.20.00	Metal furniture, of a kind not used in offices	370,025	47,886	12.9	42,795	89.4	Mexico	0
44	7007.11.00	Toughened (tempered) safety glass ...	141,857	44,265	31.2	42,235	95.4	Mexico	0
45	9001.50.00	Spectacle lenses of materials other than glass	87,908	44,716	50.9	42,085	94.1	Mexico	0
46	7606.12.30	Rectangular (including square) plates, sheets and strip	583,999	69,746	11.9	39,313	56.4	Venezuela	0

Table A-26—Continued

U.S. Imports for consumption of leading GSP-eligible items, by descending value of GSP-duty free imports, 1990

HTS Rank	HTS item No.	Description	GSP-eligible			Duty-free GSP		Competitive need exclusions	
			Total U.S. imports for consumption	Value	Share of total U.S. imports	Value	Share of eligible imports		Leading GSP source
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent	1,000 dollars	
47	7202.30.00	Ferrosilicon manganese	116,924	50,828	43.5	38,745	76.2	Mexico	11,051
48	8414.51.00	Table, floor, wall, window, ceiling or roof fans	499,608	43,529	8.7	38,685	88.9	Thailand	1,437
49	9403.90.70	Parts of furniture (other than seats) of wood, other	132,115	44,518	33.7	37,958	85.3	Mexico	0
50	8516.40.40	Electric flatirons, other than travel type	99,725	38,920	39.0	37,716	96.9	Mexico	0
		Total, above items	20,640,751	6,626,692	32.1	3,925,158	59.2	Mexico	1,837,360
		Total, all GSP items	174,774,149	27,192,383	15.6	11,096,180	40.8		9,150,806

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

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

Table A-27

U.S. Imports for consumption and imports eligible for GSP treatment by import categories based on the Harmonized Tariff System (HTS), 1990

HTS Section	Description	Total U.S. imports for consumption	GSP-eligible		Duty-free GSP		Leading country	Mandatory competitive- need exclusions
			Value	Share of total U.S. imports	Value	Share of eligible U.S. imports		
			Millions of dollars	Percent	Millions of dollars	Percent		
I	Live animals; animal products	8,607	130	1.5	79	60.6	Ecuador	0
II	Vegetable products	7,453	1,144	15.3	209	18.2	Mexico	743
III	Animals or vegetable fats, and waxes	787	52	6.7	48	92.1	Brazil	0
IV	Prepared foodstuffs, beverages, and tobacco	11,342	1,619	14.3	971	60.0	Philippines	412
V	Mineral products	65,188	204	0.3	41	20.3	Mexico	48
VI	Products of the chemical and allied industries	21,397	1,207	5.6	614	50.9	Mexico	383
VII	Plastics and rubber, and articles thereof	11,869	1,072	9.0	754	70.4	Mexico	119
VIII	Hides and skins; leather and articles thereof; travel goods, handbags, and similar containers	5,168	494	9.6	315	63.9	Argentina	144
IX	Articles of wood, cork, or plaiting material	5,459	858	15.7	355	41.4	Philippines	271
X	Wood pulp; paper, paperboard, and articles thereof	13,039	237	1.8	151	63.6	Mexico	37
XI	Textiles and textile articles	29,510	252	0.9	91	36.0	India	31
XII	Footwear, headgear, and artificial flowers	10,598	379	3.6	278	73.4	Dominican Republic	36
XIII	Articles of stone or ceramics; glass and glassware	4,889	494	10.1	383	77.5	Mexico	54
XIV	Pearls; precious stones and metals; jewelry; coin	11,525	1,036	9.0	620	59.8	Israel	245
XV	Base metals and articles of base metal	26,978	1,563	5.8	1,037	66.3	Mexico	162
XVI	Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	121,182	10,889	9.0	3,154	29.0	Malaysia	4,633
XVII	Vehicles, aircraft, and other transport equipment	83,813	1,911	2.3	251	13.1	Mexico	1,254
XVIII	Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	15,386	1,235	8.0	326	26.4	Mexico	82
XIX	Arms and ammunition; parts and accessories	463	30	6.5	19	63.3	Yugoslavia	0
XX	Miscellaneous manufactured articles	16,220	2,386	14.7	1,400	58.7	Mexico	497
XXI	Works of art, collectors' pieces and antiques	2,313	0	(¹)	0	(¹)	(¹)	0
XXII	Special classification provisions	15,208	0	(¹)	0	(¹)	(¹)	0
	Total, above items	488,495	27,192	5.6	11,096	40.8		9,151

¹ Not applicable.

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

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

Table A-28

U.S. Imports for consumption and imports eligible for GSP treatment, by import categories based on the Standard Industrial Classification (SIC), 1990

SIC	Description	GSP-eligible			Duty-free GSP			Mandatory competitive-need exclusions
		Total U.S. imports for consumption	Value	Share of total U.S. imports	Value	Share of eligible U.S. imports	Leading country	
		Millions of dollars	Millions of dollars	Percent	Millions of dollars	Percent	Millions of dollars	
01	Agricultural products	5,889	1,061	18.0	189	17.8	Mexico	700
02	Livestock and livestock products	1,446	7	0.5	5	72.8	Argentina	0
08	Forestry products, nsp ¹	1,015	14	1.4	10	68.5	Morocco	0
09	Fish, fresh, chilled, or frozen	4,371	107	2.5	64	59.7	Ecuador	0
10	Metallic ores and concentrates	1,475	153	10.4	7	4.3	Peru	39
12	Coal and lignite	89	(1)	(1)	(1)	(1)	(1)	(1)
13	Crude petroleum and natural gas	47,097	(1)	(1)	(1)	(1)	(1)	(1)
14	Nonmetallic minerals, except fuel	879	28	3.2	16	57.8	Mexico	9
20	Food and kindred products	16,547	1,773	10.7	1,010	57.0	Philippines	526
21	Tobacco manufactures	94	41	43.3	4	11.0	Mexico	24
22	Textile mill products	6,813	58	0.9	43	73.2	India	7
23	Apparel and related products	24,630	711	2.9	146	20.6	Mexico	457
24	Lumber and wood products	5,445	856	15.7	353	41.3	Philippines	271
25	Furniture and fixtures	5,228	1,120	21.4	607	54.2	Mexico	404
26	Paper and allied products	11,195	266	2.4	172	64.6	Mexico	37
27	Printing and publishing products	1,849	46	2.5	30	65.0	Mexico	0
28	Chemicals and allied products	21,631	1,272	5.9	684	53.8	Mexico	360
29	Petroleum refining and related products ..	14,458	10	0.1	10	95.2	Mexico	0
30	Rubber and miscellaneous plastics	9,722	921	9.5	634	68.8	Mexico	118
31	Leather and leather products	10,940	454	4.1	317	69.9	Dominican Repub	78
32	Stone, clay, glass, and concrete	5,828	563	9.7	431	76.5	Mexico	65
33	Primary metal products	23,202	2,513	10.8	713	28.4	Mexico	1,595
34	Fabricated metal products	11,638	1,069	9.2	622	58.2	Mexico	57
35	Machinery, except electrical	57,260	2,204	3.8	903	41.0	Brazil	598
36	Electrical machinery, equipment	55,871	5,992	10.7	1,979	33.0	Malaysia	2,006
37	Transportation equipment	87,158	2,133	2.4	257	12.0	Brazil	1,341
38	Scientific and professional instruments ..	16,816	1,487	8.8	415	28.0	Mexico	166
39	Miscellaneous manufactured products	20,504	2,277	11.1	1,456	63.9	Thailand	291
99	Other imports	19,404	55	0.3	19	34.3	Mexico	0
	Total, above items	488,495	27,192	5.6	11,096	40.8	Mexico	9,151

¹ Not applicable.

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

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

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