Briefing Book

U.S. WTO Consultative & Technical Assistance Forum for African Trade Ministers

Washington, D.C.
May 3-5, 2000

Sponsored by:

Office of the United States Trade Representative

United States Agency for International Development

U.S. WTO Consultative & Technical Assistance Forum

For

African Trade Ministers

May 3-5, 2000

Washington, D.C.

Prepared by

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The Office of the United States Trade Representative

The Office of the U.S Trade Representative is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and leading or directing negotiations with other countries on such matters. The U.S. Trade Representative is a Cabinet member who acts as the principal trade advisor, negotiator, and spokesperson for the President on trade and related investment matters. Through an interagency structure, the USTR coordinates trade policy and frames issues for Presidential decision.

The United States Agency for International Development

The U.S Agency for International Development is the U.S. federal government agency that implements America's foreign economic and humanitarian assistance programs. Since 1961, USAID has been the principal U.S. agency to extend assistance to developing countries for disaster recovery, democratic reform, and promotion of economic growth. The agency's commitment to trade capacity building is an important ingredient in achieving these goals. USAID is an independent federal government agency that receives overall foreign policy guidance from the Secretary of State.

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Introduction

The United States is honored to host the U.S. WTO Consultative and Technical Assistance Forum for African Trade Ministers, under the auspices of President Clinton's Partnership for Economic Growth and Opportunity in Africa Initiative, from May 3-5, 2000 in Washington, D.C. The objective of the Forum is to increase the dialogue between the United States and African countries on World Trade Organization issues and to provide high-level technical assistance on the more complex aspects of key WTO agreements. It is hoped that through this dialogue the United States and African countries will have the opportunity to gain increased understanding of each other's views and priorities and that areas of common interest may be identified. This Forum is one step in a broader process to support African countries' integration into the multilateral trading system. The United States has and will continue to pursue other avenues for exchange of views and provision of technical assistance including bilateral meetings, formal mechanisms such as Trade and Investment Framework Agreements, and technical assistance projects aimed at improving WTO and trade-related capacity.

The Office of the United States Trade Representative and the U.S. Agency for International Development appreciate your participation in this Forum and look forward to continued contact on these important trade and WTO issues.

Introduction

Les Etats Unis d'Amerique ont l'honneur d'acueillir le Forum Americain de Consultation et d'Assistance Technique pour les Ministres Africains du Commerce sous l'égide de l'Organisation Mondiale du Commerce et sous l'auspice de l'initiatif du President Clinton pour le Partenariat pour le Développement et les Perspectives Economiques en Afrique, du 3 au 5 Mai, 2000 à Washington, DC.

L'objectif du Forum est de renforcer le dialogue entre les Etats Unis et les pays Africains sur la question de l'Organisation Mondial du Commerce et de fournir une assistance technique de haut niveau sur les aspects plus complexes des accords de l'OMC. Il serait souhaitable qu'à travers ce dialogue, les Etats-Unis et les pays Africains aient la possibilité d'acquerir un bon entendement des priorités et point de vue de l'un et l'autre et que des points d'interets communs soient identifiés. Ce forum est une des étapes dans un processus plus large pour soutenir l'integration des pays Africains dans le systeme d'échange multilatérale. Les Etats-Unis ont et continueront à rechercher d'autres avenues pour échange d'idées et fourniture d'assitance technique formels tels que Accord Cadre d'Echanges et d'Investissements, et projet d'assistance technique ayant pour but d'ameliorer l'OMC et les rendements liés au commerce.

Le Bureau des Representants Américains du Commerce et l'Agence pour le Developpement Internationale vous sont reconnaissants pour votre participation à ce Forum at souhaitent continuer le contract sur ces questions concernant le commerce et l'OMC.

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TUESDAY, MAY 2

Trade Ministers Arrive

6:00 p.m. Welcome and Orientation: Assistant U.S. Trade Representative Rosa Whitaker and Computer Frontiers (Forum Consultants)
Hotel Washington, Capital Room, 515 15th St. NW, Washington, D.C.

DAY 1: WEDNESDAY, MAY 3

8:15 a.m. - 10:15 a.m. **Trade Policy Working Breakfast Hosted by Ambassador Barshefsky**
Ambassador Barshefsky opens. Ambassador Barshefsky to discuss next steps in the WTO. Acting Administrator Babbitt to discuss USAID's work with African countries to build human and institutional capacity and strengthen technical assistance to support trade and investment reforms underway, e.g. ATRIP. Ambassador Esserman to discuss the WTO LDC issues to include market access, implementation, technical assistance. Under Secretary of Agriculture August Schumacher to discuss agriculture priorities. (Total time per speaker 5 minutes.)
Response from African Trade Ministers/officials and dialogue.
Ministers of Kenya, Lesotho and Mali and Secretary General of COMESA to lead African response/present brief remarks. A large part of session will be designated or dialogue and q's and a's.
Location: USTR Annex, Rooms 1 and 2, 1724 F Street, NW

10:45 a.m.- 12:15 a.m. **Opening Ceremony** (open to press)
Opening Remarks: Ambassador Esserman on behalf of Amb. Barshefsky (Host: 10 minutes), Assistant to the President for Economic Policy and Director of the National Economic Council Gene Sperling, Acting USAID Administrator Harriet Babbitt, Deputy Secretary of Agriculture Richard Rominger.
African Opening Response: His Excellency Moses Ali, Second Deputy Prime Minister and Minister of Tourism, Trade and Industry
Republic of Uganda

His Excellency Mustafa Bello
Minister of Commerce
Republic of Nigeria

All speakers 5-8 minute time limit.
Old Executive Office Building, Presidential Hall

12:45 p.m.	Board transport
1:00 p.m.	Private Sector Lunch sponsored by Coca-Cola Location: Army-Navy Club, 901 17th St. NW
2:45 p.m.	Board transport for Capital Hill
3:00 p.m.	**Congressional Roundtable Hosted by Congressman Charles Rangel** Agenda: Discussion with key Members of Congress on the role of Congress in U.S. trade policy formulation. Discussion of Africa-related issues before Congress, e.g. the African Growth and Opportunity Act, debt relief, U.S. economic assistance. Discussion of Congressional priorities for Africa. Ministers of Kenya and Nigeria to lead African response. (5-10 minutes per speaker) Location: House Longworth Building, House Ways and Means Library
5:00 p.m.	Board transport, return to Hotel
5:50 p.m.	Board transport, depart for Reception
6:00 p.m.- 8:00 p.m.	**Private Sector Reception** sponsored by the Corporate Council on Africa for the African delegates, private sector, and USG officials. Ambassador Barshefsky will provide brief remarks. Minister of Industry and Commerce of Tanzania to provide brief remarks. 5 minutes per speaker Location: St. Regis Hotel, 923 16th St. NW
8:00 p.m.	Board Transport, return to Hotel
8:15 p.m.	Private Sector Dinner in Honor of the Delegation Sponsored by: New Deal Int'l, The Bellamy Group, Edlow Int'l, Desmond Int'l Location: Hotel Washington, The Federal Room, Mezzanine Level *Note: Not an official U.S. Government event. No U.S. Government Transportation will be provided.*

DAY 2
THURSDAY, MAY 4

8:30 a.m.- 9:15 a.m.	**Bilateral - Nigeria**
9:15 a.m.- 9:45 a.m.	**Bilateral - Tanzania**

9:45 a.m.- 10:30 a.m. **Bilateral - Kenya**

DAY 2 Continued

10:30 a.m.- 11:00 a.m. **Bilateral - Uganda**

10:30 a.m. Coffee service available in USTR Annex Rooms 1 and 2

11:00 a.m. **Technical Assistance: WTO Overview and Benefits of Globalization**

Agenda: Brief presentation on history of the WTO, discussion of structure and key issues to be discussed this year, and discussion of how negotiations/decisions really occur/are made. Further discussion of U.S. views on WTO reform for greater transparency and participation. Part II of this session will be a discussion of the potential benefits for sub-Saharan Africa from globalization and integration into the WTO. (Presenters Part I: Ron Lorentzen, Deputy Assistant USTR for WTO and Multilateral Affairs. Part II: C. Fred Bergsten, Director of the Institute for International Economics; David Walters, Assistant USTR for Economic Affairs; Former Ivorian Minister of Planning Tidjane Thiam) (5-10 minutes per speaker) Minister of Lesotho to lead African response. (5-10 minutes per speaker)

Location: USTR Annex Rooms 1 and 2, 1724 F Street, NW

12:30 p.m. Lunch at the National Press Club hosted by the Business Women's Network
Location: 529 14th St. NW, 13th Floor
Please note: This is not an official U.S. Government event and no transportation will be provided by the U.S. Government

1:30 p.m. Coffee service (available at USTR Annex Rooms 1 and 2)

2:00 p.m.- 3:00 p.m. **Technical Assistance: Trade Remedies**

Ambassador Esserman will present an overview of dispute settlement and trade remedies. Ambassador Esserman will discuss the importance and tenets of WTO consistent national laws/regulations and practices to address dumping and U.S. views on anti-dumping proposals before the WTO. Deputy Assistant USTR for WTO and Multilateral Affairs Ron Lorentzen outlines subsidies, countervailing duties procedures and key issues.
Minister of Zambia to lead African response.
(5-10 minutes per speaker)
Location: USTR Annex, Rooms 1 and 2, 1724 F Street

2:45 p.m. Coffee service (available)

Day 2 Continued

3:00 p.m.- 4:30 p.m.	**U.S.-Africa Discussion of IFI Role in Trade-Related Capacity Building and Technical Assistance**
Agenda:	Roundtable discussion focused on the contributions that the IFIs can make to address supply-side constraints and build trade capacity in sub-Saharan Africa. The discussion will also include the U.S. WTO technical assistance proposal, tabled with several African countries, focusing on coordination between the WTO and IFIs, in the delivery of trade-related technical assistance and capacity-building programs, including the Integrated Framework. The respective roles and potential contributions of each institution in facilitating Africa's integration into the multilateral trading system will also be discussed. African countries may wish to convey their views on how to incorporate trade reform in IFI programs, including poverty reduction strategies and country assistance strategies, and on how to improve delivery and targeting of trade-related technical assistance. Presenters: Deputy Treasury Secretary Stuart Eizenstat, Deputy USTR Susan Esserman, and Under Secretary of State Alan Larson. Ministers of Gabon, Ghana, and Uganda to lead African response. (5-10 minutes per speaker)
Location:	USTR Annex, Rooms 1 and 2, 1724 F Street
4:30 p.m. - 5:15 p.m.	**Bilateral - Gabon**, French interpretation
5:15 p.m.- 5:45 p.m.	**Bilateral - Lesotho**
5:45 p.m.- 6:30 p.m.	**Bilateral - Ghana**
6:30 p.m.- 7:00 p.m.	**Bilateral - Mali**, French interpretation
8:00 p.m.	Dinner hosted by Dr. Christine Warnke of Hogan and Hartson and Mr. Stanley Stratter of OIC International for all African delegates, at Hogan and Hartson, 555 13th St. NW (Lower Level) *NOTE: This is NOT a U.S. Government event. No U.S. Government transportation will be provided and attendance is at the invitation of the hosts.*

7:00 p.m.-
9:00 p.m.

Dinner hosted by the Corporate Council on Africa Diner for the **Delegation from the Common Market for Eastern and Southern Africa (COMESA)**
Location: The Army and Navy Club, George Washington Room, 901 17th St. NW
NOTE: This is NOT a U.S. Government event. No U.S. Government transportation will be provided and attendance is at the invitation of the Corporate Council on Africa.

DAY 3
FRIDAY, MAY 5

8:00 a.m. Continental Breakfast (available)

8:30 a.m.-
9:30 a.m.

Technical Assistance: Building National Infrastructure for Managing WTO Issues
Discussion of key component of building a national infrastructure for managing WTO issues to include inter-ministerial participation, involvement of civil society, business groups, academia. How to organize for negotiations. How to identify priorities and assess needs. Presenters: Former Ivorian Minister Tidjane Thiam, Senior Vice President, Global Division, Chemonics, Doug Tinsler, and John Morrall III, Branch Chief, Office of Information and Regulatory Affairs, Executive Office of the President, Office of Management and Budget.
Ministers of Mali to lead African response.
(5-10 minutes per speaker) Location: USTR Annex, Rooms 1 and 2, 1724 F St.

9:30 a.m. Coffee service (available)

9:40 a.m.
Agenda:

Technical Assistance: Agriculture, Services and Market Access Issues
Discussion of key agriculture issues (subsidies, food security, biotechnology and market access), key services issues (overall structure of negotiations, telecommunications, financial services), and discussion of approaches to market access discussions, including ATL, . Speakers will also address how these issues have the potential to benefit Africa. Speakers will outline U.S. WTO proposals and views. (Presenters: U.S. Special Trade Negotiator for Agriculture and Food Policy Greg Frazier, Deputy Assistant USTR for Services and Investment Peter Collins, and Computer Frontiers Vice President Barbara Keating.)
Ministers of Kenya and Lesotho to lead African response.
(5-10 minutes per speaker.)
Location: USTR Annex, Rooms 1 and 2, 1724 F Street, NW

11:00 a.m. Break, Coffee service

Day 3 Continued

11:15 a.m.	**Closing and Review**: Ambassador Barshefsky and Ambassador Esserman AUSTR Whitaker leads review of Forum, feedback from African delegates, discussion of next steps.
12:00 p.m.	Depart for Baltimore
1:00 p.m.	Arrive Baltimore
1:05 p.m.	**Lunch, Technical Assistance: Customs Valuation and Trade Facilitation, and Site Visit** Discussion of Customs Valuation Agreements, best practices, importance to private sector, and possible case study. Visit to the Port of Baltimore.
Location:	Baltimore Harbor
4:00 p.m.	Shopping
6:00 p.m.	Depart for Washington D.C.

DAY 4

Trade Ministers/Officials Depart

CONTACT INFORMATION		
County/Organization	**Minister/Representative**	**USTR Staff Contact**
GABON BP 561 Libreville, Gabon Phone: (241) 72-15-40 Fax: (241) 76 58 38	**Hon Alfred Mabika Mouyama** Minister of Trade, Tourism, Industrial Development and Crafts Industry Ministry of Trade, Tourism, Industrial Development and Crafts Industry **Mr. Leopold Nguema Ezcang** Conseiller du Ministre Ministry of Trade, Tourism, Industrial Development and Crafts Industry **Mr. Francois Mombo Boussamba** (Not under US sponsorship.) Aide de Camp du Ministre Ministry of Trade, Tourism, Industrial Development and Crafts Industry	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
GHANA Accra, Ghana Phone: (233) (21) 667382 (233) (21) 663327 Fax: (233) (21) 662-375	**The Honorable Dan Abodakpi** Minister of Trade and Industry Ministry of Trade & Industry **Mr. W. Kofi Larbi** Deputy Director in charge of the WTO section Ministry of Trade & Industry	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
KENYA PO Box 30027 Nairobi, Kenya Phone: (254) (2) 240024 Fax: (254) (2) 710459	**Hon K.N.K. Biwott, EGH** Minister of Tourism, Trade, and Industry Ministry of Tourism, Trade and Industry **Ms M.argaret Chemengich Kwengwa** Permanent Secretary Ministry of Tourism, Trade and Industry **Mr. P.C. L Makumba** (Not under US sponsorship.) Acting Senior Assistant Director of Trade Department of External Trade Ministry of Tourism, Trade and Industry	**Bethany Schwartz** Wk: (202) 395-9493 Cell: (202) 714-4094 Email: Bschwartz@ustr.gov
LESOTHO P.O. Box 1045 Maseru 100 Lesotho Phone: (266) 312-938 Fax: (266) 310-644 Cell: (266) 854-138	**His Excellency Mpho Meli Malie** Minister of Industry, Trade and Marketing **Mr. David Damane** Commissioner of Trade **Mr. Joshua Setipa** (not under U.S. sponsorship.) Couselor, Geneva	**Joe Ripley** Wk: (202) 395-9576 Cell: (202) 714-4091 Email:JRipley@ustr.gov

MALI Postal Box 1759 Bamako, Mali Phone: (223) 22 43-87 (223) 22 80-58 Fax: (223) 22 92 08	**Her Excellency Toure Alimata Traore** Minister for Commerce and Industry **Mr. Alhassane Ag Hamed Moussa** Directeur National du commerce et de la concurence	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
NIGERIA Phone: (234) 9 234-1-884 (234) 9 234-1-661 Fax: (234) 9 234-2312	**Honorable Mustafa Bello** Minister of Commerce Federal Ministry of Commerce **Mr. A.F. Agah** Deputy Director (Multilateral) Federal Ministry of Commerce	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
SENEGAL Phone: 221-822-9542 Fax: 221-821-91-32	**Thiam Khouraichi** Minister of Commerce **Mr. Habibou Ndiaye** Director of External Commerce	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
TANZANIA P..O. Box 9503 Dar Es Salaam, Tanzania Phone: (255) (51) 181396 (255) (51) 180113 Fax: (225) (51) 119437	**His Excellency Iddi Simba** Minister of Industry and Commerce **Ambassador Ali S. Mchumo** Tanzania Permanent Representative to the U.N.	**Joe Ripley** Hm: (703)242-9408 Wk: (202) 395-9576 Cell: (202) 714-4091 Email:JRipley@ustr.gov
UGANDA 14 Parliament Avenue P.O. Box 4241 Kampala, Uganda Phone: (256) 41-231-104 (office) (256) 75-697-096 (cell) (256) 41-221-289 (home) (256) 41-232-452 (home) Fax: (256) 41-341-247	**Rt Hon. Deputy Prime Minister Al-Haji Moses Ali** Minister of Tourism, Trade & Industry **Ambassador Nathan Irumba** Ministry of Tourism, Trade & Industry	**Bethany Schwartz** Wk: (202) 395-9493 Cell: (202) 714-4094 Email: Bschwartz@ustr.gov
ZAMBIA Cairo Road Lusaka, Zambia Phone: (260) 1-226673 Fax: (260) 1-226727	**His Excellency William J. Harrington, MP** Minister of Commerce, Trade, and Industry **Mrs. Lillian Saili Bwalya** Economist	**Joe Ripley** Wk: (202) 395-9576 Cell: (202) 714-4091 Email: Jripley@ustr.gov
COMESA The COMESA Centre Ben Bella Road, PO Box 30051 Lusaka, Zambia Phone: (260) 1-225110 Fax: (260) 1-225267	**Mr. Erastus Mwencha** Secretary General	**Bethany Schwartz** Wk: (202) 395-9493 Cell: (202) 714-4094 Email: Bschwartz@ustr.gov

CEMAC	**Mr. Checkou Oussouman** Trade Exchange Specialist	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
ECOWAS ECOWAS Phone: (234) 9 234-7644 Phone/Fax: (234) 9 31 43 005	**Mr. Frank Ofei** Acting Deputy Secretary for Economic Affairs	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov
SADC Southern African Development Community Private Bag 95 Gaborone, Botswana Phone: (267) 351-863 Fax: (267) 372-848	**Mr. Fudzai Pamacheche** Principal Economist SADC Secretariat	**Joe Ripley** Wk: (202) 395-9576 Cell: (202) 395-4091 Email:JRipley@ustr.gov
WAEMU Ouagadougou, Burkina Faso Phone: (226) 30-06-18 Fax: (226) 31-88-72	**DOUA-Bl Kalou** Commissaire charge des Polotiques	**Steve Brundage** Wk: (202) 395-9464 Cell: (202) 531-6917 Email: Sbrundage@ustr.gov

Assistant United States Trade Representative for Africa - Rosa Whitaker (202) 395-9514 Fax: (202) 395-4505

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Hotel Washington - PH: (202) 638-5900 Fax: (202) 638-1594
515 15th St. NW, Washington, D.C.

Section II:
Delegates

DELEGATE BIOGRAPHIES

GABON

Honorable Alfred Mabika Mouyama
Minister of Trade, Tourism, Industrial Development and Crafts Industry
Ministry of Trade, Tourism, Industrial Development and Crafts Industry

Mr. Leopold Nguema Edzang
Conseiller du Ministre
Ministry of Trade, Tourism, Industrial Development and Crafts Industry

Mr. Nguema-Edzang has worked for many years on financial issues related to the economy and privatization as an advisor to the Ministers of Planning and Privatization. He has conducted negotiations between Gabon and various financial institutions including the IMF, World Bank; African Development Bank, French Development Bank and the Islamic Development Bank. Currently, Mr. Nguema-Edzang is focused on the globalization of the economy of Gabon and the benefits that international trade offers. He looks forward to the opportunity to refine the practice of trade negotiations within the context of the WTO.

Mr. Francois Mombo Boussamba (Not under US sponsorship)
Aide de Camp du Ministre
Ministry of Trade, Tourism, Industrial Development and Crafts Industry

REPUBLIC OF GHANA

Honorable Daniel Abodakpi
Minister of Trade and Industry
Ministry of Trade & Industry

Minister Abodakpi recently assumed the leadership of the Trade and Industry Ministry where he has served since 1991 in promoting the liberalization of trade policies. As a Member of Parliament, he has worked to improve the socio-economic life of the Ghanaian constituency. Minister Abodakpi also serves as the Chairman of the Ghana Export Promotion council, the Ghana National Procurement Agency, the Ghana Free Zones Board and the Business Assistance Fund Implementation Committee. He is also a member of various parliamentary committees

including the Economic Management Team and the Policy Management Group of the Office of the President.

Mr. W. Kofi Larbi
Deputy Director in charge of the WTO section
Ministry of Trade & Industry

Mr. Larbi, as Deputy Director in the Ministry of Trade and Industry, is Head of the WTO Section of the ministry. He has represented Ghana in several GATT/WTO, UNCTAD and other conferences and holds an interest in trade remedies and the globalization process as it effects Africa. Mr. Larbi has a degree in law and a diploma in trade policy.

KENYA

Honorable Nicholas Kipyator Kiprona Biwott, EGH
Minister of Tourism, Trade, and Industry
Ministry of Tourism, Trade and Industry

Honorable Minister Biwott, currently the cabinet minister for Tourism, Trade and Industry, has held various ministerial posts since 1978 including Minister of State, Energy, Regional Cooperation, and E.A.C. Cooperation.

Ms Margaret Kwengwa Chemengich (Not under U.S. sponsorship)
Permanent Secretary
Ministry of Tourism, Trade and Industry

Madame Chemengich, an economist and statistician by training, has served in the Kenyan government since 1977. In her positions at the Ministry of Finance, the National Council for Population and Development, the Ministry of Agriculture, the Bureau of Statistics, the Ministry of Planning and National Development and presently the Ministry of Tourism, Trade and Industry, Madame Chemenghich conducted research, analyzed and formulated policy, and directed programs related to the economic and commercial development of Kenya. Madame Chemengich holds degrees in Development Economics and Economics and Statistics.

Mr. P.C. L Makumba
Senior Assistant Director of Trade
Ministry of Tourism, Trade and Industry

Mr. Makumba is the Acting Senior Director of Trade in the Department of External Trade at the Ministry of Tourism, Trade and Industry. Previously, Mr. Makumba has served as Head in the WTO and Other International Trade Organizations division of the Ministry. He has also served in the Ministry of Commerce and Industry, and as a commercial attache and counselor for Kenya in Sweden and Uganda respectively. Mr. Makumba holds a degree in Political Science,

Economics, Management and Administration, as well as a diploma in Advanced Public Administration.

Mr. Benson Mutwa (Not under U.S. sponsorship)
Ministry of Tourism, Trade and Industry

LESOTHO

Honorable Mpho Meli Malie
Minister of Industry, Trade and Marketing
Ministry of Industry, Trade and Marketing

Minister Malie has led the Ministry of Industry, Trade and Marketing since 1998. As a Member of Parliament since 1993, Minister Malie has also held the positions of Minister of Information and Broadcasting and Minister of Foreign Affairs. As a professor and business owner in computer sciences, Minister Malie has specialized in systems development.

Mr. David Damane
Commissioner of Trade
Ministry of Industry, Trade and Marketing

Mr. Joshua Setipa (not under U.S. sponsorship)
Ministry of Industry, Trade and Marketing

MALI

Honorable Toure Alimata Traore
Minister for Commerce and Industry
Ministry of Commerce and Industry

Minister Traore's has had a distinctive career in the Malian private and public sector. She spent 10 years at the Banque Malienne de Credit et de Depots (BMCD) where she held several senior positions. She left the BMCD to become the Chief Executive Officer of the National Society of Tobacco and Matches of Mali (SONATAM), after which time she was appointed to be the Malian Minister for Commerce and Industry.

Mr. Alhassane Ag Hamed Moussa
Directeur National du commerce et de la concurrence
Ministry of Commerce and Industry

Mr. Moussa, an economist by training, has served in the Malian government since 1987. He has occupied various positions such as Director of the Prime Minister Bureau and National Director of Economic Affaris. Mr. Moussa holds a Bachelor degree in Economics as well as an MBA.

NIGERIA

His Excellency Mustafa Bello
Minister of Commerce
Federal Ministry of Commerce

Minister Bello, Honourable Minister of the Federal Ministry of Commerce, is a civil engineer who has served the public sector in the areas of infrastructure, housing, water and education. In addition, Minister Bello has business experience in aluminum fabrication, automobile dealership and security consulting sectors.

Mr. Yonov Frederick Agah
Deputy Director (Multilateral)
Federal Ministry of Commerce

Mr. Agah has been responsible for the coordination of Nigeria's participation in the WTO and other trade-related international organizations since 1991. His responsibilities have included preparation of negotiating positions, notifications and realignment of national legislation. Mr. Agah acted as Chairman of the Inter-Governmental Working Group of UCTAD's Coordinated African Programme of Technical Assistance on Services. He has degrees in Economics as well as an MBA and is currently working on a doctoral thesis on Trade Policy Reform in Nigeria.

Mr. Mohammed Siraj Abdullahi
Special Assistant to the Honorable Minister
Federal Ministry of Commerce

Mr. Abdullahi worked in the commercial banking sector for twelve years previous to his appointment to the Federal Ministry of Commerce last year. His banking experience includes branch management and marketing. Mr. Abdullahi has a degree in law, a diploma in management sciences and an MBA.

SENEGAL

His Excellency Thiam Khouraichi
Minister of Commerce
Ministry of Commerce

Mr. Habibou Ndiaye
Director of External Commerce
Ministry of Commerce

TANZANIA

His Excellency Iddi Simba
Minister of Industry and Commerce
Ministry of Industry and Commerce

His Excellency Ali S. Mchumo
Ambassador/Permanent Representative to the U.N.
Government of Tanzania

Ambassador Mchumo represents the United Republic of Tanzania to the United Nations in Geneva and Vienna. He has served the government of Tanzania since 1970 as a Member of Parliament, Deputy Minister for Home Affairs, Minister for Trade and as Ambassador to Mozambique, Swaziland, Lesotho, Japan, Philippines, Australia, Britain and Ireland. Ambassador Mchumo has degrees in law and International Political Economy.

UGANDA

His Excellency Al-Haji Brig. Moses Ali
Minister of Tourism, Trade & Industry/ Second Deputy Prime Minister
Ministry of Tourism, Trade & Industry, Uganda

Minister Ali currently holds the positions of Second Deputy Prime Minister and Minister of Tourism, Trade and Industry, the latest appointments in his resume of leadership roles in Uganda. Minister Ali has also acted as Third Deputy Prime Minister, Minister of Tourism, Wildlife and Antiquities, Minister of Culture, Youth and Sports, Minister of Finance, and Minister Responsible for Local Government. He has been a member of Ministerial Conferences for the WTO, UNIDO, UNCTAD, East African Community and COMESA, as well as Governor of the World Bank, African Development Bank, and Islamic Development Bank.

His Excellency Nathan Irumba
Ministry of Tourism, Trade & Industry
His Excellency Nathan Irumba
Permanent Mission of Uganda to the United Nations

Ambassador Irumba is the Deputy Permanent Representative of Uganda to the United Nations Office and Other International Organizations in Geneva. Formerly, Mr. Irumba was Director/Head of the Multilateral Organizations and Treaties department at the Ministry of Foreign Affairs in Uganda. He has also served as Ambassador to the UN in New York, among other assignments in the Ugandan Foreign Service.

ZAMBIA

His Excellency William J. Harrington, MP
Minister of Commerce, Trade, and Industry
Ministry of Commerce, Trade and Industry, Zambia

Minister Harrington has served in various posts in government since 1994. Previous to his political leadership, he operated a trading and transportation business. Since joining the government, Minister Harrington has acted as Minister of Communications and Transport, Minister of Environment and Natural Resources, Minister of Sport, Youth and Child Development, and most recently as Minister of Commerce, Trade and Industry.

Madame Lillian Saili Bwalya
Economist – Multilateral Trade
Ministry of Commerce, Trade and Industry, Zambia

Madame Bwalya joined the Ministry of Commerce, Trade and Industry upon receiving her degree in Development Studies/Economics in 1994. Her responsibilities include economic analysis of national trade flows and trade policy changes, and formulation of trade policy strategies. She has earned a Diploma in Trade Policy from the WTO.

REGIONAL ORGANIZATIONS

CEMAC

Mr. Checkou Oussouman
Trade Exchange Specialist
CEMAC

COMESA

Mr. Erastus Mwencha
Secretary General
COMESA

Mr. Mwencha was appointed Secretary General of the Common Market for Eastern and Southern Africa (COMESA) by the Heads of State and Government in 1998 and has served as acting Secretary General since 1997. He has worked for COMESA, formerly PTA (Preferential Trade Area for Eastern and Southern Africa), since 1983 and has helped establish the various institutions of COMESA, including the Court of Justice. Prior to joining PTA, Mr. Mwencha worked in the Ministry of Commerce and Industry in Kenya as an economist where he was recognized by the President for his contributions to national and regional development.

ECOWAS

Mr. Frank Ofei
Acting Deputy Secretary for Economic Affairs
ECOWAS

SADC

Mr. Fudzai Pamacheche
Principal Economist
SADC Secretariat

Mr. Pamacheche has served as the Principal Economist for regional integration at SADC (Southern African Development Committee) since 1996. In this capacity he is responsible for harmonizing macro-economic policies, trade issues and negotiations central to regional integration. Previous to this position, Mr. Pamacheche served in the Zimbabwean Ministry of Finance as Director of Monitoring and Implementation Unit for the Economic Reform Program, and as Undersecretary for Economic Policy Analysis. He has also worked in the Ministry of Labour, Manpower, Planning and Development in Zimbabwe. Mr. Pamacheche has degrees in economics and International Relations as well as a Diploma in Techniques for Financial Programming and Analysis.

WAEMU

Mr. Kalou DOUA-BI
Commissaire Charge des Polotiques
West African Economic and Monetary Union

Mr. DOUA-BI is responsible for Trade and Custom Policy for the West African Economic and Monetary Union (WAEMU). Previous to this position, Mr. DOUA-BI was Managing Director of the Custom Service in Cote d'Ivoire and Executive Director of Value at the Council of Custom Cooperation/World Custom Organization in Belgium. He holds a degree in law and a

diploma in Customs. Mr. DOUA-BI also served as a technical advisor for Economy, Finance and Planning for the Cote d'Ivoire government.

Section III:
Forum Sessions

Trade Policy Roundtable

May 3, 2000

8:15 am – 10:15 am

USTR Annex, Rooms 1 and 2
1724 F Street, NW

Speakers

Ambassador Charlene Barshefsky, United States Trade Representative

August Schumacher, Under Secretary of Agriculture

Ambassador Susan G. Esserman, Deputy United States Trade Representative

Harriet Babbitt, Acting Administrator of the U.S. Agency for International Development (USAID)

Ministers of Kenya, Lesotho, Mali and Secretary General of COMESA to lead African response/ brief remarks.

SPEAKER BIOGRAPHIES

Ambassador Harriet C. Babbitt

Harriet C. Babbitt was sworn in on December 1, 1997, as deputy administrator of the U.S. Agency for International Development (USAID). USAID is the government agency that provides economic assistance and humanitarian relief worldwide. Its six main objectives include: promoting economic growth and agricultural development, advancing democracy, delivering humanitarian and post-conflict transition assistance, improving health and population conditions, advancing education and training, and protecting the environment. Before joining USAID, Ambassador Babbitt was the U.S. permanent representative to the Organization of American States (OAS) from 1993 to 1997. She led the successful U.S. effort to reform the OAS to concentrate on high priority hemispheric goals. She worked closely with her counterparts from other OAS member states and the OAS secretary general to make the organization more responsive and effective, emphasizing democracy, human rights, sustainable development and trade.

Prior to joining the administration, Ambassador Babbitt was an attorney with Robbins & Green, P.A., from 1974 to 1993. Ambassador Babbitt served from 1988 to 1993 on the board of the National Democratic Institute for International Affairs (NDI), where she chaired the Latin American Committee. NDI is an independent organization affiliated with the Democratic Party that promotes the establishment and growth of democratic institutions in foreign countries. Ambassador Babbitt is fluent in Spanish

Ambassador Charlene Barshefsky

Charlene Barshefsky has served as the United States Trade Representative (USTR) since April 1996 and as Deputy U.S. Trade Representative from 1993 to 1996. As a member of President Clinton's Cabinet, she is the Administration's principal trade policy advisor and negotiator. Her market opening policies and resulting trade agreements have contributed significantly to U.S. economic expansion as U.S. exports have increased more than fifty percent in the last five years, fueling more than one-third of U. S. domestic economic growth. During her tenure at USTR she has been instrumental in achieving over 275 trade agreements. In November 1999, Ambassador Barshefsky successfully concluded a seven-year negotiation on an historic bilateral market access agreement between China and the United States that sets forth the terms for China's accession to the World Trade Organization.

Under her leadership, comprehensive negotiations were launched to create the Free Trade Area of the Americas (FTAA). She also has given vitality to the Asia Pacific Economic Cooperation forum (APEC) and is a leading architect of the Clinton Administration's Africa Trade Initiative that is designed to expand trade and investment in this important region.

Prior to being appointed Deputy USTR, Ambassador Barshefsky was a partner in the Washington, D.C. law firm of Steptoe & Johnson. She specialized in international trade law and policy for 18 years and co-chaired the firm's substantial International Practice Group. Ambassador Barshefsky graduated from the University of Wisconsin in 1972 and, in 1975, from the Columbus School of Law at the Catholic University in Washington, D.C., earning numerous academic honors at both institutions.

Honorable Minister Nicholas Kipyator Kiprona Biwott

Minister Biwott, currently the cabinet minister for Tourism, Trade and Industry, has held various ministerial posts since 1978 including Minister of State, Energy, Regional Cooperation, and E.A.C. Cooperation.

Ambassador Susan G. Esserman

Susan G. Esserman is Deputy United States Trade Representative with the rank of Ambassador. Her portfolio encompasses the development of trade policy and negotiations in the World Trade Organization and other multilateral fora, as well as Europe, Russia and the Newly Independent States of the Former Soviet Union, the Middle East and Africa.

Ambassador Esserman has held three other senior posts in the Clinton Administration: General Counsel to the Office of the United States Trade Representative, where she had lead responsibility for all legal issues related to U.S. trade policy, including the enforcement of U.S. rights under international trade agreements; Assistant Secretary for Import Administration, where she was responsible for enforcement and development of policy in connection with the antidumping and countervailing duty laws; and, Acting General Counsel at the Department of Commerce.

Prior to entering the government, Ambassador Esserman was a partner at the Washington, D.C. law firm of Steptoe & Johnson, where she specialized in international trade law and litigation. She began her career as a law clerk to U.S. District Judge Oliver Gasch. She received her law degree from the University of Michigan Law School (1977), where she was on the Editorial Board of the Law Review. She graduated from Wellesley College (1974) with honors.

His Excellency Mpho Malie, Minister of Industry, Trade and Marketing, Lesotho

Minister Malie has led the Ministry of Industry, Trade and Marketing since 1998. As a Member of Parliament since 1993, Minister Malie has also held the positions of Minister of Information and Broadcasting and Minister of Foreign Affairs. As a professor and business owner in computer sciences, Minister Malie has specialized in systems development.

Secretary General Erastus J.O. Mwencha, COMESA

Mr. Mwencha was appointed Secretary General of the Common Market for Eastern and Southern Africa (COMESA) by the Heads of State and Government in 1998 and has served as acting Secretary General since 1997. He has worked for COMESA, formerly PTA (Preferential Trade Area for Eastern and Southern Africa), since 1983 and has helped establish the various institutions of COMESA, including the Court of Justice. Prior to joining PTA, Mr. Mwencha worked in the Ministry of Commerce and Industry in Kenya as an economist where he was recognized by the President for his contributions to national and regional development.

August Schumacher Jr

August Schumacher is the Under Secretary for Farm and Foreign Agricultural Services in the Office of the Secretary of Agriculture. He provides leadership in the area of Farm and Foreign Agricultural programs and more specifically exercises general direction of programs administered by the Farm Service Agency (Commodity Credit Corporation), the Risk Management Agency (Federal Crop Insurance Corporation), and the Foreign Agricultural service.

Prior to his appointment to this position, Mr. Schumacher was Administrator of the U.S. Department of Agriculture's (USDA) Foreign Agricultural Service. Before coming to USDA, Schumacher worked for the World Bank's agricultural lending group on a series of projects on agriculture sector policy adjustment, forestry and biodiversity protection in Central Europe, Belarus and Ukraine. In addition, he has worked in China, Latin America, the Middle East and Africa. Schumacher also served as Commissioner of Food and Agriculture for the Commonwealth of Massachusetts during 1985-90

Schumacher is from a farm family in Lexington, Mass. He attended Harvard College and the London School of Economics. He was also a research associate with the Agribusiness Department of the Harvard Business School.

Bethany Schwartz, USTR

Bethany Schwartz joined the Office of the United States Trade Representative in July 1999 as Director of Africa Trade Policy in the Office of African Affairs. She has worked for the United States Government for 13 years in both the executive and legislative branches. Prior to joining USTR, Ms. Schwartz served as a Foreign Service Officer at the U.S. Department of State working on trade issues in almost every region of the world. She has extensive trade experience in Japan, the Middle East, and Latin America. While at the State Department, Ms. Schwartz received two Superior Honor Awards and two Meritorious Honor Awards as well as other commendations. Before moving to the executive branch of government, Ms. Schwartz worked with the U.S. Congress on a wide-

range of domestic and international issues as an official of the Congressional Research Service, the research and analysis branch of the Library of Congress.

Rosa M. Whitaker, USTR

Rosa Whitaker is the Assistant United States Trade Representative charged with overseeing U.S. trade relations with Africa. Her responsibilities include advancing the President's Partnership for Economic Growth and Opportunity in Africa initiative, which serves to enhance U.S. economic engagement with the countries of sub-Saharan Africa and support the region's full integration into the international trading system. Her Office of African Affairs is responsible for a broad range of bilateral, regional and multinational initiatives to facilitate trade and investment between the United States and Africa, including measures to open markets and improve investment climates.

Prior to her current position, Ms. Whitaker was Senior Foreign Trade Advisor to Congressman Charles B. Rangel, the Ranking Democratic Member of the U.S. House of Representatives, Ways and Means Committee. In this capacity, Ms. Whitaker addressed numerous international trade issues, including those related to the World Trade Organization and the African Growth and Opportunity Act.

In her previous career as a U.S. Foreign Service Officer, Ms. Whitaker worked in the Department of State's International Energy Policy Office, where her wide-ranging responsibilities included support for worldwide energy infrastructure projects. Additional Foreign Service experience include work at the U.S. Embassy in Cote d'Ivoire, where she led negotiations finalizing the rescheduling of Cote d'Ivoire's official debt to the U.S. She also co-founded and managed the first U.S.-Africa Trade and Investment Conference within the Telecommunications sector. Ms. Whitaker holds a Bachelors and Masters Degree from American University in Washington, D.C.

Congressional Roundtable

May 3, 2000

3:00 p.m. – 5:00 p.m.

Location: House Longworth Building, Ways and Means Library

Hosted by: Congressman Charles Rangel

Agenda: Discussion with key Members of Congress on the role of Congress in U.S. trade policy formulation. Discussion of Africa-related issues before Congress, e.g. the African Growth and Opportunity Act, debt relief, U.S. economic assistance. Discussion of Congressional priorities for Africa.

Ministers of Kenya and Nigeria to lead African response

PAPERS AND ATTACHMENTS

Paper 1: "Trade Policy Formulation in the United States" *(English/French)*

Attachment A: "Office of the United States Trade Representative: History & Mission"

Attachment B: "Organization of Trade Policy Functions"

SPEAKER BIOGRAPHIES

Congressman Charles B. Rangel

Congressman Charles B. Rangel is serving his fifteenth term as the Representative from the 15th Congressional District, comprising East and Central Harlem, the Upper West Side, and Washington Heights/Inwood. Congressman Rangel is the Ranking Member of the Committee on Ways and Means, Deputy Democratic Whip of the House of Representatives, a Co-Chair of the Democratic Congressional Campaign Committee, and Dean of the New York State Congressional Delegation.

Congressman Rangel is a member of the Trade Subcommittee of the Committee on Ways and Means which has jurisdiction over all international trade agreements. The Congressman pays particular attention to trade with the Caribbean and Africa, and the development of international trade in Upper Manhattan.

As a Congressional advisor to the U.S. Trade Representative, he is also involved in international conferences and negotiating sessions on trade issues. Congressman Rangel is also a member of the President's Export Council, working to build consensus on international trade matters among its membership of business, agriculture, labor, Congressional leaders, and Cabinet officials.

Congressman Rangel is the principal author of the five billion dollar Federal Empowerment Zone demonstration project to revitalize urban neighborhoods throughout America. He is also the author of the Low Income Housing Tax Credit which is responsible for financing ninety percent of the affordable housing built in the U.S. in the last ten years. The Work Opportunity Tax Credit, which Congressman Rangel also championed, has provided thousands of jobs for underprivileged young people, veterans, and ex-offenders.

Congressman Rangel is a founding member and former chairman of the Congressional Black Caucus; he was also chairman of the New York State Council of Black Elected Democrats and was a member of the House Judiciary Committee during the hearings on the articles of impeachment of President Richard Nixon.

Congressman Rangel served in the U.S. Army in Korea, 1948-52, and was awarded the Purple Heart and Bronze Star. Congressman Rangel has authored several pieces of legislation to benefit minority and women veterans, including a successful bill that established the Office of Minority Affairs within the Department of Veterans Affairs. In the area of foreign affairs, he played a vital role in ending the apartheid regime in South Africa and restoring the democratic government in Haiti.

Congressman Rangel is a graduate of New York University and St. John's University School of Law. He has spent his entire career in public service, first as an Assistant U.S. Attorney for the Southern District of New York, and later in the New York State Assembly.

He was elected to the 92nd Congress on November 3, 1970, and has been re-elected to each succeeding Congress.

Congressman Rangel lives in Harlem with his wife Alma, who is a founding member of the Congressional Black Caucus Spouses and participates in many civic and community organizations. Congressman and Mrs. Rangel have two children.

TRADE POLICY FORMULATION IN THE UNITED STATES

Under the United States Constitution, federal governmental authority is separated between the executive, legislative, and judicial branches of government. This division of authority is reflected in the way trade policy is formulated in the United States.

Executive Branch

The U.S. Constitution gives the President power over the conduct of foreign affairs, including the power to negotiate international trade agreements. The President is also responsible for deciding on the process by which his Cabinet will formulate trade policies and negotiate trade agreements. The position of a "special trade representative", having ambassadorial rank, was created in 1962 to ensure that the President had within the White House a person with primary responsibility for conducting trade negotiations and coordinating U.S. trade policies. In time, these functions were further institutionalized in the creation of the Office of the United States Trade Representative [See attached "Organization of Trade Policy Function" and "USTR History & Mission" for a fuller explanation].

The Interagency Process

As the international trading system has expanded to cover more aspects of trade, presidents have had to expand the U.S. trade policy formulation process to ensure that it is responsive to the national interest. Trade policy in the Executive Branch is today developed thorough an interagency mechanism involving some 17 Federal agencies and offices. USTR is the lead agency and is responsible for coordinating the process as well as for leading or directing negotiations with other countries. The interagency mechanism consists of four tiers of committees: the National Economic Council (NEC), the Trade Policy Committee (TPC), the Trade Policy Review Group (TPRG), the Trade Policy Staff Committee (TPSC) and its Subcommittees.[1]

[1] Member agencies that serve on TPRG/TPSC committees include: Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, and Health and Human Services, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisors, the Agency for International Development, the National Economic Council, and the National Security Council. Representatives of other agencies may be invited to attend meetings depending on the specific issues discussed.

The TPSC is the first tier of the decision-making structure, with representation at the senior civil servant level. It is supported by over 60 subcommittees responsible for specialized areas as well as by task forces working on particular issues. If agreement on an issue cannot be reached at the TPSC level, or if a particularly significant policy is concerned, the issue is moved up to the TPRG, which is staffed at the Under Secretary level. Under the Clinton Administration, the NEC has frequently served in lieu of the TPC as the Cabinet-level forum in which critical trade policy decisions are vetted and approved. Chaired by the President, the NEC is composed of the Vice President and many of the same agencies as are on the TPSC/TPRG.

Each of the agencies and offices participating in the interagency trade policy formation process brings its own perspective to the table, thereby ensuring that the many diverse interests of the US economy and society are adequately considered. Below is a description of the role some of the key agencies play in this process.

Office of the US Trade Representative
The USTR provides trade policy leadership and negotiating expertise on a wide range of issues, including: all trade, commodity and direct investment matters within the World Trade Organization (WTO), the Organization for Economic Cooperation and Development (OECD), and the UN Conference on Trade and Development (UNCTAD); international commodity agreements and policy; bilateral and multilateral trade and investment issues; trade-related intellectual property protection issues; and import policies.

Department of State
The State Department provides foreign affairs expertise, including knowledge of and experience with foreign countries, diplomacy and foreign policy.

Department of Commerce
The Commerce Department provides the perspective of the US business community. In addition, Commerce staff have expertise in foreign unfair trade practices, US export control policies, and export and investment promotion. Commerce is also responsible for conducting countervailing duty and anti-dumping investigations.

Department of Agriculture
The Agriculture Department provides the perspective of the US farm sector. It offers expertise on domestic and foreign agriculture programs, food security, plant and animal inspection and food safety policies. The agency also administers technical assistance programs in the agricultural area and assists with agricultural trade negotiations.

Department of Treasury
The Treasury Department brings an international financial and monetary policy perspective as well as expertise in customs matters since the U.S. Customs Service is part of the Treasury Department. The Treasury Department is also responsible for relations with the International Financial Institutions.

Department of Labor
The Labor Department provides input on the impact of trade policy on jobs and working conditions.

Department of Justice
The Justice Department provides expertise on the competition effects of trade policies and on anti-competitive business practices having a cross-border dimension, and defends trade policy and administrative actions when they are challenged in US courts.

Department of Transportation
The Transportation Department provides expertise on aviation, maritime, and land transport issues and shares the lead with the State Department for the negotiation of bilateral aviation agreements.

Health and Human Services (HHS)
HHS provides guidance on health policy issues, including certain science and technology matters, while the Food and Drug Administration, part of HHS, provides expertise on food safety issues.

The Environmental Protection Agency
EPA provides expertise on environmental issues, an increasingly important aspect of US trade policy.

Office of Management and Budget
OMB provides expertise on the impact of trade policies on the US budget and U.S. economy and coordinates the preparation of draft legislation that is submitted to the Congress.

Council of Economic Advisors
The CEA is the principal source of economic analysis and provides a broad macroeconomic perspective to the trade policy formation process.

International Trade Commission
The ITC is an independent agency that has observer status in the TPSC. The ITC assists in the trade policy formulation process by providing analysis, particularly as concerns the probable economic effects of proposed trade policies and actions. Upon

Presidential or Congressional request, the ITC also is authorized to undertake studies of trade issues. Finally, the ITC administers, or shares in the administration of, several US laws, including the safeguards and antidumping and countervailing duty laws.

Congress

As noted above, the President is responsible under the U.S. Constitution for negotiating international agreements. However, the Constitution gives the legislative branch the power to "regulate Commerce with foreign nations" and to "lay and collect taxes, duties, imposts and excises." Thus, any international trade agreement negotiated by the President providing for changes in U.S. tariffs or other laws can only take effect if the Congress passes legislation enacting those changes.

In the Congress, jurisdiction for trade-related legislation resides primarily with the House Committee on Ways and Means and the Senate Finance Committee, both of which have responsibility for revenue matters such as taxes and tariffs. Therefore, legislation implementing trade agreements starts with these committees. Other committees become involved if the trade agreement affects US laws under their jurisdiction. For example, the House and Senate Judiciary Committees were involved in the legislation implementing the results of the Uruguay Round negotiations on trade-related aspects of intellectual property rights because those Committees are responsible for patents, trademarks and copyright matters. As more fully discussed below, the content of trade bills is influenced by input from affected industries and members of the public.

Over the years Congress has delegated authority to the President to make some limited changes in U.S. tariffs in order to implement provisions in certain trade agreements. Congress has since 1974 periodically passed legislation providing that it will consider on a special, expedited, no amendment basis legislation implementing trade agreements that meet certain conditions. These so-called "fast track" procedures give the President the ability to assure negotiators from other nations that the Congress will act expeditiously on the results of a trade negotiation and on the implementing legislation with no amendments. The "fast track" procedures are currently not in effect for new trade agreements.

Congress's role in trade policy formation can be seen in the fast-track legislation and other procedures. Congress has provided that the Executive Branch:

(a) should strive to achieve certain specified objectives in negotiations;
(b) consult with it regularly during trade negotiations and the preparation of implementing legislation;
(c) rely upon an extensive system of advisory committees to give advice on the negotiations and whether the agreements are in the U.S. national interest; and
(d) submit certain reports regarding agreements reached.

In addition, after negotiations are completed and implementing legislation passed, the Congress has

required that the Executive Branch and the ITC make annual reports on actions taken under various trade laws and programs.

Judicial Branch

While U.S. courts play no direct role in the trade policy formulation process, they often review decisions taken as a result of administrative proceedings, such as anti-dumping and countervailing duty investigations. In addition, Federal courts have from time to time addressed issues that have an impact on trade policy formulation. For example, courts have addressed the question whether there must be an environmental impact review before the United States enters into certain trade agreements or whether the Executive Branch has followed certain laws requiring the banning of some imports from countries whose fishing methods do not meet certain standards.

Private Sector

The private sector plays an important role in the development of US trade policy and trade negotiations. USTR has established within it an Office of Intergovernmental Affairs and Public Liaison (IAPL) to provide for outreach to state and local governments, the business and agricultural communities, labor, environmental, consumer and other domestic groups.

The Advisory Committee System: The private sector advisory committee system, created by Congress in 1974, is designed to ensure that US trade policies and trade agreements achieve U.S. negotiating objectives and promote the economic interests of the United States. The role of the committees is to consult with the government on the negotiation of trade agreements, to assist in monitoring compliance with trade agreements and to provide advice on the development of trade policy.

The private sector advisory system, comprised of 33 committees with differing responsibilities, is arranged in three tiers. The highest-level committee is the Advisory Committee on Trade Policy and Negotiations (AC2TPN) composed of 45 Presidentially appointed members from representative elements of the US economy.[3] Its mandate is to provide overall policy guidance.

The second tier is composed of six policy advisory committees that provide advice based upon the perspective of their specific sector or area for focus: the Intergovernmental Policy Advisory Committee whose members represent state and local governments; the Trade Advisory Committee on Africa; the Agricultural Policy Advisory Committee; the Labor Advisory Committee; the Defense Policy Advisory Committee on Trade; and the Trade and Environment Policy Advisory Committee.

The third tier is comprised of 26 technical, sectoral, and functional advisory committees, organized

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ACTPN includes "representatives from non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, non-governmental environmental and conservation organizations, and consumer interests."

in two areas: industry and agriculture. Each sectoral or technical committee represents a specific sector or commodity group and provides specific technical advice. The four functional advisory committees provide cross-sectoral advice on customs, standards, intellectual property issues and electronic commerce.

Other Private Sector Roles

The private sector also plays an influential role in trade policy formation outside the advisory system process described above.

Corporations, organized labor, civil society groups (representing environmental, human rights and consumer interests), and public policy research institutions ("think tanks") all contribute to the development of US trade law and policy by making their views known to decision makers in the Congress and the Executive branch.

Congress has enacted a number of laws and procedures designed to provide the private sector with a means of petitioning the Executive branch to protect its interests. Private companies and unions that think their commercial interests are being undermined by the trade practices of a foreign government or foreign corporation may file a complaint with the US government requesting an investigation and relief pursuant to remedies prescribed by domestic law and international agreements. In addition, USTR is required to request comments from the public prior to entering into dispute settlement proceedings and to consult with the private sector about foreign trade barriers. Often copies of comments are placed in a public reading where others can read them. USTR also issues reports on foreign trade barriers and its strategy for dealing with them.

DÉFINITION DE LA POLITIQUE COMMERCIALE AUX ÉTATS-UNIS

En vertu de la Constitution des États-Unis, le pouvoir gouvernemental fédéral est réparti entre les pouvoirs exécutif, législatif et juridique. Cette séparation des pouvoirs est reflétée dans la manière de définir la politique commerciale aux États-Unis.

Pouvoir exécutif

La Constitution américaine confie au Président le pouvoir de diriger les affaires étrangères, y compris celui de négocier les accords commerciaux internationaux. Le Président est en outre responsable de décider du processus que son cabinet adoptera pour définir les politiques commerciales et négocier les accords commerciaux. Le poste de "représentant spécial pour les questions commerciales", avec rang d'ambassadeur, a été créé en 1962 afin de veiller à ce que le Président ait au sein de la Maison-Blanche une personne dont la responsabilité principale serait de mener les négociations commerciales et la coordination des politiques commerciales américaines. Avec le temps, ces fonctions ont été davantage institutionnalisées avec la mise en place du Bureau du Représentant des États-Unis pour les questions commerciales [Voir le document ci-joint "Organisation du rôle de la politique commerciale" et "Historique et mission du Représentant des États-Unis pour les questions commerciales" pour de plus amples renseignements].

Le processus inter-agence

À mesure que le système commercial international gagne de l'ampleur et englobe davantage d'aspects commerciaux, les présidents ont dû étendre le processus de définition de la politique commerciale des États-Unis pour s'assurer qu'il est effectivement établi dans le meilleur intérêt du pays. La politique commerciale au niveau du pouvoir exécutif est aujourd'hui développée par le biais d'un mécanisme inter-agence impliquant la participation d'environ 17 agences et bureaux fédéraux. Le Bureau du Représentant des États-Unis pour les questions commerciales est l'agence principale et est chargée de coordonner le processus et de mener ou diriger les négociations avec d'autres pays. Le mécanisme inter-agence comprend quatre niveaux de comités: le Conseil de l'économie nationale (NEC), le Comité de la politique commerciale (TPC), le Groupe d'examen des politiques commerciales (TPRG), le Comité du personnel de la politique commerciale (TPSC) et ses sous-comités. [1]

[1] Les agences membres des comités du Groupe d'examen des politiques commerciales/Comité du personnel

Le Comité du personnel de la politique commerciale constitue le premier niveau de la structure du processus de prise de décision et comprend des représentants de la haute fonction publique. Ce comité reçoit l'appui de plus de 60 sous-comités responsables de domaines spécialisés ainsi que celui de groupes de projet œuvrant sur des sujets particuliers. S'il est impossible de parvenir à un consensus sur un sujet précis au niveau du Comité du personnel de la politique commerciale ou s'il s'agit d'une politique importante, la question est présentée au Groupe d'examen des politiques commerciales dont le personnel se trouve au niveau du Sous-secrétaire. Sous l'administration de M. Clinton, le Conseil de l'économie nationale a souvent remplacé le Comité de la politique commerciale en tant que forum au niveau du Cabinet, au sein duquel les décisions de politiques commerciales primordiales sont rejetées ou approuvées. Siégé par le Président, le Conseil de l'économie nationale est composé du Vice-président et nombre des mêmes agences siégeant au Comité du personnel de la politique commerciale/Groupe d'examen des politiques commerciales.

Chacune des agences et bureaux participant au processus de définition de politiques commerciales inter-agences offre son point de vue; de nombreux intérêts différents de l'économie et de la société américaine sont ainsi pris en compte de manière adéquate. Ci-dessous se trouve la description du rôle de quelques agences qui sont la clé de voûte de ce processus.

Bureau du Représentant des États-Unis pour les questions commerciales

Le Bureau du Représentant des États-Unis pour les questions commerciales fournit l'expertise en matière de politique commerciale et sur les questions de négociations, y compris: tous les problèmes commerciaux, d'investissements directs et de produits au sein de l'Organisation mondiale du commerce (OMC), l'Organisation de coopération et de développement économiques (OCDE) et la Conférence des Nations Unies sur le Commerce et le Développement (CNUCED); les

de la politique commerciale sont : les Départements du commerce, de l'agriculture, d'État, du travail, de la justice, de la défense, de l'intérieur, des transports, de l'énergie et de la santé et des services sociaux, l'Agence pour la protection de l'environnement, le Bureau de la gestion et du budget, le Comité des conseillers économiques, l'Agence pour le développement international, le Conseil de l'économie nationale et le Conseil national de sécurité. Des représentants d'autres agences peuvent être invités à assister aux réunions en fonction des sujets spécifiques abordés.

accords internationaux sur les produits de base et la politique en la matière; les questions commerciales et d'investissement bilatérales et multilatérales; les questions de protection de la propriété intellectuelles dans les affaires commerciales; et les politiques d'importation.

Département d'État
Le Département d'État est la source d'expertise en matière d'affaires étrangères, en particulier de connaissance des pays étrangers, de la diplomatie et de la politique étrangère, et possède une vaste expérience dans ces domaines.

Département du commerce
Le Département du commerce fournit le point de vue du monde des affaires aux États-Unis. De plus, son personnel est expert en ce qui concerne les pratiques déloyales au niveau des affaires étrangères, des politiques de contrôle des exportations américaines et de la promotion des exportations et investissements. Ce département est aussi chargé de mener les enquêtes de droit compensatoire et antidumping.

Département de l'agriculture
Le Département de l'agriculture fournit le point de vue du secteur agricole aux États-Unis. Il est expert en matière de programmes agricoles nationaux et étrangers, de sécurité alimentaire, d'inspection des plantes et animaux et des politiques de sécurité alimentaire. Il gère en outre les programmes d'assistance technique dans le domaine agricole et participe aux négociations commerciales agricoles.

Département de la trésorerie
Le département de la trésorerie présente le point de vue au niveau des politiques financières et monétaires internationales et prête son expertise pour les questions de douane, sous l'égide du Service des douanes des États-Unis appartenant à ce département. Il est également chargé des relations avec les organisations financières internationales.

Département du travail
Le Département du travail est quant à lui responsable de fournir des informations sur l'impact de politiques commerciales sur l'emploi et les conditions de travail.

Département de la justice
Le Département de la justice est expert au niveau des effets des politiques

commerciales sur la concurrence et sur les pratiques commerciales déloyales et leurs influences transfrontalières; il protège les politiques commerciales et les décisions administratives lorsqu'elles sont contestées dans les tribunaux américains.

Département des transports
Le Département des transports est expert en matière de questions aéronautiques, maritimes et terrestres et travaille en collaboration avec le Département d'État sur la négociation des accords aéronautiques bilatéraux.

Santé et services sociaux (HHS)
Le Département de la santé et des services sociaux agit en tant que conseiller pour les questions de politique de santé, y compris parfois en matière de science et de technologie, tandis que l'Organisme de surveillance des aliments et des médicaments (FDA), partie du Département de la santé et des services sociaux, traite les questions de sécurité alimentaire.

Agence pour la protection de l'environnement
L'Agence pour la protection de l'environnement est experte des questions concernant l'environnement, un aspect d'importance croissante de la politique commerciale des États-Unis.

Bureau de la gestion et du budget
Le Bureau de la gestion et du budget se consacre à l'étude de l'impact des politiques commerciales sur le budget et l'économie des États-Unis et coordonne la préparation des projets de loi à soumettre au Congrès.

Comité de conseil économique
Le Comité de conseil économique constitue la principale source d'analyse économique et offre une vaste perspective quant au processus de définition de politique commerciale.

Commission chargée du commerce international
La Commission chargée du commerce international est une agence indépendante possédant le statut d'observateur dans le Comité du personnel de la politique commerciale. Elle participe au processus de définition de politique commerciale en fournissant son analyse, en particulier en ce qui concerne les répercussions économiques probables des politiques et actions commerciales suggérées. Sur demande du

Président ou du Congrès, cette commission est en outre autorisée à initier des études sur les questions commerciales. Enfin, elle est chargée de l'application, ou partage l'administration, de plusieurs lois, y compris les mesures de protection et les lois antidumping et de droit compensatoire.

Le Congrès

Comme indiqué auparavant et en vertu de la Constitution des États-Unis, le Président est chargé des négociations des accords internationaux. Cependant, la Constitution accorde au pouvoir législatif le droit de "réglementer le commerce avec les pays étrangers" et " d'imposer et de collecter des impôts, des droits de douane et des taxes d'accise". Par conséquent, tout accord commercial international négocié par le Président et visant à modifier les droits de douanes américains ou d'autres lois ne peut entrer en vigueur que si le Congrès passe une loi ratifiant ces changements.

Au sein du Congrès, la législation en matière de commerce retourne surtout de la Commission parlementaire des méthodes et moyens et de la Commission financière du Sénat, qui sont toutes deux responsables des questions de revenus, tels qu'impôts et tarifs douaniers. Ainsi, la législation mettant les accords commerciaux en application passe tout d'abord devant ces commissions. D'autres peuvent être amenées à intervenir si l'accord commercial affecte les lois américaines qui sont de leur ressort. Par exemple, la Commission parlementaire et la Commission judiciaire du Sénat ont participé à la législation exécutant les résultats des négociations concernant les aspects commerciaux des droits de propriété intellectuelle car ces commissions sont chargées des questions de licences, de marques de fabrique et de droits d'auteur. Tel qu'expliqué plus amplement ci-dessous, le contenu des projets de loi reçoit la contribution des industries et membres du public concernés.

Au fil des ans, le Congrès a accordé au Président le droit d'apporter des modifications restreintes aux tarifs douaniers des États-Unis afin de mettre en œuvre les dispositions de certains accords commerciaux. Depuis 1974, le Congrès adopte régulièrement des lois pourvoyant qu'il considérera au cas par cas, de façon accélérée et sans amendement, des lois mettant en œuvre des accords commerciaux répondant à certaines conditions. Ces procédures dites "accélérées" permettent au Président d'assurer aux négociateurs d'autres pays que le Congrès rendra une décision en toute diligence sur les résultats de négociations commerciales et sur l'application de loi sans amendement. Les procédures "accélérées" ne sont pas en vigueur actuellement pour les nouveaux accords commerciaux.

Le rôle du Congrès dans la définition de politique commerciale peut être observé au

niveau de la législation accélérée et d'autres procédures. Le Congrès stipule que le pouvoir exécutif :

(a) devrait viser à atteindre certains objectifs spécifiés lors des négociations;
(b) devrait consulter le Congrès régulièrement dans le cadre de négociations commerciales et de la préparation de l'entrée en vigueur de loi;
(c) devrait solliciter l'appui d'un important système de comités de conseil qui peuvent effectuer des recommandations en matière de négociations et indiquer si les accords sont dans l'intérêt des États-Unis; et
(d) devrait soumettre certains rapports sur les accords ratifiés.

De plus, une fois les négociations terminées et la législation entrée en vigueur, le Congrès exige que le pouvoir exécutif et la Commission chargée du commerce international dressent des rapports annuels sur les décisions prises en vertu de lois et programmes commerciaux divers.

Pouvoir judiciaire

Bien que les tribunaux des États-Unis ne jouent pas un rôle direct dans le processus de définition des politiques commerciales, ils examinent souvent les décisions issues des débats administratifs, tels qu'enquêtes sur les pratiques antidumping et les droits compensatoires. En outre, les tribunaux fédéraux ont de temps à autre traité des questions influençant la définition des politiques commerciales. Par exemple, les tribunaux ont étudié s'il fallait préconiser un examen des répercussions sur l'environnement avant que les États-Unis signent des accords commerciaux ou si le pouvoir exécutif avait appliqué des lois exigeant l'interdiction d'importations en provenance de pays dont les méthodes de pêche enfreignaient certaines normes.

Secteur privé

Le secteur privé joue un rôle important dans le développement de la politique commerciale des États-Unis et dans les négociations commerciales. Le Bureau du Représentant des États-Unis pour les questions commerciales a établi en son sein un Bureau des affaires inter-gouvernementales et de liaison publique (IAPL) afin d'assurer un soutien aux gouvernements locaux et des états, aux communautés commerciales et agricoles, aux groupes de travailleurs, de consommateurs, de protection de l'environnement et à d'autres groupes nationaux.

Le Système du comité de conseil: Créé en 1974 par le Congrès, le système du comité de

conseil du secteur privé est conçu pour veiller à ce que les politiques commerciales des États-Unis et les accords commerciaux réalisent les objectifs des négociations des États-Unis et défendent les intérêts économiques du pays. Le rôle de ces comités consiste à s'entretenir avec le gouvernement au sujet de la négociation des accords commerciaux, à participer à la surveillance du respect des accords commerciaux et à prêter conseil en matière de développement de politiques commerciales.

Le système de conseil du secteur privé, rassemblant 33 comités ayant diverses responsabilités, comporte trois niveaux. Au niveau supérieur se trouve le Comité de conseil en matière de politique commerciale et de négociations (ACTPN) comptant 45 membres nommés par le Président parmi les organes représentant l'économie américaine.[2] Il est mandaté pour assurer un conseil général en matière de politique.

Le deuxième niveau regroupe six comités de conseil en matière de politique qui effectuent des recommandations en fonction du point de vue de leur secteur ou de leur domaine d'intérêt: le Comité de conseil sur la politique inter-gouvernementale dont les membres représentent les gouvernements locaux et des états; le Comité de conseil commercial sur l'Afrique; le Comité de conseil sur la politique agricole; le Comité de conseil sur le travail; le Comité de conseil de politique de défense en matière de commerce; et le Comité de conseil de politique sur le commerce et l'environnement.

Le troisième niveau comprend 26 comités techniques, sectoriels et fonctionnels, couvrant deux domaines: l'industrie et l'agriculture. Chaque comité technique et sectoriel représente un secteur donné ou un groupe de marchandises et assure un service de conseil technique spécifique. Les quatre comités de conseil fonctionnels offrent leur conseil dans plusieurs secteurs sur les questions de douanes, de normes, de propriétés intellectuelle et en matière de commerce électronique.

Autres rôles du secteur privé

Le secteur privé joue également un rôle essentiel dans la définition des politiques commerciales en dehors du processus du système de conseil décrit ci-dessus.

Les entreprises, groupes de travailleurs syndiqués et groupes de société civils (représentant l'environnement, les droits de l'homme et l'intérêt des consommateurs), ainsi que les organisations de recherche de politique publiques ("centrales à matière grise")

[2] Le Comité de conseil en matière de politique commerciale et de négociations rassemble des "représentants de gouvernements non fédéraux, du travail, de l'industrie, de l'agriculture, des petites et moyennes entreprises, des revendeurs, des organisations gouvernementales pour la protection de l'environnement et de conservation, et des intérêts des consommateurs".

contribuent tous au développement de la loi et de la politique commerciale des États-Unis en faisant part de leurs points de vue aux décideurs du Congrès et du pouvoir exécutif.

Le Congrès a ratifié nombre de lois et de règlements destinés à fournir au secteur privé les moyens de pétitionner le pouvoir exécutif pour qu'il protège les intérêts de ce secteur. Les sociétés privées et les syndicats estimant que les pratiques commerciales d'un gouvernement étranger ou d'une entreprise étrangère portent préjudice à leurs intérêts commerciaux peuvent déposer une plainte devant le gouvernement des États-Unis et demander une enquête et la résolution du problème, conformément aux mesures prescrites par la loi nationale et les accords internationaux. En outre, le Bureau du Représentant des États-Unis pour les questions commerciales est tenu de solliciter les commentaires du public avant d'entreprendre les procédures de règlement de différends et de demander conseil auprès du secteur privé en ce qui concerne les obstacles au commerce extérieur. Des exemplaires des commentaires recueillis sont souvent mis à la disposition du public dans un document public. Le Bureau du Représentant des États-Unis pour les questions commerciales élabore également des rapports sur les obstacles au commerce extérieur et sur la manière de les traiter.

Office of the United States Trade Representative: History & Mission

The Office of the Special Trade Representative was created by Congress in the Trade Expansion Act of 1962 and implemented by President Kennedy in Executive Order 11075 on January 15, 1963. The Special Trade Representative was to serve as the chief U.S. representative for trade negotiations, including those conducted under the authority of the Trade Expansion Act of 1962.

As part of the Trade Act of 1974, Congress established the office as a Cabinet-level agency within the Executive Office of the President and gave it other powers and responsibilities for coordinating trade policy.

In 1980, the office was renamed the Office of the United States Trade Representative (USTR). President Carter's Executive Order 12188 of January 4, 1980, authorized the USTR to set and administer overall trade policy. The USTR was also designated as the nation's chief trade negotiator and the representative of the United States in the major international trade organizations.

The Office is headed by the United States Trade Representative, a Cabinet-level official with the rank of Ambassador, who is directly responsible to the President and the Congress. In March 1997, President Clinton appointed Charlene Barshefsky as U.S. Trade Representative. Ambassador Barshefsky had served as Acting U.S. Trade Representative from April 1996 to March 1997.

USTR is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and leading or directing negotiations with other countries on such matters. The U.S. Trade Representative is a Cabinet member who acts as the principal trade advisor, negotiator, and spokesperson for the President on trade and related investment matters. Through an interagency structure, the USTR coordinates trade policy, resolves agency disagreements, and frames issues for Presidential decision. "USTR" refers both to the agency and to the agency head. The agency has offices in Washington, D.C. and in Geneva, Switzerland.

The agency provides trade policy leadership and negotiating expertise in its major areas of responsibility. Among these are the following: all matters within the World Trade Organization (WTO), formerly the General Agreement on Tariffs and Trade (GATT), including implementation of the Uruguay Round Multilateral Trade Negotiation (MTN); trade, commodity, and direct investment matters dealt with by international institutions such as the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade

and Development (UNCTAD); export expansion policy; industrial and services trade policy; international commodity agreements and policy; bilateral and multilateral trade and investment issues; trade-related intellectual property protection issues; and import policy. The agency is organized to accommodate sectoral, regional, and functional policy perspectives which are integrated into the decision-making process, and coordinated externally with government agencies, the private sector, and foreign entities.

Interagency coordination is accomplished by USTR through the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC). These groups, administered and chaired by USTR and composed of 17 Federal agencies and offices, make up the sub-cabinet mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 60 subcommittees responsible for specialized areas and several task forces that work on particular issues. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, then issues are taken up by the TPRG (Deputy USTR/Under Secretary level).

The final tier of the interagency trade policy mechanism is the National Economic Council (NEC), chaired by the President. The NEC Deputies committee considers decision memoranda from the TPRG, as well as particularly important or controversial trade-related issues. The USTR also serves as Vice Chairman of the Overseas Private Investment Corporation (OPIC), is a non-voting member of the Export-Import Bank, and a member of the National Advisory Committee on International Monetary and Financial Policies. There are several significant trade and related policy areas not handled by the USTR but which are followed closely by the staff: specifically, export financing, export controls, multilateral development bank lending, international fisheries, aviation and maritime policies.

The agency has administrative responsibility for the Generalized System of Preferences (GSP) program and for conducting investigations of foreign unfair trade practices and taking action against them under the provisions of section 301 of the Trade Act of 1974.

The private sector plays a continuing role in trade negotiations through the mechanism of advisory committees. This advisory process has been extremely successful during the NAFTA, Uruguay Round, the Summit of the Americas and the Asia-Pacific Economic Cooperation (APEC) initiatives. Congress provided for continuation of the advisory process in the Trade Agreements Act of 1979. The committees' role has been expanded to include advice on the operation of the MTN Agreements, on the development and implementation of overall U.S. trade policy, and on priorities for actions to implement such policy.

Primary objectives of the private sector advisory system are: to consult with the U.S. government on negotiation of trade agreements, to assist in monitoring compliance with the agreements and to provide input and advice on the development of U.S. trade policy. The advisory system is

composed of a series of Committees with differing responsibilities. The Advisory Committee on Trade Policy and Negotiations (ACTPN), a Presidentially appointed committee, has 45 members from representative elements of the U.S. economy with international trade interests. Its mandate is to provide overall policy guidance on trade issues.
At the next level are the policy advisory committees in the specific areas of industry, agriculture, labor, defense, services, investment, environment and intergovernmental affairs. There are also technical, sectoral and functional advisory committees, which are composed of experts from their respective fields. The Agricultural Technical Advisory Committees (ATACs), the Industry Sector Advisory Committees (ISACs), and the Labor Sector Advisory Subcommittees (LSACs), provide specific and technical information on problems within the private sector in a range of areas affected by trade policy, such as automobiles, steel, wheat, aircraft or poultry. In addition, functional committees have been established to monitor certain codes of conduct negotiated during Tokyo Round negotiations on the GATT. The Industry Sector Advisory Committees have two such functional committees: customs valuation and standards. The Labor Advisory Committee has three such functional committees: government procurement, standards, and unfair trade practices. Lastly, another committee has been added which deals with intellectual property issues.

In the Trade Act of 1974, Congress broadened and codified the Trade Representative's trade policy making and negotiating functions and established close Congressional consultative, advisory, and oversight relationships with the agency. In the Omnibus Trade and Competitiveness Act of 1988 Congress further clarified USTR's leadership role in developing and coordinating trade policy and serving as the President's principal advisor on trade. Throughout the life of the agency, there has been close consultation between the USTR and the Congress. Five Members from each House are formally appointed under statute as official Congressional advisors on trade policy, and additional Members may be appointed as advisors on particular issues or negotiations. Liaison activities between the agency and Congress are extensive.

The Washington, D.C. office of USTR is structured along four organizational lines:

Bilateral Negotiations:

- Western Hemisphere (Canada, Mexico and Latin America)
- Europe and the Mediterranean
- Japan and China
- Asia and the Pacific
- Africa

Multilateral Negotiations:

- APEC Affairs
- World Trade Organization and Multilateral Affairs
- GSP and the U.N. Conference on Trade and Development

Sectoral Activities:

- ☐ Industrial Affairs
- ☐ Agricultural Affairs
- ☐ Textiles
- ☐ Environment and Natural Resources
- ☐ Services, Investment and Intellectual Property

General Support:

- ☐ General Counsel
- ☐ Congressional Affairs
- ☐ Public/Media Affairs
- ☐ Intergovernmental Affairs and Public Liaison
- ☐ Economic Affairs
- ☐ Policy Development and Coordination
- ☐ Administrative Services

USTR's Geneva Office is organized to cover general WTO affairs, Non-Tariff Agreements, Agricultural Policy, Commodity Policy and the Harmonized Code System. Special attention is given to textiles with one member of the staff designated as U.S. Representative to the Textiles Surveillance Body. The Geneva Deputy USTR is the U.S. Ambassador to the WTO. The Geneva staff represents the United States' interests in negotiations, and in other contacts on trade and trade policy in both forums.

http://www.ustr.gov/

TRADE POLICY FORUMATION IN THE U.S.: ATTACHMENT B

Chapter 7: ORGANIZATION OF TRADE POLICY FUNCTIONS

Congress

The role of the Congress in trade derives from its powers under the Constitution to regulate foreign commerce and to lay and collect duties (see preface). Consequently, the trade agreements program and application of duties or other import restrictions are based upon and limited to specific legislation or authorities delegated by the Congress. In order to ensure proper implementation of these laws and authorities, in accordance with legislative intent, Congress has included various statutory requirements in the trade laws to limit their application, to ensure congressional oversight of their implementation, and to fulfill its responsibility for legislating any necessary or appropriate changes in U.S. laws.

More specifically, for example, periodic delegations of authority by the Congress to the President to proclaim changes in U.S. tariff treatment in the context of trade agreements has been limited in scope and periods of time, and use of the authority subject to certain prenegotiation procedures to protect domestic interests. On the other hand, Congress has granted federal agencies permanent authorities to administer certain laws and programs, such as trade remedy laws or trade adjustment assistance, under certain specific guidelines and subject to congressional oversight, including appropriations.

Specific statutory roles of the Congress became formalized under the Trade Act of 1974[1] with the grant of authority to the President under section 102 to enter into reciprocal trade agreements affecting U.S. laws other than traditional changes in tariff treatment. In authorizing implementation through an expedited, no amendment procedure, Congress ensured its role through statutory consultation and notification procedures prior to submission of a draft implementing bill by the executive. This relationship continued under authorities granted by the Omnibus Trade and Competitiveness Act of 1988, but has now expired with respect to new agreements (see chapter 6).

Section 161 of the Trade Act of 1974 provides for appointment at the beginning of each session of Congress of five official congressional advisers by the Speaker of the House from the Committee on Ways and Means and five official advisers by the President of the Senate from the Committee on Finance, and additional advisers where appropriate for specific policy matters or negotiations, to U.S. delegations to international negotiating sessions on trade agreements. The U.S. Trade Representative (USTR) must keep each adviser and designated committee staff members informed of

[1] Public Law 93–618, approved January 3, 1975, 19 U.S.C. 2101.

U.S. objectives and the status of negotiations and of any changes which may be recommended in U.S. laws. Section 162 requires transmission of any trade agreements to the Congress.

Section 163 requires annual reports from the President and from the U.S. International Trade Commission (ITC) to keep the Congress informed regarding actions taken under the various trade laws and programs. Additional reports are required on specific aspects of various authorities (e.g., from the ITC on the domestic economic impact of the Caribbean Basin Initiative).

Finally, Congress had maintained its institutional role with the executive by requiring the USTR to advise the Congress as well as the President on trade policy developments, through requests to the ITC for studies and analyses under section 332 of the Tariff Act of 1930 of various current trade issues, and through its power to authorize and appropriate funds for the functions of major trade agencies.

Executive Branch

Interagency Trade Process

Trade policy is a major element of U.S. economic and foreign policy. A decision to raise or lower tariffs, to impose import quotas, or to take other trade policy actions affects both domestic and foreign interests. In light of the far-reaching effects of trade policy decisions, a large number of U.S. government agencies have a role to play in the development of policy. Various interagency coordinating mechanisms have been used for bringing together conflicting views and interests and resolving them so that there can be a consistent and balanced national trade policy.

Until the late 1950's, the Department of State was the major initiator and coordinator of international trade policy. The Secretary of State chaired the interagency Trade Agreements Committee which originally included eight agencies: the Departments of State, Agriculture, Commerce, and Treasury, the Tariff Commission, the Agricultural Adjustment Administration, the National Recovery Administration, and the Office of the Special Advisor to the President on Foreign Trade.

Congress authorized the President under section 242 of the Trade Expansion Act of 1962[2] to establish a new interagency trade organization to carry out specified trade policy functions. The Trade Agreements Committee was replaced by the Trade Policy Committee (TPC) in 1975.[3] The TPC performs the same functions authorized by section 242 of the 1962 Trade Act. Two subordinate coordinating groups, the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), were subsequently created by the authority of the Special Representative.[4]

Section 1621 of the Omnibus Trade and Competitiveness Act of 1988[5] amended section 242 of the 1962 Act to provide that this interagency organization will include the USTR as chair, the Secretaries of Commerce, State, Treasury, Agriculture, and Labor, and

[2] 19 U.S.C. 1801.
[3] 40 Fed. Reg. 18419, April 28, 1975.
[4] Exec. Order 11846, March 27, 1975, 40 Fed. Reg. 14291.
[5] Public Law 100–418, section 1621, approved August 23, 1988.

authorizes the USTR to invite other agencies to attend meetings as appropriate. The functions of the organization are: to assist and make recommendations to the President in carrying out his functions under the trade laws and to advise the USTR in carrying out its functions; to assist the President and advise the USTR on the development and implementation of U.S. international trade policy objectives; and to advise the President and the USTR on the relationship between U.S. international trade policy objectives and other major policy areas.

The TPSC is the working level interagency group, with members drawn from the office-director level of member agencies. Over 30 subcommittees and task forces support the work of the TPSC. In the absence of consensus at the TPSC level or in the case of particularly significant policy matters, issues are referred to the Assistant Secretary-level TPRG. Disagreements at the Assistant Secretary-level are referred to the TPC for Cabinet-level review. When presidential trade policy decisions are needed, the Chairman (USTR) submits the recommendations and advice of the Committee to the President.

The final tier of the interagency trade mechanism is the National Economic Council (NEC). Chaired by the President, the NEC is composed of the Vice President, the Secretaries of State, Treasury, Agriculture, Commerce, Labor, Housing and Urban Development, Transportation, and Energy, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, the USTR, the Chairman of the Council of Economic Advisors, the National Security Advisor, and the Assistants to the President for Economic Policy, Domestic Policy and Science and Technology Policy.

Office of the U.S. Trade Representative

Section 241 of the Trade Expansion Act of 1962 established the Office of the Special Representative for Trade Negotiations.[6] Congress' stated purpose for creating the position was to provide better balance between competing domestic and international interests in the formulation of U.S. trade policy and negotiations. The Special Trade Representative (STR), whose rank was ambassador extraordinary and plenipotentiary, was to serve as the chief U.S. representative for negotiations conducted under authority of the Act and for other trade negotiations authorized by the President.

Various executive orders issued by President Kennedy in 1963 established an Office of the Special Trade Representative and provided for the appointment of two Deputy Special Representatives for Trade Negotiations. These deputies, one based in Washington, D.C., and the other in Geneva, Switzerland (headquarters of the GATT Secretariat), were assigned major responsibilities for the conduct of the 1963–67 multilateral trade negotiations under the GATT, commonly known as the Kennedy Round.[7]

Section 141 of the Trade Act of 1974[8] established the office as an agency within the executive office of the President and ex-

[6] Public Law 87–794, approved October 11, 1962, 19 U.S.C. 1801.
[7] Public Law 97–456, approved January 12, 1983, added a third deputy trade representative.
[8] Public Law 93–618, approved January 3, 1975, 19 U.S.C. 2171.

panded the STR's duties to include responsibility for the trade agreements program under the Tariff Act of 1930, the Trade Expansion Act of 1962 and the Trade Act of 1974. Other duties and responsibilities also were assigned by the 1974 Trade Act and by Executive Order 11846 of March 27, 1975, as amended. Section 141 elevated the STR to Cabinet level by adding it to the list of positions at level I of the executive schedule of salaries, with the rank of ambassador. The STR was also made directly responsible to the President and the Congress.

Reorganization Plan No. 3 of 1979, implemented by Executive Order 12188 of January 4, 1980,[9] authorized certain changes in the trade responsibilities of the STR. Plan No. 3 redesignated the Office of the Special Representative for Trade Negotiations as the Office of the United States Trade Representative (USTR). The new name reflected the plan's intent for the Trade Representative to have overall responsibility, on a permanent basis, for developing and coordinating the implementation of U.S. trade policy.

The 1979 Reorganization Plan specified that the USTR is the President's principal adviser and chief spokesman on trade, including advice on the impact of international trade on other U.S. government policies. The USTR also became Vice Chairman of the Overseas Private Investment Corporation (OPIC), a nonvoting member of the Export-Import Bank, and a member of the National Advisory Committee on International Monetary and Financial Policies. In addition to these responsibilities, section 306(c) of the Trade and Tariff Act of 1984[10] specified that the USTR, through the interagency organization, is responsible for developing and coordinating U.S. policies on trade in services.

Section 1601 of the Omnibus Trade and Competitiveness Act of 1988[11] amended section 141 of the 1974 Act to the responsibilities of the USTR first enumerated under Reorganization Plan No. 3 and other statutes, as the following:

(1) to have primary responsibility for developing and coordinating the implementation of U.S. international trade policy;

(2) to serve as the principal adviser to the President on international trade policy and advise the President on the impact of other U.S. government policies on international trade;

(3) to have lead responsibility for the conduct of, and be chief U.S. representative for, international trade negotiations, including commodity and direct investment negotiations;

(4) to coordinate trade policy with other agencies;

(5) to act as the principal international trade spokesman of the President;

(6) to report to the President and the Congress on, and be responsible to the President and the Congress for, the administration of the trade agreements program, including advising on nontariff barriers, international commodity agreements, and other matters relating to the trade agreements program; and

(7) to be chairman of the Trade Policy Committee.

In addition, the Omnibus Trade and Competitiveness Act also included the sense of Congress that the USTR be the senior rep-

[9] 44 Fed. Reg. 69273.
[10] Public Law 98–573, approved October 30, 1984.
[11] Public Law 100–418, section 1601, approved August 23, 1988.

resentative on any body the President establishes to advise him on overall economic policies in which international trade matters predominate and that the USTR be included in all economic summits and other international meetings at which international trade is a major topic. The USTR was made responsible for identifying and coordinating agency resources on unfair trade practices cases that may be actionable under U.S. antidumping and countervailing duty statutes, section 337, or section 301. The Act established an unfair trade practices committee to advise the USTR.

Under the Omnibus Trade and Competitiveness Act of 1988, the Congress further sought to elevate the importance of the USTR in trade matters by shifting to the USTR from the President responsibility for implementing actions under section 301 of that Act, subject to the specific direction, if any, of the President.

The Uruguay Round Agreements Act specifies that the USTR is to have lead responsibility for all negotiations on any matter considered under the auspices of the World Trade Organization.

The Lobbying Disclosure Act of 1995 amended section 141 to prohibit the appointment of a person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of title 18, U.S. Code) in any trade negotiations, or trade dispute, with the United States as U.S. Trade Representative or Deputy U.S. Trade Representative.[12]

Section 141(g) of the Trade Act of 1974 provides for a 2-year authorization of appropriations for USTR.

DEPARTMENT OF COMMERCE

The Department of Commerce was established in 1903 as the Department of Commerce and Labor.[13] A 1913 act of Congress split the Department of Commerce and Labor into two separate departments.[14] The mandate of the Commerce Department originally was to promote the foreign and domestic commerce of the United States. In subsequent years, its authority was extended to other areas bearing on the economic and technological development of the country. The titles of the component units of the Department indicate the diversity of the agency's current programs and services: Bureau of the Census; Bureau of Economic Analysis; Economic Development Administration; Bureau of Export Administration; International Trade Administration; Minority Business Development Agency; National Institute of Standards and Technology; National Oceanic and Atmospheric Administration; National Technical Information Service; National Telecommunications and Information Administration; Patent and Trademark Office; and U.S. Travel and Tourism Administration.

While most of these agencies have some responsibilities that affect U.S. trade, the U.S. Department of Commerce's major trade responsibilities are centered in the International Trade Administration and the Bureau of Export Administration.

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[12] Public Law 104–65, approved December 19, 1995.
[13] 32 Stat. 827, 5 U.S.C. 591.
[14] 37 Stat. 736, 15 U.S.C. 1501.

The International Trade Administration (ITA), which was established by the Secretary of Commerce on January 2, 1980,[15] administers many of the Department's international trade responsibilities and activities as prescribed by Reorganization Plan No. 3 of 1979. The plan provides that the Commerce Department has "general operational responsibility for major nonagricultural international trade functions," as well as for any other functions assigned by law. Those include export development, commercial representation abroad, the administration of the antidumping and countervailing duty laws, export controls, trade adjustment assistance to firms, research and analysis, and compliance with international trade agreements to which the United States is a party.

The Bureau of Export Administration (BXA) controls exports of commodities and technology for reasons of national security, foreign policy, and short supply. BXA issues export licenses in accordance with the export control regulations. Export control regulations are developed in consultation with other agencies, and some export license applications require interagency review.

U.S. Customs Service

The second act of Congress, dated July 4, 1789, authorized the collection of duties on imported goods, wares and merchandise. The fifth act of Congress, passed in July 31, 1789, established customs districts and authorized customs officers to collect import duties. On March 3, 1927, the Bureau of Customs was established as a separate agency under the Treasury Department.[16] The Bureau was redesignated the United States Customs Service on August 1, 1973.[17]

The Customs Service collects import duties and enforces more than 400 laws or regulations relating to international trade. Among the many responsibilities falling to Customs are assessing and collecting duties, excise taxes, penalties and other fees due on imported goods; interdicting and seizing illegally entered merchandise; processing persons, carriers, cargo and mail into and out of the United States; helping enforce U.S. laws against the transfer of certain technologies to certain countries under export control authorities, laws on copyright, patent and trademark rights; and administering quotas and other import restrictions. The U.S. Customs Service maintains close ties with private business associations, international organizations, and foreign customs services.

The Commissioner of Customs is appointed by the President and subject to confirmation by the Senate.

The Customs Procedural Reform and Simplification Act of 1978 provides for a 2-year authorization of appropriations for Customs.

U.S. International Trade Commission

The U.S. International Trade Commission (ITC) is an independent and quasi-judicial agency that conducts studies, reports, and investigations, and makes recommendations to the President and the Congress on a wide range of international trade issues. The

[15] 45 Fed. Reg. 11862, as amended by 46 Fed. Reg. 13537.
[16] 44 Stat. 1381.
[17] Treasury Department Order 165–23, of April 4, 1973.

agency was established on September 8, 1916[18] as the U.S. Tariff Commission. In 1974 the name was changed to the United States International Trade Commission by section 171 of the Trade Act of 1974.[19]

Commissioners are appointed by the President for 9-year terms, unless they are appointed to fill an unexpired term. Any Commissioner who has served for more than 5 years may not be reappointed. Of the six commissioners, not more than three may be of the same political party. The Chairman and Vice Chairman are designated by the President for 2-year terms, and successive Chairmen may not be of the same political party. After June 17, 1996, a Commissioner with less than 1 year of continuous service as a Commissioner may not be designated as Chairman.

The Commission has numerous responsibilities for advice, investigations, studies, and data collection and analysis which may be grouped into the following general areas: advice on trade negotiations; Generalized System of Preferences; import relief for domestic industries; East-West trade; investigations of injury caused by subsidized or dumped goods; import interference with agricultural programs; unfair practices in import trade; development of uniform statistical data; matters related to the U.S. tariff schedules; international trade studies; trade and tariff summaries.

Statutory authority for the Commission's responsibilities is provided primarily by the Tariff Act of 1930, the Agricultural Adjustment Act, the Trade Expansion Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, the Omnibus Trade and Competitiveness Act of 1988, and the Uruguay Round Agreements Act.

The Tariff Act of 1930 gives the Commission broad authority to conduct studies and investigations relating to the impact of international trade on U.S. industries. Various sections under title VII of the Tariff Act authorize the Commission to determine whether U.S. industries are materially injured by imports which benefit from subsidies or are priced below fair value.[20] If the Secretary of Commerce decides to suspend an antidumping or countervailing duty investigation upon reaching an agreement to eliminate the injury caused by the subsidized or dumped imports, the Commission is authorized to study whether or not the injury in fact is being eliminated. Section 337 of the Tariff Act authorizes the ITC to investigate whether unfair methods of competition or unfair acts are being committed in the importation of goods into the United States.[21] The Commission is authorized to order actions to remedy any such violations, subject to presidential disapproval.

Upon the request of the President, the House Committee on Ways and Means, the Senate Committee on Finance, or on its own motion, the ITC conducts studies and investigations under section 332 of the Tariff Act of 1930 on a wide range of trade-related issues.[22] Public reports generally are issued following such studies and investigations. The ITC also publishes summaries outlining

[18] 39 Stat. 795.
[19] 19 U.S.C. 2231.
[20] Sections 704, 734, and 751; 19 U.S.C. 1671c, 1673c, and 1675c.
[21] 19 U.S.C. 1337.
[22] 19 U.S.C. 1332.

the types of products entering the United States, their importance in U.S. consumption, production, and trade, and other relevant information. The ITC also is required to establish and maintain statistics on U.S. trade and to review the international commodity code for classifying products and reporting trade statistics among countries.[23]

The Trade Expansion Act of 1962 and the Trade Act of 1974 expanded the duties of the ITC. Both laws require the Commission to review developments within an industry receiving import protection and to advise the President on the probable impact of reducing or eliminating the protection.[24]

The Trade Act of 1974 gives the Commission a presidential advisory role on the probable domestic economic effects of trade concessions proposed during trade negotiations.[25] The ITC performs a similar advisory role in relation to duty-free treatment under the Generalized System of Preferences.[26] Under section 201 of the 1974 Trade Act,[27] the Commission conducts investigations to determine whether increased imports are causing or threatening serious injury to the competing domestic industry and reports its findings and recommendations for relief to the President.

Sections 406 and 410[28] of the 1974 Trade Act provide for ITC monitoring and investigation of various aspects of trade with nonmarket economics.

Section 221 of the Trade and Tariff Act of 1984, amended by section 1614 of the Omnibus Trade and Competitiveness Act of 1988, established a separate Trade Remedy Assistance Office within the ITC to provide information to the public on remedies and benefits available under U.S. trade laws and on the procedures and filing dates for relief petitions.

Section 330(e)(2) of the Tariff Act of 1930 contains a 2-year authorization of appropriations for the ITC.

Private or Public Sector Advisory Committees

The first formal mechanism providing for ongoing advice from the private sector on international trade matters was authorized by section 135 of the Trade Act of 1974.[29] In view of the positive contribution of the advisory committees to the Tokyo Round of multilateral trade negotiations and to passage of the implementing legislation—the Trade Agreements Act of 1979—Congress provided for continuation of the advisory committee structure in section 1631 of the Omnibus Trade and Competitiveness Act of 1988. Congress also expanded the committees' responsibilities by authorizing them to provide advice on the priorities and direction of U.S. trade policy, in addition to their previous responsibilities.

The U.S. Trade Representative manages the advisory committees in cooperation with the Departments of Agriculture, Commerce, Labor, and other departments. The committee structure is three-tiered, with the most senior level represented by the Advisory Com-

[23] 19 U.S.C. 1484(e).
[24] 19 U.S.C. 1981, 2253.
[25] 19 U.S.C. 2151.
[26] 19 U.S.C. 2151, 2163.
[27] 19 U.S.C. 2251.
[28] 19 U.S.C. 2240, 2436.
[29] 19 U.S.C. 2155.

mittee for Trade Policy and Negotiations (ACTPN). The ACTPN is a 45-member body composed of presidential-appointed representatives of government, labor, industry, agriculture, small business, service industries, retailers, consumer interests, and the general public. The group provides overall guidance on trade policy matters, including trade agreements and negotiations, and is chaired by a chairman elected by the committee. The group convenes at the call of the U.S. Trade Representative.

The second tier is made up of policy advisory committees representing overall sectors of the economy (e.g., industry, agriculture, labor, services) whose role is to advise the government of the impact of various trade measures on their respective sectors.

The third tier is composed of sector advisory committees consisting of experts from various fields. Their role is to provide specific, technical information and advice on trade issues involving their particular sector. Members of the second and third tier are appointed by the U.S. Trade Representative and the Secretary of the relevant department or agency.

WTO Overview & Benefits of Globalization

May 4, 2000
11:00 am
USTR Annex, Rooms 1 and 2

Speakers

Ron Lorentzen, Deputy Assistant USTR for WTO and Multilateral Affairs
C. Fred Bergsten, Director of the Institute for International Economics
David Walters, Assistant USTR for Economic Affairs
Honorable Tidjane Thiam, Former Ivorian Minister of Planning
Minister of Lesotho to lead African response

PAPERS AND ATTACHMENTS

Paper 1:	WTO Issues *(English/French)*
Attachment A:	"The Agreements", Trading Into the Future, p. 15 *(English/French)*
Attachment B:	WTO Organization Chart *(French)*
Attachment C:	Excerpt from farewell statement by H.E. Mr Ali Mchumo Chairperson of the WTO General Council, 8th February, 2000
Paper 2:	"Role Of Trade In Development And The Implications Of Globalization For Africa" *(English/French)*
Attachment A:	Outline of opening remarks by Gary C. Hufbauer Reginald Jones Senior Fellow, Institute for International Economics Debate between Gary Hufbauer, Alan Tonelson and Lori Wallach moderated by Peter Morici at Columbia University, 9 February 2000
Attachment B:	"Uganda: Export Growth in the Context of Trade and Complementary Structural Reform" *(English/French)*
Attachment C:	"Making Trade Policy Work for Diversification"

SPEAKER BIOGRAPHIES

C. Fred Bergsten

C. Fred Bergsten has been Director of the International Institute for Economics since its creation in 1981. He was also Chairman of the Competitiveness Policy Council, which was created by Congress, throughout its existence from 1991 to 1995 and Chairman of the APEC Eminent Persons Group throughout its existence from 1993 to 1995. He was Assistant Secretary for International Affairs of the US Treasury (1977-81), Assistant for International Economic Affairs to the National Security Council (1969-71), and a Senior Fellow at the Brookings Institution (1972-76), the Carnegie Endowment for International Peace (1981), and the Council on Foreign Relations (1967-68). He is the author, coauthor, or editor of 27 books on a wide range of international economic issues, including Whither APEC? The Progress to date and Agenda for the Future (1997), Global Economic Leadership and the Group of Seven (1996), *The Dilemmas of the Dollar* (second edition, 1996), Reconcilable Differences? United States-Japan Economic Conflict with Marcus Noland (1993), *Pacific Dynamism and the International Economic System* with Marcus Noland (1993), America in the World Economy: A Strategy for the 1990s (1988).

Ronald K. Lorentzen

Ronald Lorentzen is the Deputy Assistant U.S. Trade Representative for WTO Rules. In this role, Mr. Lorentzen assists the Assistant U.S. Trade Representative for WTO and Multilateral Affairs in the overall coordination of the United States' participation in the work of the World Trade Organization. He has had a lead responsibility for U.S. preparations for and participation in the 1996, 1998 and 1999 WTO ministerial conferences, with special responsibility for certain WTO institutional and rules-related issues.

Mr. Lorentzen is chiefly responsible for the development and coordination of U.S. policy with respect to the trade-related aspects of competition policy and of government subsidies to industry and other industrial policy measures. He is the U.S. representative to the World Trade Organization (WTO) Committee on Subsidies and Countervailing Measures and contributes to U.S. policy development with respect to the use of trade remedy measures (e.g., antidumping, countervailing duty and safeguards measures) and the relationship of antitrust law, competition policy and anti-competitive measures and conduct to international trade. Mr. Lorentzen has participated for the United States in analytical work on the relationship between trade and competition policies in both the WTO and the Organization for Economic Cooperation and Development. Prior to 1999, he also served as the U.S. delegate to the Working Group on Subsidies, Antidumping and Countervailing Duties under the Free Trade Area of the Americas Initiative.

Before coming to USTR in April 1995, Mr. Lorentzen was a Commerce Science and Technology Fellow at the U.S. Department of Commerce's Office of Technology Policy, where he advised officials on the interaction and relationship between U.S. trade and technology policies and worked on several initiatives aimed at enhancing the international competitiveness of U.S. industry. Prior to that, he held several positions in the Commerce Department's International Trade Administration where he was a member of the U.S. negotiating teams to the GATT Uruguay Round negotiations on subsidies and on antidumping practices, and provided policy advice concerning the administration of the U.S. antidumping and countervailing duty laws.

Mr. Lorentzen holds a Bachelors of Arts degree in international relations from Bradley University, and a Masters degree in international studies from The Johns Hopkins University School of Advanced International Studies. A resident of Washington, DC, Mr. Lorentzen was raised in Ohio, Indiana and Illinois and spent several years of study in France and Italy before coming to Washington in 1978.

Tidjane Thiam

Tidjane Thiam began his career as an international consultant with McKinsey & Company. From 1986 to 1994 he worked successively in Paris, New York and several European Union countries. He has handled strategic planning, cross-border mergers and acquisitions and operational and financial restructuring for major international banking, pharmaceutical and manufacturing companies.

In 1994 Tidjane Thiam was called back to his country to become the first Ivorian Chief Executive Officer for the National Bureau for Technical Studies and Development (the "BNETD"). Attached to the Office of the President, the BNETD, created in 1978, is a consulting and engineering firm with 1300 employees and experts, which designs and implements investment projects totalling $700 million per annum in all the major sectors of the Ivorian economy. Tidjane Thiam significantly restructured the BNETD reducing its personnel by 30% to its current size and enabling it to provide its unique services to other African countries such as Tunisa, Benin and Guinea.

He designed and successfully implemented one of the most innovative and successful BOT programs in Africa. Projects realized as part of that program include the Abidjan Airport concession, the CIPREL Power Plant (210 MW), the Azito Power Plant (210 MW) (nominated by the Financial Times as one of the six boldest projects of 1999), and the Abidjan toll bridge. Through different initiatives Tidjan Thiam has been able to generate over $1 billion worth of foreign direct Investment (FDI) in infrastructure projects since 1995.

In 1998 Tidjane Thiam was selected to one of the annual 100 Global Leaders for Tomorrow by the World Economic Forum in Davos.

In August 1998 Tidajane Thaim was appointed Chairman of the BNETD and Minister of Planning and Development of Cote d'Ivoire, a position he held until December 1999. As such he was responsible for strategic planning and coordination of public investment in infrastructure and poverty alleviation. In recognition of his work Tidjane Thiam was named a member of the Davos World Economic Forum's annual 1999 Dream Cabinet. The Dream Cabinet is composed of a "selection politicians from across the that stand out as honest, effective leaders in the often muddied world of politics." [World Link *November/December 1999, page 14*]

Tidjane Thiam's private and public-sector work has provided him with extensive experience in most of the European Union countries, China, Japan, North and Central America and throughout Africa. He has been an invited speaker to numerous major international forums and contributed an article to **Newsweek's** special millennium edition called "Issues 2000."

In October 1999 James Wolfensohm, President of the World Bank, appointed Tidjane Thiam for a two-year term to the 20 member External Advisory Council of the World Bank Institute in Washington, DC.

Born on July 29, 1962 Tidjane Thiam holds engineering degrees from the *Ecole Polytechnique in Paris* and *Ecole Nationale Superieure des Mines de Paris,* the two top scientific universities in France, and an MBA from INSEAD, the top European business school. Tidjane Thiam is married and the father of two boys.

David A. Walters

David A. Walters is the Assistant United States Trade Representative for Economic Affairs and is the Chief Economist of the United States Trade Representative. In these positions, he is responsible for trade and related economic analysis. He has been at the Trade Representative's Office since 1979.

Mr. Walters was previously employed by the National Science Foundation in Washington, D.C. and the American Paper Institute in New York.

Mr. Walters holds degrees from Brown University, the Fletcher School of Law and Diplomacy and the Graduate Institute of International Studies in Geneva, Switzerland, where he taught economics. Born in Providence, Rhode Island, Mr. Walters is a Vietnam-era Army veteran.

Rosa M. Whitaker, Assistant USTR

Rosa Whitaker is the Assistant United States Trade Representative charged with overseeing U.S. trade relations with Africa. Her responsibilities include advancing the

President's Partnership for Economic Growth and Opportunity in Africa initiative, which serves to enhance U.S. economic engagement with the countries of sub-Saharan Africa and support the region's full integration into the international trading system. Her Office of African Affairs is responsible for a broad range of bilateral, regional and multinational initiatives to facilitate trade and investment between the United States and Africa, including measures to open markets and improve investment climates.

Prior to her current position, Ms. Whitaker was Senior Foreign Trade Advisor to Congressman Charles B. Rangel, the Ranking Democratic Member of the U.S. House of Representatives, Ways and Means Committee. In this capacity, Ms. Whitaker addressed numerous international trade issues, including those related to the World Trade Organization and the African Growth and Opportunity Act.

In her previous career as a U.S. Foreign Service Officer, Ms. Whitaker worked in the Department of State's International Energy Policy Office, where her wide-ranging responsibilities included support for worldwide energy infrastructure projects. Additional Foreign Service experience include work at the U.S. Embassy in Cote d'Ivoire, where she led negotiations finalizing the rescheduling of Cote d'Ivoire's official debt to the U.S. She also co-founded and managed the first U.S.-Africa Trade and Investment Conference within the Telecommunications sector. Ms. Whitaker holds a Bachelors and Masters Degree from American University in Washington, D.C.

WTO ISSUES

The present multilateral trading system originated as a response to the failed policies of autarky and protectionism that contributed to and exacerbated the great global depression of the 1930's. It was conceived at the 1947-48 UN Conference on Trade and Employment, which gave rise in 1948 to the General Agreement on Tariffs and Trade (GATT), a set of international trade rules. While not officially an international organization, the GATT provided a forum in which countries could reap the benefits of more liberalized trade, resolve trade disputes and negotiate further market-opening agreements.

The GATT's founders believed reopening world markets could rebuild a shattered world economy; restore economic health and raise living standards; and that over the long term, together with a strong and confident security policy, as open markets gave nations greater stakes in stability and prosperity beyond their borders, a fragile postwar peace would strengthen. This is indeed what happened. Through eight Rounds of negotiations, and as 112 new members joined the 23 GATT founders, we abandoned the closed markets of the Depression; and the results are clear. Those countries which participated most fully in the work have seen living standards rise and political tensions diminish.

At the conclusion of the Uruguay Round, the participants signed on April 15, 1994 in Marrakesh, Morocco, the "Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations." The Final Act incorporates approximately 60 legal texts, worked out in nearly eight years of intense multilateral negotiations -- agreements, annexes, decisions and understandings -- including: the Agreement Establishing the World Trade Organization, GATT 1994 (an updated GATT), additional agreements on aspects of goods trade and agreements on services, trade-related intellectual property rights and dispute settlement. These agreements entered into force and the WTO came into existence on January 1, 1995. (See attachments A and B for a fuller explanation of the WTO Agreements and organization chart of the WTO.)

The topmost decision making body in the WTO is the Ministerial Conference, which is required to meet at least once every two years and includes all of the Organization's members. In the interim, the General Council, which also includes representatives from each Member, meets several times a year at the Geneva headquarters. The first WTO ministerial conference was held in Singapore in December 1996, and the second ministerial was held in Geneva in May 1998. The third ministerial was held in Seattle in December 1999 with the aim of launching a new round of trade negotiations.

Negotiations on the built-in agenda, which began this year, and the continued discussions to launch a new round of global trade talks are leading issues on the WTO agenda.

Built-In Agenda

Embedded in the Uruguay Round agreements were provisions mandating future work - collectively known as the "built-in agenda." The built-in agenda includes a mandate for negotiations on agriculture (to continue "the process of substantial progressive reductions in support and protection") and services as well as further negotiations on government procurement. The built-in agenda also includes a reviews of a number of agreements such as those on Sanitary and Phytosanitary Measures (SPS), Technical Barriers to Trade, Trade-Related Aspects of Intellectual Property Rights, Trade-Related Investment Measures, as well as the Dispute Settlement Understanding and the Trade Policy Review Body. Dates for initiation of the reviews vary. Some reviews have already started. Others are not scheduled to start until 2001 or later.

Negotiations on agriculture began early this year. Member's first meeting on the new services negotiations took place in March 2000.

Additional Work Program

In addition to the built-in-agenda, WTO members agreed on an additional work program at the first two WTO ministerial conferences in 1996 and 1998. That program includes:

1) Negotiating an Information Technology Agreement (ITA);

The ITA covering 95 % of world trade in information technology products and signed by 43 WTO members entered into force on July 1, 1997. In most cases, tariffs will be eliminated on covered products by 2000. During 1998 and 1999, 44 WTO members participated in the negotiations for an ITA II designed to extend coverage more fully into information technology products such as computer-based scientific and analytical equipment and global positioning systems. These discussions continue.

2) Improving the integration of developing countries, especially the least developed, into the multilteral trading system and provision of technical assistance to the least-developed country members. A meeting on the integration of the least-developed countries took place in 1997. In 1999 the WTO held a Symposium on Trade and Development to address the development dimension of international trade issues and trade-related concerns of developing countries and to highlight the WTO's role in promoting the development objectives set forth in the Marrakesh Agreement.

(3) Establishing Working Groups to study:

a. *Trade and Competition policy.*

The Working Group has examined the relationship of trade and competition policy to development and economic growth and noted that competition policy plays an important role in preventing practices that hinder efficient functioning of markets and in attracting foreign investment. The Working Group also found that competition policy has formed an important component, along with trade liberalization, of development strategies.

b. *Trade and Investment.*

Another of the items under discussion is the relationship between trade and investment for development and economic growth. The WTO Secretariat has pointed out that countries with more liberal trade regimes attract greater inward foreign investment (FDI) which in turn leads to higher export growth.

c. *Transparency in government procurement*

In 1999 the working Group moved forward with the development of concrete provisions for potential international commitments to improve transparency in government procurement procedures. Experience demonstrates that everyone benefits from transparent procurement practices, government buyers, citizens who rely on public utilities and social services, taxpayers, and businesses. Some nations have reported savings of 40-50 percent by implementing these practices.

d. *Electronic commerce.*

The work program includes an examination of all trade-related issues relating to e-commerce, taking into account the economic, financial and development needs of developing countries. Rapid development of new technologies, including the Internet and electronic commerce, promises a vast increase in the efficiency and productivity of service industries in the years ahead, with opportunities to increase the potential of all economies to participate in world trade. Our goal is to ensure that the WTO plays a positive role in creating a liberalized global environment for electronic commerce – the condition that is essential for development.

QUESTIONS DE L'OMC

Le système commercial multilatéral actuel est né comme une réponse à l'échec des politiques d'autarcie et de protectionnisme qui ont contribué à et exacerbé la grande dépression générale des années 30. Il fut conçu à la Conférence sur le Commerce et l'Emploi des Nations Unies en 1947-48, qui donna naissance en 1948 à l'Accord Général sur les Tarifs douaniers et le Commerce (GATT), un ensemble de règles du commerce international. Bien que n'étant pas officiellement une organisation internationale, le GATT offrit un forum dans lequel les pays pouvaient recueillir les avantages d'un commerce plus libéralisé, résoudre les différends commerciaux et négocier de futurs accords d'ouverture du marché.

Les membres fondateurs du GATT pensaient que la réouverture des marchés mondiaux pourrait reconstruire un monde économique détraqué, restaurer la santé de l'économie et relever les niveaux de vie. Ils pensaient aussi qu'à long terme, allant de pair avec une politique de sécurité forte et sûre, et les marchés ouverts donnant aux pays de meilleurs jalons vers la prospérité et la stabilité par-delà leurs frontières, la paix fragile de l'après-guerre pourrait se trouver renforcée. Et c'est ce qui s'est passé. Au fil de huit cycles de négociations, et avec l'adhésion de 112 nouveaux membres venus se joindre aux 23 membres fondateurs, nous avons abandonné les marchés fermés de la Dépression et les résultats sont clairs. Ceux des pays qui ont participé le plus complètement au processus ont vu leurs niveaux de vie s'élever et les tensions politiques diminuer.

A la conclusion de l'Uruguay Round, les participants signèrent le 15 avril 1994 à Marrakech, au Maroc, «l'Acte Final renfermant les résultats de l'Uruguay Round des Négociations du Commerce Multilatéral ». L'Acte Final comprend environ 60 textes juridiques, élaborés sur près de huit ans d'intenses négociations multilatérales – accords, annexes, décisions et arrangements - comprenant: l'Accord instituant l'OMC, le GATT de 1994 (un GATT mis à jour), des accords supplémentaires sur des aspects du commerce des marchandises et des accords sur les services, des droits de propriété intellectuelle liée au commerce et règlement des différends. Ces accords sont entrés en vigueur et l'OMC a connu le jour le 1er janvier 1995 (Voir pièces jointes A et B pour une explication plus complète des Accords de l'OMC et de la charte d'organisation de l'OMC).

L'instance de prise de décision la plus élevée de l'OMC est la Conférence Ministérielle, qui doit se réunir au moins une fois tous les deux ans et comprend tous les membres de l'Organisation. Dans l'intervalle, le Conseil Général, qui comprend aussi des représentants de chaque pays membre, se réunit plusieurs fois par an à l'administration centrale à Genève. La première Conférence Ministérielle de l'OMC s'est tenue à Singapour en décembre 1996, et la seconde s'est tenue à Genève en mai 1998. La troisième Conférence Ministérielle s'est tenue à Seattle en décembre 1999 avec pour objectif de lancer un nouveau cycle de négociations commerciales.

Les négociations sur le calendrier programmé, qui ont commencé cette année, et les discussions soutenues pour lancer un nouveau cycle de pourparlers sur le commerce global sont des questions principales sur le calendrier de l'OMC.

Calendrier Programme

Intégrées aux accords de l'Uruguay Round, il y avait des dispositions prévoyant le travail futur – connues dans leur ensemble comme le «calendrier programmé ». Le calendrier programmé comprend des instructions pour des négociations sur l'agriculture (pour continuer «lee processus des réductions progressives substantielles des aides et de la protection ») et sur les services ainsi que d'autres négociations sur les acquisitions gouvernementales. Le calendrier programmé comprend aussi l'examen d'un certain nombre d'accords tels que les Mesures Sanitaires et Phytosanitaires (SPS), les Barrières Techniques du Commerce, les Aspects des Droits de Propriété Intellectuelle qui touchent au Commerce (ADPIC), les Mesures concernant les Investissements et liées au Commerce (MIC), ainsi que l'Organe de Règlement des Différends (ORD) et l'Organe d'Examen des Politiques Commerciales (OEPC). Les dates prévues pour commencer ces examens varient. Certains ont déjà commencé. Pour d'autres, il n'est pas prévu de commencer avant 2001 ou plus tard.

Les négociations sur l'agriculture et les services ont commencé tôt cette année.

Programme De Travail Additionnel

En plus du calendrier programmé, les membres de l'OMC, lors des deux premières conférences ministérielles de l'OMC en 1996 et 1998, se sont entendus sur un programme de travail additionnel. Ce programme comprend:

(1) La négociation d'un Accord sur la Technologie de l'Information (ATI)

L'ATI, couvrant 95% du commerce mondial des produits de technologie de l'information et signé par 43 membres de l'OMC, est entré en vigueur le 1er juillet 1997. Dans la plupart des cas, les tarifs douaniers sur les produits couverts seront éliminés d'ici la fin de l'an 2000. Au cours des années 1998 et 1999, 44 membres de l'OMC ont participé aux négociations pour un ATI II conçu pour étendre la couverture plus complètement à des produits de technologie de l'information tels que l'équipement analytique et scientifique informatisé et les systèmes de mise en place globale. Ces discussions continuent.

(2) L'amélioration de l'intégration des pays en développement, spécialement les moins développés, dans le système commercial multilatéral par une assistance technique aux pays membres les moins développés.

Une réunion sur l'intégration des pays les moins développés a eu lieu en 1997. En 1999, l'OMC a tenu un Symposium sur le Commerce et le Développement pour aborder la dimension de développement des questions de commerce international

ainsi que les inquiétudes liées au commerce des pays en développement, et pour mettre en lumière le rôle de l'OMC dans la promotion d'objectifs de développement mis en avant dans l'Accord de Marrakech.

(3) La mise en place de Groupes de Travail pour étudier :

a. Le commerce et la politique de concurrence.

Le Groupe de Travail a examiné la relation entre la politique commerciale et de concurrence d'une part et la croissance économique et le développement d'autre part. Il a constaté que la politique de concurrence joue un rôle important pour empêcher des pratiques qui font obstacle au fonctionnement efficace des marchés et aux investissements étrangers. Le Groupe de Travail a aussi constaté que la politique de concurrence a constitué une composante importante, avec la libéralisation du commerce, des stratégies de développement.

b. Le commerce et l'investissement.

Un autre des sujets en discussion est la relation entre le commerce et l'investissement pour la croissance économique et le développement. Le Secrétariat de l'OMC a fait remarquer que les pays ayant des régimes commerciaux plus libéraux attirent des flux d'investissement étranger (FDI) plus importants, ce qui à son tour amène à une croissance de l'exportation plus élevée.

c. La transparence des acquisitions gouvernementales.

En 1999 le Groupe de Travail a avancé avec le développement de dispositions concrètes pour des engagement internationaux potentiels à améliorer la transparence des procédures d'acquisition gouvernementale. L'expérience démontre que tout le monde tire avantage de pratiques d'acquisition transparentes, les acheteurs gouvernementaux, les citoyens qui dépendent des services publics et des services sociaux, les contribuables et les entreprises. Certains pays ont signalé des économies de 40 à 50% suite à la mise en œuvre de ces pratiques.

d. Le commerce électronique.

Le programme de travail comprend un examen de toutes les questions liées au commerce dans le domaine du commerce électronique, en tenant compte des besoins économiques, financiers et de développement des pays en développement. Le développement rapide de nouvelles technologies, en particulier Internet et le commerce électronique, promet une croissance importante de l'efficacité et de la productivité des industries de service dans les années à venir, avec des opportunités d'accroître le potentiel de toutes les économies à participer au commerce mondial. Notre objectif est de garantir que l'OMC joue un rôle positif dans la création d'un environnement global libéralisé pour le commerce électronique, condition qui est essentielle pour le développement.

Reforme Institutionnelle

Le fait que l'OMC fasse de plus en plus l'objet de l'attention du public et de ses critiques, comme tout récemment à Seattle, a développé la conscience à l'intérieur de l'OMC d'un besoin d'une ouverture et d'une transparence plus grandes dans le processus de décision de l'organisation et dans les procédures de règlement des différends.

Des discussions sont en cours sur de possibles réformes qui renforceront l'interaction de l'OMC avec le public dans le monde entier sans saper sa capacité effective à négocier des accords commerciaux et à régler des différends parmi ses membres ni sans affaiblir le caractère gouvernement à gouvernement de l'OMC. Des propositions sont actuellement à l'étude par des pays membres concernant des procédures pour la circulation et la diffusion de documents de telle sorte que l'information sur le travail de l'OMC parvienne au public de façon opportune. Quelques changements importants ont déjà été faits. L'OMC a un site Internet et sollicite les points de vue de la communauté non gouvernementale par le biais de symposia et d'autres façons. Toutes les Conférences Ministérielles de l'OMC qui se sont tenues jusqu'ici – à Singapour, Genève et Seattle - l'ont été avec la participation des ONG.

Un autre domaine reconnu comme ayant besoin d'être amélioré est celui de la transparence interne de l'OMC. Au cours des 15 dernières années, le nombre de membres a plus que doublé. Le nombre croissant et la diversité des membres a ajouté à la complexité des négociations. Le Secrétariat de l'OMC en délibération avec des membres de l'OMC est en train d'étudier la meilleure façon d'améliorer simultanément la prise en compte de tous et l'efficacité de la prise de décision, sans s'écarter du principe de consensus de la prise de décision. Un principe conducteur dans ces discussions est le besoin de garantir une participation plus grande des pays en développement. Pour ce faire, une assistance technique accrue est un outil.

Nouvelles Questions

Le calendrier du commerce international n'a cessé d'évoluer depuis que le GATT a été fondé en 1948. L'OMC, par exemple, a besoin d'en faire davantage pour la reconnaissance des relations qui existent entre le commerce et l'environnement d'une part, et entre le commerce et les droits fondamentaux du travail. Un comité sur le Commerce et l'Environnement a été institué à la naissance de l'OMC :

> pour identifier les relations entre les mesures commerciales et les mesures de l'environnement, afin de promouvoir un développement durable et pour faire les recommandations appropriées afin de savoir si des modifications des dispositions du système de commerce multilatéral sont nécessaires, qui soient compatibles avec la nature ouverte, équitable et non discriminatoire du système.

De la même façon, des membres étudient comment ils peuvent travailler dans l'OMC sur les relations entre le commerce et les standards centraux du travail. A la première Conférence Ministérielle de l'OMC à Singapour en 1996, les ministres du commerce se sont engagés à observer les standards centraux du travail et à encourager une collaboration suivie entre l'OMC et l'OIT.

Adhesions

Les adhésions à l'OMC ne cessent d'augmenter. L'OMC a 136 membres car 10 nouveaux membres ont adhéré depuis le début de l'année 1995. L'OMC est en train d'examiner l'adhésion de 30 pays. Chaque nouveau membre signifie une libéralisation accrue du commerce global et accroît aussi la complexité des négociations futures et le fonctionnement de l'organisation, comme évoqué plus haut.

Chapter 2

The Agreements

In a nutshell

The basic structure of the WTO Agreements

	Goods	Services	Intellectual property	Disputes
Basic principles	GATT	GATS	TRIPS	Dispute settlement
Additional details	Other goods agreements and annexes	Services annexes		
Market access commitments	Countries' schedules of commitments	Countries' schedules of commitments (and MFN exemptions)		

1. Overview: a navigational guide

The WTO Agreements cover goods, services and intellectual property. They spell out the principles of liberalization, and the permitted exceptions. They include individual countries' commitments to lower customs tariffs and other trade barriers, and to open and keep open services markets. They set procedures for settling disputes. They prescribe special treatment for developing countries. They require governments to make their trade policies transparent by notifying the WTO about laws in force and measures adopted, and through regular reports by the secretariat on countries' trade policies.

The table of contents of "The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts" is a daunting list of about 60 agreements, annexes, decisions and understandings. In fact, the agreements fall into a simple structure.

Three-part broad outline

The agreements for the two largest areas of trade — goods and services — share a common three-part outline, even though the detail is sometimes quite different.

- They start with broad principles: the General Agreement on Tariffs and Trade (GATT) (for goods), and the General Agreement on Trade in Services (GATS). (The agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) also falls into this category although at present it has no additional parts.)
- Then come extra agreements and annexes dealing with the special requirements of specific sectors or issues.
- Finally, there are the detailed and lengthy schedules (or lists) of commitments made by individual countries allowing specific foreign products or service-providers access to their markets. For GATT, these take the form of binding commitments on tariffs for goods in general, and combinations of tariffs and quotas for some agricultural goods. For GATS, the commitments state how much access foreign service providers are allowed for specific sectors, and they include lists of types of services where individual countries say they are not applying the "most-favoured-nation" principle of non-discrimination.

Much of the Uruguay Round dealt with the first two parts: general principles and principles for specific sectors. At the same time, market access negotiations were possible for industrial goods. Once the principles had been worked out, negotiations could proceed on the commitments for sectors such as agriculture and services. Negotiations after the Uruguay Round have focused largely on market access commitments: financial services, basic telecommunications, and maritime transportation (under GATS), and information technology (under GATT).

The 'additional details'

These agreements and annexes deal with the following specific sectors or issues:

For goods (under GATT)

- Agriculture
- Health regulations for farm products (SPS)
- Textiles and clothing
- Product standards (TBT)
- Investment measures
- Anti-dumping measures
- Customs valuation methods
- Preshipment inspection
- Rules of origin
- Import licensing
- Subsidies and counter-measures
- Safeguards

For services (the GATS annexes)

- Movement of natural persons
- Air transport
- Financial services
- Shipping
- Telecommunications

Additional agreements

Two other groups of agreements not included in the diagram are also important: the agreement on trade policy reviews, and the two "plurilateral" agreements not signed by all members: civil aircraft and government procurement.

Chapitre 2
Les Accords

1. Aperçu général: un guide pour la navigation

Les accords de l OMC régissent les marchandises, les services et la propriété intellectuelle. Ils énoncent les principes de la libéralisation et les exceptions autorisées. Ils reproduisent les engagements pris par chaque pays pour réduire les droits de douane et d áutres obstacles au commerce, et pour ouvrir et maintenir ouverts les marchés de services. Ils définissent les procédures de règlement des différends. Ils prévoient un traitement spécial en faveur des pays en développement. Ils font obligation aux gouvernements d ássurer la transparence de leur politique commerciale en notifiant à l OMC les lois en vigueur et les mesures adoptées, parallèlement aux rapports périodiques établis par le Secrétariat au sujet des politiques commerciales des pays.

En bref

La structure de base des accords d l OMC

	Marchandises	Services	Propriété intellectuelle	Différends
Principes fondamentaux	**GATT**	**AGCS**	**ADPIC**	**Règlement des différends**
Détails additionnels	Autres accords et annexes concernant les marchandises	Annexes relatives aux services		
Engagements en matière d áccès aux marchés	Listes d éngagements des pays	Listes d éngagements des pays (et les exemptions de l óbligation NPF)		

La table des matières de l óuvrage intitulé « Résultats des Négociations commerciales multilatérales du Cycle d Uruguay — textes juridiques » est une liste impressionnante de quelque 60 accords, annexes, décisions et mémorandums d áccord. En fait, les accords sont établis suivant une structure simple.

Un schéma ternaire

Les accords régissant les deux principaux domaines d échange — marchandises et services — sont établis suivant le même schéma ternaire, malgré des différences parfois notables sur les points de détail.

- Ils commencent par énoncer des principes généraux: l Accord général sur les tarifs douaniers et le commerce (GATT) (pour les marchandises) et l Accord général sur le commerce des services (AGCS). Il en est de même pour l Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC), lequel ne comporte cependant, pour l ínstant aucune partie additionnelle.

Les accords « complémentaires »

Ces accords et annexes régissent les questions suivantes:

Sur les marchandises (rattachés au GATT)		Sur les services (Les annexes de l'AGCS)
Agriculture	Mesures antidumping	Mouvement de personnes physiques
Réglementations sanitaires concernant les produits agricoles (SPS)	Méthodes d'évaluation en douane	Transport aérien
Textiles et vêtements	Inspection avant expédition	Services financiers
Normes de produit	Règles d'origine	Transport maritime
Mesures concernant les investissements	Licences d'importation	Télécommunications
	Subventions et mesures compensatoires	
	Sauvegardes	

- Viennent ensuite les accords complémentaires et annexes contenant des prescriptions spéciales relatives à des secteurs ou questions spécifiques.
- Enfin, il y a les listes, longues et détaillées, des engagements contractés par chaque pays pour permettre à des fournisseurs étrangers de marchandises ou de services d'accéder à son marché. Les listes annexées au GATT contiennent des engagements contraignants concernant les droits de douane pour les marchandises d'une manière générale et combinant droits de douane et contingents pour certains produits agricoles. Dans les listes annexées à l'AGCS, les engagements indiquent le degré d'accès accordé aux fournisseurs étrangers de services dans des secteurs spécifiques ainsi que les types de services pour lesquels le pays concerné fait savoir qu'il n'applique pas le principe de la non-discrimination qui est la clause de la « nation la plus favorisée ».

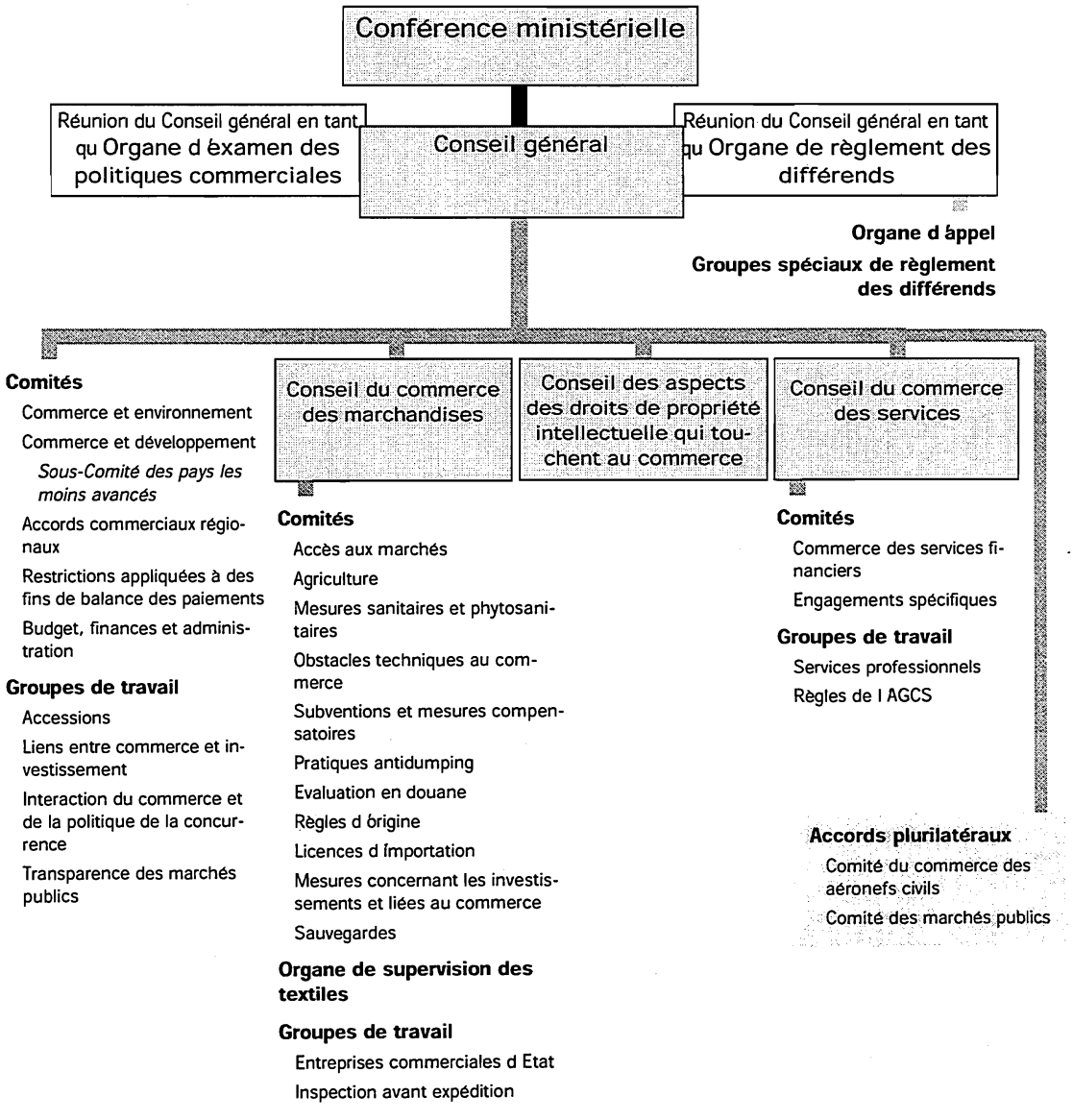
Les négociations du Cycle d'Uruguay ont été surtout axées sur les deux premières parties: principes généraux et principes applicables à des secteurs spécifiques. En même temps, les participants pouvaient négocier sur l'accès aux marchés pour les produits industriels. Une fois les principes établis, les négociations ont pu se poursuivre sur les engagements concernant des secteurs tels que l'agriculture et les services. Les négociations postérieures au Cycle d'Uruguay ont porté essentiellement sur les engagements en matière d'accès aux marchés: services financiers, télécommunications de base, et transport maritime (dans le cadre de l'AGCS), et technologies de l'information (dans le cadre du GATT).

Accords additionnels

Il faut aussi mentionner deux autres catégories d'instruments importantes qui ne sont pas indiquées dans le diagramme: le texte relatif au Mécanisme d'examen des politiques commerciales et les quatre accords « plurilatéraux » qui ne sont pas signés par la totalité des membres (aéronefs civils, et marchés publics).

Structure de l OMC

Tous les membres de l OMC peuvent participer à tous les conseils, comités, etc., à l éxception de l Organe d ápel, des groupes spéciaux de règlement des différends, de l Organe de supervision des textiles et des comités et conseils établis en vertu des Accords plurilatéraux.



Légende

Présentation de rapports au Conseil général (ou à un organe subsidiaire)

Présentation de rapports à l Organe de règlement des différends

Les comités établis en vertu des accords plurilatéraux informent le Conseil général de leurs activités, bien que ces accords n áient pas été signés par tous les membres de l OMC

Le Conseil général se réunit également en tant qu Organe d éxamen des politiques commerciales et Organe de règlement des différends

WTO ISSUES: ATTACHMENT C

From Farewell statement
by **H.E. Mr Ali Mchumo**
Chairperson of the WTO General Council
8th February, 2000

From the process of appointing a new Director General and from the experience of preparing for the Third Ministerial Conference and what subsequently happened at Seattle, important lessons can be drawn out and these lessons have to constitute an important agenda on the future of our Organisation and how it transacts its functions and business. Indeed we have already concluded that the system of appointing the Director General is archaic and unsatisfactory and that a new method must be instituted by September 2000. This is an important matter and I believe that my successor will lead us through the necessary consultations to a more acceptable and transparent system of appointing a Director General as well as a more balanced system of appointing Deputy Directors-General. On the broader concern of how best to manage the world trading system in the light of the present configuration of its membership reflecting various levels of development and a wide geographical variation, Seattle has provided a wake up call for all of us to reflect and re-examine how we need to evolve a more inclusive and participatory system of decision making even when consensus remains the basic principle of decision making. Indeed, the institutional reforms that need to be made to the multilateral trading system is one of the major concerns that will be addressed in the consultations that we have agreed to undertake in the immediate future.

The lessons of Seattle

Without prejudging the details of those consultations aimed at improving the management and operation of the world trading system, let me take the liberty to highlight what I consider to be among the most crucial elements to be taken into account. Firstly, in the forthcoming consultations we need to reflect more carefully how to ensure that the principle of consensus which remains non-negotiable, continues to be an asset rather than a liability in ensuring efficient and fair decision making. It has to be recognised that while consensus is the best device to ensure the balance of interests of all members since it is a guarantee against the so-called "tyranny of the majority" and "the bullying by the powerful", we need to devise rules or provide creative interpretation of the existing rules so that, the WTO does not suffer from the image of being an organisation incapable of making decisions. I am far from suggesting that we should discard the principle of consensus in decision making since, like democracy, consensus is the least unsatisfactory method of ensuring balanced interests of all. What I am suggesting is that while we uphold the principle of consensus in decision making, let us think of how we can strike a balance between fairness and efficiency in our decision making so that consensus is not an excuse for indecisiveness or perpetuation of the vested interests of the few.

Secondly, and related to the first concern raised above, we need to address the perennial problem of how to ensure in the decision making process of the WTO the right balance between transparency, democracy, inclusiveness and representativity among the entire membership of the organisation on the one hand ***and*** efficiency in reaching an agreement on the other. Indeed this question came up very frequently as we were preparing for Seattle and it came out again more forcefully at the end of the Seattle Ministerial Conference. Clearly, as confirmed by the concluding remarks of the Chairperson of the Seattle Ministerial Conference, the traditional "green rooms" seem to be unsatisfactory, and the question now is what version of representativity is acceptable, whether a system of "core group — open ended consultations" is feasible or perhaps a blend of such open ended consultations and an improved and a "representative green room" could do the trick. There is no easy answer to this problem but certainly it is an issue that needs our immediate attention if we are to restore the credibility to our Organisation.

Thirdly, whatever institutional reforms are made in the WTO, the basic premise of the Organisation as a member-driven organisation must be preserved and in practical terms the primacy of the General Council as a body representing all members must be recognised vis-à-vis the Secretariat which is supposed to service the Membership, and by the same token the institutional role the Chairman of the General Council must be respected without compromising or minimising the role of the Director General as head of the Secretariat.

LDCs and Africa

Let me make my final observation, and this is on the notion of making developing countries and especially LDCs (least-developed countries) and Africa feel a true sense of belonging to the World Trade Organisation and here I think I can be excused if I now speak as an African coming from a least developed country. On this I can only repeat what I said on 16 February 1998 when I was assuming the Chairmanship, and this is what I said, if I may quote myself:

> "Indeed, by this act (i.e. of electing me as Chairman of the General Council) you are sending the correct signals to the international trading community and to those interested in the multilateral trading system that this Organisation, the World Trade Organisation, belongs to all of us, the largest and the smallest Members, the most developed countries and the least developed countries ... Certainly, the equality of ownership of the WTO must of necessity be manifested in the equality of participation in the affairs of the Organization, including taking up leadership positions in its various bodies. Of course what remains yet to be achieved is the more meaningful equality and inclusiveness whereby all countries will equally benefit from the multilateral trading system and ... that must remain our main objective as we strengthen and perfect the multilateral trading system as we enter the next millennium we are about to start".

I said this a year ago before the new millennium had started and this concern I expressed then, remains as valid today as it was twelve months ago. What this means is that the sense of belonging and involvement that is necessary to stem the tide of further marginalization of Africa and LDCs can only be meaningful and genuine if the developed countries put their resources where their mouths are, as they are clearly

committed to do, and if this involvement for the LDCs and Africa can go beyond mere tokenism.

Among other things, this requires a fundamental cultural and perceptive change in the mindset of all concerned including members of the Secretariat so that a more positive and sympathetic orientation towards LDCs and Africa can be engendered. It is for this reason that it is important that technical assistance be given more generously and the Special and differential treatment provisions in favour of developing and least developed countries in the Uruguay Round Agreements be fully operationalized in the letter and spirit, and that is why it is important also that the decisions of the High Level Meeting on the Integrated Framework for LDCs be implemented. The efforts to transform the Secretariat so that it reflects the composition of the WTO's membership is commendable and Director General Mike Moore is to be congratulated and commended for appointing the first Deputy Director General from Africa and from an LDC, but we expect this appointment to be the beginning of a more serious effort to make the contribution and role of Africa and LDCs in the WTO to be more meaningful and again to go beyond mere tokenism. I am glad to note that during my Chairmanship, Members have clearly shown their serious commitment to ensuring that the WTO truly belongs to us all, LDCs and Africa included and I expect that spirit and commitment to continue in future in greater earnest.

Finally ...

Finally, let me end as I began, by thanking you all once again for giving me the opportunity to serve you and serve our Organisation for the past one year and thank you for your support throughout the difficult year. It was an honour for me personally, an honour for my country Tanzania and an honour for my Continent. I can certainly look back with pride what we, through the General Council, have been able to achieve together, such as the accession to the WTO of three more countries (Estonia, Georgia and Jordan) and the commencement of negotiations for accession of three new applicants, Bosnia and Herzegonia, Bhutan and Lebanon; overseeing the implementation of the Work Programme on Electronic Commerce, and steps towards the promotion of the institutional image of the WTO these are among the accomplishments of the past year.

At the same time, I regret that there is a lot of work that we were not able to finish and which I trust my successor will carry forward to completion. One such unfinished work is the conclusion on the long standing question regarding observer status for international organisations. I do hope that this issue will be finalised as soon as possible so that it can enhance efforts to provide more transparency to our Organisation. Of course the biggest disappointment is that we were not able to conclude the Third Ministerial Conference at Seattle and so we were unable to launch the expected multilateral trade negotiations at the beginning of this Millennium and during my Chairmanship as we had expected. However, I do leave the Chair with the optimism that my successor will be able to lead us to the day we shall see the launching of the new trade negotiations which would happen sooner than later.

ROLE OF TRADE IN DEVELOPMENT AND THE IMPLICATIONS OF GLOBALIZATION FOR AFRICA

This paper seeks to address the questions: "What role can trade policies play in fostering sustainable economic development?" and "What are the implications of the phenomenon known as globalization and are they positive or negative for Africa?" The positive link between expanding international trade and increased economic growth and development is even stronger in a globalized world than in one where national markets are more isolated. As a consequence, while neither side has all the answers, both developed and developing country governments have an even greater incentive to work together to open markets and expand trade as a means to foster broad sustainable and rapid economic growth that benefits all of their citizens.

Trade and Development

For a number of years most economists have agreed that open economies grow faster than closed ones. The poor countries that have done best in the last half of the twentieth century were countries that have progressively opened their economy to international trade and investment. In addition, policies that foster macroeconomic stability, private markets and openness are the best foundation for success in the near term.[1]

African countries in particular have suffered from the consequences of closed regimes with restrictive trade and investment policies. Economists often note that Africa's share of world trade over the last 30 years has declined and that if it had maintained the share of world trade it had in the 1960's, its exports and income would be some $70 billion higher.[2] The link between open trade policies and its implications for stronger economic growth for African countries is well documented in papers published by the World Bank, the African Economic Research Consortium in Nairobi and the Center for International Development at Harvard University. Many of these papers can be found on the websites of these organizations.[3] One of the earliest papers and most frequently cited papers was a study in 1996 by Yeats and Ng that showed that restrictive trade policies were costing

[1] Speech by Gary C. Hufbauer, "Global Trade: Has the WTO Lost Its Way?" February 9, 2000 (Attachment A)

[2] See chapter VII: "Diversifying Exports, Reorienting Trade Policy and Pursuing Regional Integration" from the World Bank report "Can AfricaClaim the 21st Century" (World Bank, 2000)
Page 1 of chapter VII of draft World Bank paper. Chap VII is entitled: "Diversifying Exports, Reorienting Trade Policy and Pursuing Regional Integration"

[3] For the World Bank Trade & Development Centre see http://www.itd.org/websites, for the African Economic Research Consortium see http://www.aercafrica.org/structure/funders.html, and for the Center for International Development at Harvard http://www.cid.harvard.edu/cidtrade/.

African countries eleven billion dollars a year in lost exports, the equivalent to the amount received in technical assistance in 1991.[4] In particular, they showed that African trade restrictions and domestic policies created a bias in African countries against exports that led to the decline in Africa's share of global exports from 3.1 percent in the 1950's to 1.2 percent in 1990 and prevented the continent from achieving higher growth rates.

Open economies can be characterized as ones where trade policy reforms have resulted in: (a) lower tariffs, the reduction of quotas and other non-tariff barriers on goods and the reduction of barriers to services trade, (b) the elimination of corruption and arbitrary administration of trade rules, and (c) increased democracy that leads to long term political stability and transparency, accountability and participation.

Fortunately, a number of African countries in recent years have pursued political and economic reform programs that have resulted in stronger growth. One of the consequences of this increased economic growth in Africa is increased production of goods and services that can be traded on world markets. In short, African exports have begun to recover. Among the countries most frequently cited as having pursued open trade policies that have led to stronger economic growth and strong export performance is Mauritius. Mauritius has been particularly successful in using export-processing zones to expand manufactured exports.[5] Uganda has also been frequently cited as a success story. A recent World Bank study describes how Uganda's exports grew 23 percent a year in value and 16 percent a year in volume during the period 1993 to 1997 and GDP grew seven percent a year (see attachment B). In addition, the reforms permitted Uganda to diversify its exports as non-traditional exports grew 32 percent a year on a volume basis.

The contribution that sound trade policy reforms can make to development must be placed in the broader context of a comprehensive approach to overall development goals and poverty reduction strategies. Policy makers must pay specific attention to investments in the necessary infrastructure and human capital development that will enhance the payoff from trade liberalization.[6] The importance of looking at growth in a broader context is also supported by a recent study from the Economic Commission on Africa which shows that the African countries which performed best economically

[4] "Open Economies Work Better! Did Africa's Protectionist Policies Cause Its Marginalization in World Trade?" by Francis Ng and Alexander Yeats, World Bank Policy Research Working Paper 1636, August 1996.

[5] "Markets and Market Access for African Exports: Past, Present and Future Directions" by Richard Blackhurst and William Lyakurwa, for AERC Project: Africa and the World Trading System, Sept. 1998

[6] See page 7 of World Bank paper on "Trade, Development and Property Reduction" of March 31, 2000: A strategy for trade expansion, properly defined, needs to embrace a far broader set of country-level initiatives, framed within an appropriate macroeconomic incentive environment and a comprehensive approach to overall development goals and poverty reduction strategies. Specifically, attention needs to be paid to investments in the necessary infrastructure and human capital development that enhance the payoff to developing countries from trade liberalization. Complementary institutional reform efforts and improvements in the legal environment that increase investor confidence are also critical for trade liberalization to serve as an engine of growth.

benefited from the cessation of civil wars, greater stability, economic and political reforms while the worst performers suffered from civil wars and unrest.[7]

Globalization

The term "globalization" is most often used to described the world economy and, in particular, to describe the phenomenon of the world behaving as if it were part of a single market, with interdependent production, and individuals in different countries consuming similar goods and responding to the same impulses. The results of globalization are often seen in a growth of world trade as a proportion of world output and an explosion in foreign direct investment, and in national capital markets becoming increasing integrated. The causes of globalization are generally considered to be technological. In short, the growth of modern telecommunication and other information technologies, which allow people to communicate more quickly and cheaply, have made globalization possible.[8] These technologies have had an even greater impact than the advances in modern transportation technologies that have allowed goods to move around the world cheaply and quickly.

Technology alone does not explain the globalization phenomenon. Multilateral trade agreements such as the GATT and WTO, regional economic integrations efforts and government privatization and economic and political reform programs have contributed to a progressive lowering of barriers to the free movement of capital, goods, people and services over the last half of the twentieth century. Without this favorable environment, the technological advances of modern communications could not have spread and led to the creation of a global market.

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[7] K.Y. Amoako, Executive Secretary of ECA in a March 6, 2000 speech to the OAU Council of Ministers stated:

> Overall, the analysis shows that there has been an improvement in Africa's economic sustainability. Our analysis covered 33 countries. Among them, 26 countries registered positive changes, while seven experienced substantial decline. It is notable that, among the countries that showed improvement, examples can be found of countries of all sizes, regions, and levels of development, showing that the potential exists for *all* countries to make progress towards a more sustainable future.
>
> Another key finding is that most of the best performers benefited from the cessation of civil wars, greater stability, and economic and political reforms. Conversely, almost all the bad performers suffered from serious civil conflict and unrest during the period under consideration. This suggests that peace, stability and deepening political and economic reforms are necessary conditions for Africa's development during the 21st century- a finding that reinforces the conclusions that I shared with you from our initial analysis when we last met.

[8] John Williamson

Globalization is now a fact of life and the question is how can countries most benefit from it. Based on the experience of other developing countries the answer seems to be that the countries that compete best in a globalized economy benefit the most. As noted above, sound trade policies and trade liberalization in Africa can produce results that enable African countries to export more and grow faster. These same policies should also enable Africa to better compete in a global economy and to take advantage of the opportunities and choices globalization makes available.

On the other hand, attempting to stop or undo the globalization phenomenon by closing one market is dangerous. President Clinton recently set forth why such a course is not in the interest of developed or developing countries:

> Those who wish to roll back the forces of globalization because they fear its disruptive consequences I believe are plainly wrong. Fifty years of experience shows that greater economic integration and political cooperation are positive forces. Those who believe globalization is only about market economics, however, are wrong, too.
>
> Certainly, many of the people who have questioned the wisdom of open trade are genuinely concerned about the fate of the poor and the disadvantaged, and well they should be. But they should ask themselves, what will happen to a Bangladeshi textile worker or a migrant from the Mexican countryside without the prospect of jobs and industry that can sell to foreign, as well as domestic, consumers? What happens to farmers in Uruguay or Zimbabwe, in Australia, Europe, the United States, if protectionism makes it impossible to market products beyond their borders?[9]

Implications for Africa

A number of economists have moved beyond the question of what is the link between trade and development to address the more difficult questions of what specific liberal trade policies, when accompanied by complementary measures, will most contribute to African economic development and its ability to compete in a global economy. Their work to date suggests that policies that foster regional economic integration, that lock in political and economic reform measures and encourage diversification in exports are most likely to promote the economic growth Africa needs (see attachment C). What is important for trade policy officials is that increased participation in the WTO can help countries to pursue the policies that lead to strong growth.

Increasing exports yields benefits that will help African countries compete in a globalized world economy. African exporting firms tend to be more productive than non-exporters.

[9] Speech at World Economic Forum in Davos, January 29, 2000

African exporting firms contribute more to the national economy than non-exporting firms in a number of additional ways; they tend to have three times as many employees, receive more foreign investment, hold twice as many foreign licenses and acquire three times as many technical assistance contracts. What is probably most important is that exporting firms tend to become more efficient over time.[10] In short, the best way to become competitive in the global economy is to participate in the global economy.

Whether African countries will grow most by increasing traditional exports or increasing non-traditional exports can be debated. However, many of the impediments to both are the same and need to be addressed. In the broader context the impediments include policy distortions such as those associated with uncompetitive or unstable exchange rates, poor infrastructure services and high cost of trade transactions due to such problems as corruption. In the trade policy area, one economist has noted the following:

> Extremists aside, there is actually a fair bit of consensus on what constitutes a reasonable trade strategy for countries of Africa. The consensus can be crudely expressed in terms of a number of do's and don'ts: de-monopolize trade; streamline the import regime, reduce red tape and implement transparent customs procedures; replace quantitative restrictions with tariffs; avoid extreme variation in tariff rates and excessively high rates of effective protection; allow exporters duty-free access to imported inputs; refrain from large doses of anti-export bias; do not tax exports too highly.[11]

As noted above, many African countries have taken some of the foregoing steps in the context of economic and trade policy reform programs. They must match their domestic efforts with actions in the WTO if they are going to reap the full benefits of these programs.

The benefits of trade policy and other economic reforms are less likely to result in increased exports if the private sector does not respond to them. Because reforms can always be undone, countries have to take steps to assure their private sector and foreign investors that they are lasting. This issue of credibility can best be addressed by "locking in" reforms through binding commitments in the WTO.[12] At the same time getting neighbors to lock in reforms that they have undertaken provides assurance their markets will remain open. Increased and effective participation in the WTO is therefore an important strategy for enhancing a country's ability to compete in a global society.

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[10] See chapter VII: "Diversifying Exports, Reorienting Trade Policy and Pursuing Regional Integration" cited above which reports on World Bank studies of manufacturing firms in Cameroon, Ghana, Kenya, and Zimbabwe on "Exports and Firm-level Efficiency in African Manufacturing Sector by Anne Bigsten (1998) and T. Mengistae and C. Pattillo on "Foreign Trade and Productivity in Africa" (1999).

[11] Rodrik, Dani. 1997. "Trade Policy and Economic Performance in Sub-Saharan Africa." Harvard University. as cited in Chap VII of "Can Africa Claim 21st Century " above.

[12] Chapter VII cited above

The importance of African regional economic (and political) integration is widely accepted as one author notes, but the difficult question is "how regionalism can help achieve Africa's development goals in a globalized economy" given some of the impediments that have hampered regional integration efforts to date. Part of the answer lies in pursing regional coordination and cooperation as well as negotiations on removing trade barriers. The other part of the answer lies in pursuing liberalization in the context of the WTO in areas that are important for development and have the potential to strengthen the regional infrastructure. Such areas include telecommunications and financial services, customs valuation, intellectual property protection and tariff liberalization to name a few.

Not only are countries that are successfully pursuing such policies growing more rapidly, some are now investing in other African countries and contributing to their economic growth and development. The contribution more advanced developing countries in Africa are making to the development of less advanced ones is a benefit of globalization that was probably not anticipated and is still under-appreciated. In Mauritius, apparel manufacturing firms have started investing in Madagascar and Mozambique as labor costs rose and workers in Mauritius moved into more capital-intensive and skill-intensive operations. Mauritius is following a pattern first noted in Asia -- where Hong Kong needed China to grow -- and has come to be called the "flying geese" pattern of development. Other African countries are prime to benefit from increased investment from more advanced African countries. In Kenya for example a recent study has shown that, as labor productivity in multinational firms is comparable to that in non-African countries while wages are lower, Kenyan products should be more competitive on world markets.

In conclusion, while globalization is very much a hot topic, increased African economic development and growth depends on African countries participating more fully in a trend that has been unfolding for over 50 years. The steady opening of world markets that began with the founding of the GATT has led to a fifteen-fold expansion in world trade and six-fold growth in the world economy and nearly tripling of per capital income. As a result, hundreds of millions of families have escaped from poverty. It is time that countries in Africa become more a part of this mainstream pattern. Globalization can facilitate this process if the right strategies are pursued. Pursuing protectionism and other failed policies of the past will only mean lost opportunities and continued marginalization.

RÔLE DU COMMERCE DANS LE DÉVELOPPEMENT ET CONSÉQUENCES DE LA MONDIALISATION EN AFRIQUE

Le présent document tentera de répondre aux questions suivantes : "Quel rôle peuvent jouer des politiques commerciales dans la promotion d'un développement économique durable ?" et "quelles sont les répercussions de la mondialisation et présentent-elles un avantage pour l'Afrique ?" La relation positive entre un commerce international en plein essor et une croissance économique accrue est plus solide dans un globe mondialisé que dans un monde où les marchés sont davantage isolés. Par conséquent, bien qu'ils ne connaissent pas la réponse à ces questions, les gouvernements des pays développés ainsi que des pays en développement sont d'autant plus motivés à collaborer pour ouvrir de nouveaux marchés et améliorer les échanges commerciaux de façon à encourager une croissance économique prononcée, durable et rapide contribuant au bien-être de tous leurs citoyens.

Commerce Et Développement

Depuis longtemps, la plupart des économistes sont d'accord pour concéder que les économies ouvertes bénéficient d'une croissance plus rapide que les économies fermées. Les pays défavorisés qui ont mieux su tirer leur épingle du jeu au cours des 50 dernières années sont des pays qui ont progressivement ouvert leur économie au commerce et aux investissements internationaux. De plus, les politiques qui favorisent la stabilité macroéconomique, les marchés privés et l'ouverture constituent le meilleur premier pas en direction d'une réussite à court terme.[1]

Les pays africains en particulier ont souffert des conséquences de régimes fermés imposant des restrictions sur le commerce et les politiques d'investissement. Les économistes remarquent souvent que la part africaine dans le marché mondiale est à la baisse depuis 30 ans et que si elle avait conservé sa part du commerce mondial dans les années 60, ses exportations et ses revenus seraient supérieurs de 70 milliards de dollars environ.[2] Le lien existant entre les politiques commerciales et ses répercussions sur une croissance économique accrue des pays africains est clairement exposé dans les documents publiés

[1] Discours de Gary C. Hufbauer, "Commerce international : l'OMC se trompe-t-elle de chemin ?" 9 février 2000 (Annexe A)

[2] Page 1 du chapitre VII du projet de la Banque mondiale. Le chapitre VII est intitulé : "Diversification des exportations, réorientation de la politique commerciale et à la poursuite d'une intégration régionale"

par la Banque mondiale, le Consortium de recherche économique en Afrique à Nairobi et le Centre sur le développement international à Harvard University. Nombre de ces études sont publiées sur les sites Web de ces organisations.[3] L'étude de Yeats et de Ng est l'un des premiers documents et aussi l'un des plus cités ; ils y montrent que les politiques commerciales restrictives de l'Afrique lui coûtaient onze milliards de dollars par an en exportations perdues, c'est-à-dire un montant équivalent à celui reçu en assistance technique pour 1991.[4] Ils ont en effet montré que les restrictions sur le commerce africain et les politiques intérieures fomentaient une attitude négative dans les pays d'Afrique envers les exportations ; ce phénomène a entraîné la baisse de la part africaine dans les exportations mondiales de 3,1 pour cent dans les années 50 à 1,2 pour cent en 1990 et le continent n'a pas pu réaliser de meilleurs niveaux de croissance.

Les économies ouvertes se caractérisent par des réformes de politiques commerciales entraînant : (a) la baisse des tarifs douaniers, la réduction des quotas et autres entraves non financières pour le commerce des services, (b) l'élimination de la corruption et de l'application arbitraire des règles commerciales et (c) l'amélioration de la démocratie, ce qui favorise la stabilité et la transparence politique à long terme, ainsi que la prise de responsabilité et la participation.

Fort heureusement, certains pays d'Afrique ont récemment adopté des programmes politiques et économiques qui ont promu une croissance plus robuste. L'augmentation de la production de biens et services commercialisables sur le marché mondial est l'une des conséquences de cette croissance. En somme, les exportations africaines ont commencé à reprendre. Maurice est un des pays les plus fréquemment cités comme ayant mis en œuvre des politiques commerciales ouvertes et réalisé de bonnes performances au niveau des exportations. Maurice a surtout connu un grand succès en matière de l'utilisation de zones franches industrielles visant à augmenter ses exportations de produits manufacturés.[5] L'Ouganda est un autre exemple fréquemment cité comme symbole de réussite. Une étude récente de la Banque mondiale décrit la croissance de 23 pour cent de la valeur des exportations ougandaises en un an et de 16 pour cent de leur volume de 1993 à 1997 tandis que le PIB a lui grimpé de sept pour cent par an (Voir l'annexe B.). En outre, lesdites réformes ont permis à l'Ouganda de diversifier ses exportations permettant aux exportations non conventionnelles de gagner 32 pour cent en volume sur un an.

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[3] Pour le Centre sur le commerce et le développement de la Banque mondiale, veuillez consulter http://www.itd.org/websites, pour le Consortium de recherche économique en Afrique, veuillez consulter http://www.aercafrica.org/structure/funders.html et pour le Centre sur le développement international à Harvard University, veuillez consulter http://www.cid.harvard.edu/cidtrade/.

[4] "Les économies ouvertes sont plus efficaces ! Les politiques économiques protectionnistes de l'Afrique sont-elles la cause de sa marginalisation dans le commerce international ?" par Francis Ng et Alexander Yeats, document de travail 1636 sur la recherche des politiques de la Banque mondiale, août 1996.

[5] "Marché et accès au marché pour les exportations africaines : passé, présent et avenir" par Richard Blackhurst et William Lyakurwa, pour le projet du CREA : l'Afrique et le système mondial d'échange, 1er sept. 1998.

La contribution potentielle de réformes commerciales saines au développement doit être considérée dans le cadre d'une approche visant à un développement global et à la réduction de la pauvreté grâce à des politiques appropriées. Les responsables des politiques doivent tout particulièrement faire attention aux investissements dans l'infrastructure nécessaire et le développement du capital humain qui amélioreraient le rendement de la libéralisation du commerce. [6] L'importance d'une vue plus globale de la croissance est également exposée dans une étude de la Commission économique sur l'Afrique et indique que les pays africains ayant les meilleures performances économiques ont tiré avantage de l'arrêt des guerres civiles, d'une stabilité accrue et de réformes économiques et politiques tandis que les résultats les pires étaient constatés dans les pays en guerre ou souffrant de troubles civils. [7]

Mondialisation

Le terme "mondialisation" est plus fréquemment utilisé pour décrire l'économie mondiale et en particulier pour décrire le phénomène dans lequel le monde se comporte en tant que partie d'un marché unique, ayant une production interdépendante, les habitants de divers pays consommant des biens similaires et répondant aux mêmes impulsions. Les résultats de cette mondialisation sont souvent représentés par une croissance du commerce international proportionnellement à la production mondiale et une explosion des investissements directs à l'étranger, et sont observés dans les marchés financiers nationaux qui sont de mieux en mieux intégrés. En règle générale, des raisons technologiques sont considérées comme étant à la source de la mondialisation. La croissance des technologies

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[6] Voir page 7 du document de la Banque mondiale sur "Le développement commercial et la réduction de la pauvreté" en date du 31 mars 2000 : Une stratégie d'expansion commerciale convenablement définie doit comprendre considérablement plus d'initiatives affectant tout le pays et prises en compte dans un environnement macro-économique incitatif et une approche exhaustive des objectifs de développement généraux et des stratégies de réduction de la pauvreté. Il faut faire tout particulièrement attention aux investissements dans l'infrastructure nécessaire et au développement du capital humain qui améliore le parti tiré de la libéralisation commerciale par les pays en développement. Des efforts et améliorations complémentaires de réforme institutionnelle dans les affaires juridiques, encourageant la confiance des investisseurs, sont aussi essentiels à la libéralisation commerciale car ils servent de moteur de croissance.

[7] Lors d'un discours prononcé le 6 mars 2000 devant Conseil des ministres de la CEA, K.Y. Amoako, Secrétaire exécutif de la CEA, a déclaré : L'analyse montre de façon générale une amélioration de la durabilité de l'économie africaine. Notre analyse a compté 33 pays. Vingt-six d'entre eux ont enregistré des améliorations tandis que sept ont souffert d'importantes baisses. Il faut remarquer que parmi les pays ayant effectué des progrès, il existe cependant des pays de toute taille, région et niveau de développement, démontrant qu'il est possible pour tous les pays de progresser vers un meilleur avenir.

L'étude a aussi montré que ce sont la fin de guerres civiles, une stabilité accrue et des réformes économiques et politiques qui ont bénéficié à la majorité des pays ayant progressé le plus. Au contraire, presque tous les pays étudiés ayant de mauvais résultats étaient en prise à des conflits et troubles civils sérieux pendant la période considérée. Ceci tend à suggérer que la paix, la stabilité et des réformes politiques et économiques approfondies sont des conditions nécessaires au développement de l'Afrique pendant le XXIe siècle - une conclusion qui renforce celles dont je vous ai fait part lors de notre rencontre précédente sur l'analyse initiale.

modernes des télécommunications et d'autres informations ont en somme facilité l'avènement de la mondialisation en permettant aux individus de communiquer plus rapidement et économiquement.[8] Ces technologies ont même davantage influencé les avances dans les technologies modernes des transports qui ont, elles, rendu possible le déplacement bon marché et rapide de biens autour du globe.

La technologie en soi n'explique pas le phénomène de mondialisation. Les accords commerciaux multilatéraux tels que le GATT et l'OMC, les efforts d'intégration économique régionale, la privatisation gouvernementale et les programmes de réformes économiques et politiques ont contribué à l'abolition progressive des frontières de façon à libérer les déplacements de capitaux, de biens, de personnes et de services pendant la seconde moitié du XXe siècle. Sans cela, les avances technologiques des communications modernes ne se seraient pas propagées au point d'entraîner la création d'un marché mondial.

La mondialisation est maintenant un fait courant et la question qui se pose est de savoir comment les pays peuvent en tirer le meilleur parti. D'après l'expérience d'autres pays en développement, la réponse semble indiquer que les pays en concurrence intense dans une économie mondialisée en bénéficient le plus. Comme indiqué précédemment, des politiques commerciales saines et la libéralisation commerciale en Afrique peuvent avoir des conséquences qui permettraient aux pays africains d'exporter davantage et de croître plus rapidement. Lesdites politiques devraient en outre permettre à l'Afrique d'être plus compétitive dans une économie mondialisée et de profiter des opportunités et choix que la mondialisation met à disposition.

Il est d'autre part dangereux de tenter d'arrêter ou d'annuler le phénomène de mondialisation en fermant un marché. M. Clinton a récemment expliqué pour quelles raisons une telle approche était indésirable pour les pays développés ou en développement :

> Les parties qui souhaitent refouler les efforts de la mondialisation parce qu'elles craignent leur influence perturbatrice ont à mon avis tort. Cinquante ans d'expérience montrent qu'une intégration économie plus importante et une coopération politique sont des forces positives. Ceux qui estiment que la mondialisation ne repose que sur l'économie de marché se trompent cependant aussi.
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> Certes, nombre de ceux qui ont douté de la sagesse d'un commerce ouvert sont véritablement inquiets du destin des pauvres et des défavorisés, et ils ont bien lieu de l'être. Mais ils devraient se demander, ce qu'il adviendra d'un ouvrier textile du Bangladesh ou d'un immigrant de la campagne mexicaine sans l'espoir de travail ou d'industrie produisant biens et services qui peuvent être vendus aux consommateurs étrangers et nationaux. Qu'advient-il des fermiers en Uruguay ou au Zimbabwe, en Australie, en Europe ou aux États-Unis si le protectionnisme empêche la commercialisation

[8] John Williamson

de produits en dehors des frontières nationales ?[9]

Conséquences Pour l'Afrique

Certains économistes sont allés au-delà de la question de la relation entre le commerce et le développement et se sont penchés sur des questions plus difficiles, à savoir quelles politiques commerciales libérales spécifiques - de pair avec des mesures complémentaires - contribueront au développement économique africain et permettront à l'Afrique de rivaliser dans une économie mondialisée. Jusqu'à présent, leurs études suggèrent que des politiques promouvant l'intégration économique régionale, mettant en œuvre des mesures de réformes économiques et politiques et encourageant la diversification des exportations sont plus à même de provoquer la croissance économique dont l'Afrique a besoin. (Voir annexe C.) L'important pour les responsables des politiques commerciales est la participation plus soutenue à l'OMC qui peut aider certains pays à appliquer les politiques qui susciteront une forte croissance.

La hausse des exportations crée des avantages qui peuvent faciliter la concurrence des pays africains dans une économie mondialisée. Les entreprises exportatrices africaines ont tendance à être plus productives que celles qui ne le sont pas. Elles contribuent davantage à l'économie nationale que leurs contreparties non exportatrices de plusieurs façons ; elles ont tendance à avoir trois fois plus d'employés, recevoir davantage d'investissements étrangers, posséder deux fois plus de licences étrangères et acquérir trois fois plus de contrats d'aide technique. D'importance primordiale est probablement le fait que les entreprises exportatrices tendent à gagner en efficacité avec le temps. [10] En somme, le meilleur moyen de devenir compétitif dans une économie mondiale consiste à y participer.

Il reste encore à savoir si les pays africains connaîtront une croissance en augmentant leurs exportations traditionnelles ou non-traditionnelles. Cependant, il existe de nombreux obstacles identiques dans ces deux cas et ils méritent d'être adressés. Les obstacles de grande échelle comprennent les distorsions politiques telles que celles associées à des taux de change non concurrentiels ou instables, de mauvais services d'infrastructure et un coût élevé de transactions commerciales du à des problèmes tels que la corruption. Dans le domaine de la politique commerciale, un économiste a fait les remarques suivantes :

> À l'exception des extrémistes, il existe réellement un consensus sur ce qui constitue une stratégie commerciale raisonnable pour les pays d'Afrique. Ce

[9] Discours prononcé à l'occasion du Forum économique mondial à Davos, le 29 janvier 2000.

[10] Voir le chapitre VII du document de projet de la Banque mondiale. Le chapitre VII est intitulé : "Diversification des exportations, réorientation de la politique commerciale et mise en œuvre de l'intégration régionale" et examine des rapports de la Banque mondiale sur les entreprises de fabrication au Cameroun, au Ghana, au Kenya et au Zimbabwe sur les "Exportations et l'efficacité au niveau de l'entreprise dans le secteur de fabrication en Afrique" par Anne Bigsten (1998) et T. Mengistae et C. Pattillo sur le "Commerce international et la productivité en Afrique" (1999).

> consensus s'exprime globalement en dressant une liste des comportements à adopter ou non : démonopoliser le commerce ; rationaliser le régime des importations, élaguer la bureaucratie et mettre en œuvre des procédures douanières transparentes ; remplacer lâs restrictions quantitatives par des tarifs douaniers ; éviter toute variation extrême du niveau des tarifs douaniers et des tarifs surélevés de protection efficace ; permettre aux exportateurs un accès en franchise de douane pour importer des éléments de production ; éviter d'avoir des attitudes anti-exportation excessives ; ne pas surtaxer les exportations.[11]

Comme indiqué précédemment, de nombreux pays d'Afrique ont pris certaines des mesures indiquées ci-avant dans le cadre de programmes de réforme de politique économique et commerciale. Ils doivent fournir des efforts nationaux équivalents aux démarches de l'OMC s'ils veulent en récolter pleinement le fruit.

Les avantages des réformes de politique commerciale et autres réformes économiques sont moins susceptibles d'entraîner une augmentation des exportations si le secteur privé n'y réagit pas. Étant donné que les réformes peuvent toujours être annulées, les pays doivent prendre les mesures nécessaires pour convaincre leur secteur privé ainsi que leurs investisseurs étrangers que ces réformes sont durables. Il est relativement aisé de résoudre le problème de crédibilité en "arrêtant" des réformes par le biais d'engagements exécutoires dans l'OMC.[12] Parallèlement, en forçant leurs voisins à s'engager dans des réformes qu'ils ont lancées, ils assurent que leurs marchés resteront ouverts. Une participation accrue et efficace dans l'OMC est par conséquent une stratégie importante pour améliorer la capacité du pays à concourir dans une société mondialisée.

L'importance de l'intégration économique (et politique) régionale africaine est en règle générale acceptée tel que le remarque l'auteur, mais la question difficile à résoudre demeure "comment le régionalisme peut-il aider dans la poursuite des objectifs du développement africain dans une économie mondialisée", étant donné certains des obstacles ayant jusqu'à présent fait entrave aux efforts d'intégration régionale. Une réponse partielle réside dans l'élaboration de coordination et coopération régionales ainsi que des négociations visant à éliminer les entraves tarifaires. L'autre partie de la réponse consiste à libéraliser, dans le cadre de l'OMC, les domaines importants au développement et pouvant potentiellement consolider l'infrastructure régionale. De tels domaines comprennent les télécommunications et les services financiers, l'évaluation des tarifs douaniers, la protection de la propriété intellectuelle et la libéralisation des tarifs douaniers, entre autres.

Les pays adoptant de telles politiques connaissent non seulement une croissance plus importante, mais certains investissent maintenant dans d'autres pays d'Afrique et contribuent à leurs croissance et développement économiques. La contribution des pays plus avancés en Afrique au développement des pays moins avancés constitue un avantage de la mondialisation qui n'avait probablement pas été anticipé et qui n'est pas encore

[11] Rodrik, 1998, page 12 tel que cité dans le Chap VII du document de la Banque mondiale ci-dessus.
[12] Chapitre VII cité ci-dessus

apprécié à sa juste valeur. À Maurice, les entreprises de l'industrie vestimentaire ont commencé à investir à Madagascar et au Mozambique parce que les frais de main-d'œuvre augmentaient et que les travailleurs mauriciens passaient à des opérations utilisant une forte proportion de capital à forte intensité capitalistique et requerrant de nombreuses qualifications. Maurice a adopté une approche observée tout d'abord en Asie - où Hong Kong avait besoin de la Chine pour croître - qui porte maintenant le nom de développement en "vol de canards" (effet boule de neige). D'autres pays africains sont à même de bénéficier d'investissements accrus de la part de pays africains plus avancés. Au Kenya par exemple, une étude récente a montré que, la productivité de main-d'œuvre dans les entreprises multinationales étant comparable à celles de pays non africains et les salaires étant inférieurs, les produits kenyans devraient être plus compétitifs sur les marchés du monde.

En conclusion, même si la mondialisation est un sujet d'actualité, un développement et une croissance économiques africains améliorés dépendent d'une participation plus active des pays d'Afrique à une tendance en cours depuis plus de 50 ans. L'ouverture constante des marchés mondiaux, lancée avec la création du GATT, a entraîné une multiplication par quinze de l'expansion du commerce international et par six de l'économie mondiale tout en triplant presque le revenu réel moyen par tête. Par conséquent, des centaines de millions de familles ont échappé à la pauvreté. Il est maintenant temps pour les pays d'Afrique de participer davantage à cette tendance dominante. La mondialisation peut faciliter ce processus si les stratégies adéquates sont adoptées. La poursuite du protectionnisme et autres politiques ayant échoué auparavant ne se traduira que par des occasions perdues et une pérennisation de la marginalisation.

TRADE IN DEVELOPMENT/GLOBALIZATION FOR AFRICA: ATTACHMENT A

Outline of opening remarks by

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Debate between Gary Hufbauer, Alan Tonelson and Lori Wallach Moderated by Peter Morici at Columbia University9 February 2000

1. What poor countries have conspicuously succeeded in the post Second World War era of globalization? The list is long. In Asia: Japan, Korea, Taiwan, Singapore, Hong Kong. In Latin America: Chile and Argentina. In Europe: Portugal, Spain, Greece, Ireland, and more recently Poland and Hungary. What do these countries have in common? Progressively greater openness to international trade and investment.

2. Who are the next winners? China, India, Mexico, Turkey and even Egypt. What are their policy foundations? Macro economic stability, private markets, and economies that are open to world markets.

3. What about the United States? We enjoy record prosperity. The three great drivers of our golden age are a flexible economy, information technology, and an open economy. Today, unemployment is 1.5 percent below what economists widely thought was the inflation threshold (the famous NAIRU of 5.5 percent - supposedly the Non-Accelerating Inflation Rate of Unemployment). The figure of 1.5 percent below yesteryear's NAIRU represents 2 million more employed than what was thought possible.

4. An open economy permits a high-pressure, high-employment economy. If future research shows that the open economy is responsible for just a fifth of the unemployment drop below the old NAIRU threshold, the open economy should be credited with permitting demand pressure that created 400,000 jobs. This is a conjecture. We need further research to nail down the precise connection between the open economy and price stability.

5. What has already been demonstrated, time and again, is that the open economy creates better jobs as capital and labor move to the sectors where they are most productive. On average, U.S. export industries pay about 15% higher wages, or about $4000 per worker, than the rest of the economy. An open economy enables poor countries to grow at least 1 to 2 percent faster per year than a closed economy.

6. Despite these proven blessings, globalization in general and the WTO in particular have attracted vocal criticism.

1. The first common criticism of globalization in general and trade in particular: greater inequality in the world at large and the United States. Fact one: the countries that have stalled in the last three or four decades are those that have not embraced the global economy, stable macroeconomics, and private production—notably Russia and many countries in Africa, Central Asia, the Middle East, and South Asia. World inequality is widening because these countries are sinking or stagnating. Fact two: in the United States, in an era of incredible technology, the college premium (higher first job wages paid to college graduates as contrasted with high school graduates) stopped growing in 1994. Gloomy forecasts of ever-larger U.S. wage inequality lost their factual foundation 6 years ago.

2. A second common criticism is directed at globalization: societies do not do enough for losers. Every dynamic economy will have losers - from restructuring, from new technology, from open markets. The central issue is whether the economy is creating new positions, at better pay, so that losers can become winners. The United States is creating these opportunities. So are many other countries that have embraced the global economy—from Australia, to Chile, to Ireland. But even successful societies should do more, through public policy, for losers. We should have wage insurance in the United States. We should spend public money buying farmland from willing sellers and dedicating that land to environmental preservation. Other countries face similar challenges.

3. The WTO plays a vital role in establishing and enforcing the rules of global commerce. Is it perfect? Of course not. But my colleagues on this panel, Lori Wallach and Alan Tonelson, are not seeking to improve the WTO. They are seeking to destroy it and start over. Alan wants to base trade policy on power, not rules. Lori wants to "prune" the WTO back to the roots that existed in 1980. These counsels amount to the discredited approach of the Vietnam era: destroy the village to save it.

4. No one on the open markets side of the debate is satisfied with the system. The WTO must evolve to meet the challenges of markets. I have urged major changes in the WTO: open panel hearings, improved representation of country groups in WTO meetings, and a totally new approach for environmental and labor standards. At the same time, the WTO must carry forward its central mission of reducing barriers to trade and investment. Barriers are still formidable, protecting the U.S. market, protecting the European market, and protecting Japan, and protecting nearly every other country. That's why internal trade - the great engine of specialization, productivity, and prosperity - is five to ten times as large within countries as between countries.

The difference between my prescriptions and those of my colleagues on this panel is a difference of quality, not degree. The world trading system is one of our most successful

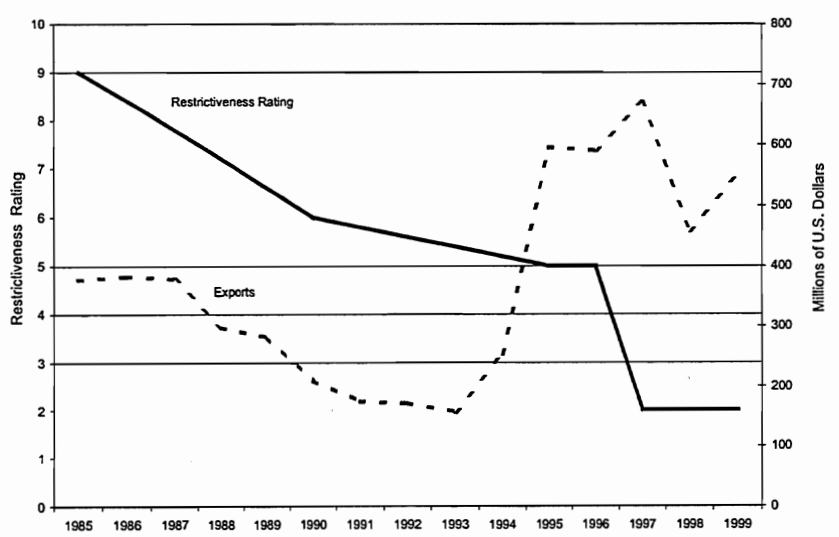
social institutions. I want to improve it. I want to welcome far more trade, and with more trade, improved living standards in rich countries and poor countries alike. I do not want destroy the system, thereby inviting endless new trade barriers that will impoverish us all.

Box 3. Uganda: Export Growth in the Context of Trade and Complementary Structural Reform

In 1985, Uganda had a highly restrictive trade regime characterized by high tariffs and pervasive NTBs, that was rated a 9 on the Fund's index of trade restrictiveness. Its foreign exchange regime was distorted, while structural impediments to growth were widespread throughout the economy. Uganda initiated trade reform in the context of a comprehensive adjustment program. In the area of trade, efforts were initially directed to eliminating NTBs, and thereafter to lowering tariffs. As a result, Uganda's restrictiveness rating has declined steadily to a rating of 2 by the late 1990s.

The lowering of tariffs was facilitated by key reforms in the fiscal area, including the establishment of the Uganda Revenue Authority and the introduction of a VAT, both with significant technical assistance from the Fund. In the financial sector, monetary and banking sector reform, and the adoption of a flexible exchange rate system were central to Uganda achieving a viable external position. In addition, Uganda removed price restrictions in the agricultural sector, eliminated restrictive marketing boards in the coffee, cotton, and tea industries, undertook civil service reform, and upgraded its infrastructure. These reforms have also been complemented by active social policies, notably the introduction of universal primary education. Uganda's reforms since 1987 have been supported by Bank adjustment operations amounting to nearly US$800 million, and Fund arrangements amounting to nearly US$700 million. In 1998, Uganda became the first country to benefit from the HIPC initiative, and in early 2000 was granted additional assistance under the enhanced HIPC initiative. Total debt service relief under the original and enhanced HIPC frameworks will amount to approximately US$2 billion.

As a result of these measures, during 1992–99, Uganda's exports grew annually by 23 percent in value, and by 16 percent in volume. There was substantial export diversification as the volume of noncoffee exports grew by 24 percent. Nontraditional exports (including horticulture, fish, and maize) grew by 32 percent during this period. These developments were key to Uganda maintaining an annual average real GDP growth rate of about 7 percent over the period. Owing to the strong economic growth, between 1993 and 1997 the incidence of poverty declined from 56 percent to 44 percent.



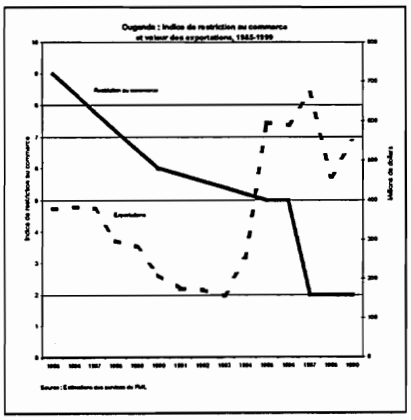
Source: IMF staff estimates.

Encadré 3. Ouganda : Croissance des exportations dans le contexte de la réforme du commerce extérieur et des réformes structurelles d'accompagnement

En 1985, l'Ouganda avait un régime du commerce extérieur très restrictif, caractérisé par des tarifs douaniers élevés et des obstacles non tarifaires généralisés, d'où sa notation de 9 selon l'indice de restriction au commerce établi par le Fonds. Son régime de changes était faussé, et les obstacles structurels à la croissance abondaient dans tous les secteurs de l'économie. L'Ouganda a engagé sa réforme commerciale dans le contexte d'un programme d'ajustement d'ensemble. En matière de commerce, les efforts ont porté dans un premier temps sur la suppression des obstacles non tarifaires, puis sur l'abaissement des tarifs. L'indice de restriction au commerce de l'Ouganda a de ce fait diminué régulièrement, jusqu'à tomber à 2 à la fin des années 90.

L'abaissement des tarifs a été facilité par les réformes essentielles qui ont été réalisées dans le domaine fiscal, dont la création de l'Uganda Revenue Authority et l'introduction d'une TVA, avec une assistance technique significative du Fonds. Dans le secteur financier, la réforme monétaire et celle du secteur bancaire, et l'adoption d'un système de taux de change flottant ont énormément contribué à l'accession de l'Ouganda à une position extérieure viable. Par ailleurs, l'Ouganda a libéré les prix agricoles et aboli les offices de commercialisation qui faisaient peser des restrictions sur les secteurs du café, du coton et du thé, a entrepris de réformer la fonction publique et a modernisé ses infrastructures. Ces réformes ont été accompagnées par une politique sociale active, dont l'introduction de la scolarisation primaire universelle. Les réformes réalisées par l'Ouganda depuis 1987 ont bénéficié d'opérations d'ajustement structurel de la Banque pour un montant de près de 800 millions de dollars et d'accords avec le Fonds pour un montant de près de 700 millions de dollars. En 1998, l'Ouganda a été le premier pays à bénéficier de l'Initiative PPTE et, début 2000, il a obtenu un supplément d'aide au titre de l'Initiative PPTE renforcée. L'allégement du service de sa dette s'élèvera de ce fait à environ 2 milliards de dollars au total.

Suite à ces mesures, entre 1992 et 1999, les exportations de l'Ouganda ont augmenté chaque année de 23 % en valeur et de 16 % en volume. Leur diversification a été considérable, puisque le volume des exportations hors café a augmenté de 24 %. Les exportations non traditionnelles (dont l'horticulture, le poisson et le maïs) ont quant à elles augmenté de 32 % durant cette même période. Cette évolution explique en grande partie comment l'Ouganda a pu maintenir un taux de croissance annuel du PIB réel d'environ 7 % pendant tout ce temps. Grâce à cette croissance économique vigoureuse, entre 1993 et 1997, la pauvreté a diminué, passant de 56 % à 44 % de la population.



TRADE IN DEVELOPMENT/ GLOBALIZATION FOR AFRICA: ATTACHMENT C

The following excerpt is take from Chapter 7of the World Bank Report "Can Africa Claim the 21st Century?"(World Bank, 2000)

CH 7: "DIVERSIFYING EXPORTS, REORIENTING TRADE POLICY, AND PURSUING REGIONAL INTEGRATION", PAGES 11-12

Making Trade Policy Work for Diversification

> Extremists aside, there is actually a fair bit of consensus on what constitutes a reasonable trade strategy for countries of Africa. The consensus can be crudely expressed in terms of a number of do's and don'ts: de-monopolize trade; streamline the import regime, reduce red tape and implement transparent customs procedures; replace quantitative restrictions with tariffs; avoid extreme variation in tariff rates and excessively high rates of effective protection; allow exporters duty-free access to imported inputs; refrain from large doses of anti-export bias; do not tax exports too highly.
>
> ——Rodrik 1998, p.12

How far have Africa's trade reforms come? Measured against these criteria, quite a long way. Quantitative restrictions, once widespread, have been replaced by tariffs. These tariffs have been steadily lowered in most countries, and their dispersion reduced. By 1998 trade-weighted tariffs in Uganda averaged 10 percent, with Zambia not far behind. In most countries foreign exchange regimes have been liberalized for current transactions. And there have been significant moves to rationalize exemptions in most countries. What remains as the unfinished agenda?

Policies still discourage exports. African trade taxes and restrictions are still higher than in other developing regions, and antiexport bias is still considerable in most countries. Especially because of the small size of their economies and the importance of imported inputs, this has considerable impact. But countries typically depend on trade taxes for about one-third of government revenue, with half or more coming from tariffs on intermediate and capital goods. For countries where tariff collection approaches the average statutory rate, reducing tariffs is likely to mean losing fiscal revenue—trade liberalization is unlikely to be self-financing because exports will not expand sufficiently

in the short run to permit a large increase in imports. Thus efforts to reduce trade taxes cannot proceed independently of measures to strengthen other sources of fiscal revenues.

Liberalization is not locked in. Liberalization is not yet anchored in an ideology, such as export promotion. This is because reforms have been spurred by adjustment programs negotiated with international financial institutions rather than by voluntary multilateral negotiations underpinned by strong national ownership. Donor-driven liberalization is subject to reversal—for example, in response to chronic fiscal and foreign exchange shocks. In addition, African tariffs are bound at high levels under the Uruguay Round. These features make private agents less certain of the credibility and sustainability of reforms. An emerging policy issue is therefore how trade reform can be "locked in" for credibility (Gunning 1998).

Reforms have been country-based, not regional. Perhaps for similar reasons, liberalization has been uneven across the region. Even within such subregional groups as the Southern Africa Development Community, wide variations in tariffs and other regulations make it hard to enlarge the economic space for private enterprise. Country-based reforms are therefore not always compatible with regional coordination.

Compensatory mechanisms for exporters often do not work. Africa is rich in export processing zones, duty drawbacks, exemption schemes, and value added tax rebates, to compensate exporters for tariffs on inputs. But except in Mauritius, these have not worked well. In West and East Africa incentives often leak to nonexporters, while rebates to exporters arrive late or not at all. In addition, key services—such as customs—often operate inefficiently, taking weeks to clear consignments and imposing additional costs on business.

The global frontier is moving rapidly in such areas, with normal clearance times down to as little as 15 minutes in some industrial countries. In other regions where trade restrictions are no lower than in Africa, export processing zones are well established and appear to operate more effectively. One example is Central America, where customs clearance is far faster and service standards are higher. An important reason appears to be the strength of powerful exporters and their ability to hold governments accountable for good services. Exporters are not yet a strong pressure group in most African countries. But governments will need to act as though they were if economies are to diversify.

Completing Africa's trade agenda requires embedding second-generation reforms in an overall export promotion strategy that includes widening economic space and working

within—and influencing—the evolving rules of the global trading system. Three measures are important:

- *Eliminate further antiexport bias*. Because of fiscal constraints, this cannot be done by sharply cutting tariffs across the board. Thus there is no alternative but to focus on getting compensatory mechanisms to work efficiently. Aggressive export promotion also requires attention to service standards in key areas, especially for activities requiring imported inputs.
- *Sequence further cuts in import tariffs and broaden the fiscal revenue base away from trade taxes.*
- *Deepen regional integration,* not only to enlarge economic space but also to help lock in reforms. For many countries policy reforms will continue to lack credibility without a lock-in mechanism. This is possible through enhanced use of World Trade Organization bindings, by concluding reciprocal free trade agreements with countries outside Africa, and by harmonizing trade and investment policies along subregional lines.

Trade Remedies

May 4, 2000

2:00 p.m. – 3:00 p.m.

USTR Annex, Rooms 1 and 2

Speakers

Ambassador Susan G. Esserman, Deputy United States Trade Representative
Ron Lorentzen, Deputy Assistant for WTO and Multilateral Affairs
Minister of Zambia to lead African response

PAPERS AND ATTACHMENTS

Paper 1: "Using WTO Trade Remedies: Pros and Cons" *(English/French)*

Paper 2: "Dispute Settlement" *(English/French)*

Attachment A: "Settling Disputes" *(English/French)*

SPEAKER BIOGRAPHIES

Ambassador Susan G. Esserman

Susan G. Esserman is Deputy United States Trade Representative with the rank of Ambassador. Her portfolio encompasses the development of trade policy and negotiations in the World Trade Organization and other multilateral fora, as well as Europe, Russia and the Newly Independent States of the Former Soviet Union, the Middle East and Africa.

Ambassador Esserman has held three other senior posts in the Clinton Administration: General Counsel to the Office of the United States Trade Representative, where she had lead responsibility for all legal issues related to U.S. trade policy, including the enforcement of U.S. rights under international trade agreements; Assistant Secretary for Import Administration, where she was responsible for enforcement and development of policy in connection with the antidumping and countervailing duty laws; and, Acting General Counsel at the Department of Commerce.

Prior to entering the government, Ambassador Esserman was a partner at the Washington, D.C. law firm of Steptoe & Johnson, where she specialized in international trade law and litigation. She began her career as a law clerk to U.S. District Judge Oliver Gasch. She received her law degree from the University of Michigan Law School (1977), where she was on the Editorial Board of the Law Review. She graduated from Wellesley College (1974) with honors.

His Excellency William J. Harrington

Currently serving as Minister of Commerce, Trade and Industry, Minister Harrington has served in various posts in the Zambian government since 1994. Previous to his political leadership, he operated a trading and transportation business. Since joining the government, Minister Harrington has acted as Minister of Communications and Transport, Minister of Environment and Natural Resources, Minister of Sport, Youth and Child Development, and most recently as Minister of Commerce, Trade and Industry.

Ronald K. Lorentzen

As Deputy Assistant U.S. Trade Representative for WTO Rules, Ron Lorentzen assists the Assistant U.S. Trade Representative for WTO and Multilateral Affairs in the overall coordination of the United States' participation in the work of the World Trade Organization. He has had a lead responsibility for U.S. preparations for and participation in the 1996, 1998 and 1999 WTO ministerial conferences, with special responsibility for certain WTO institutional and rules-related issues.

Mr. Lorentzen is chiefly responsible for the development and coordination of U.S. policy with respect to the trade-related aspects of competition policy and of government subsidies to industry and other industrial policy measures. He is the U.S. representative to the World Trade Organization (WTO) Committee on Subsidies and Countervailing Measures and contributes to U.S. policy development with respect to the use of trade remedy measures (e.g., antidumping, countervailing duty and safeguards measures) and the relationship of antitrust law, competition policy and anti-competitive measures and conduct to international trade. Mr. Lorentzen has participated for the United States in analytical work on the relationship between trade and competition policies in both the WTO and the Organization for Economic Cooperation and Development. Prior to 1999, he also served as the U.S. delegate to the Working Group on Subsidies, Antidumping and Countervailing Duties under the Free Trade Area of the Americas Initiative.

Before coming to USTR in April 1995, Mr. Lorentzen was a Commerce Science and Technology Fellow at the U.S. Department of Commerce's Office of Technology Policy, where he advised officials on the interaction and relationship between U.S. trade and technology policies and worked on several initiatives aimed at enhancing the international competitiveness of U.S. industry. Prior to that, he held several positions in the Commerce Department's International Trade Administration where he was a member of the U.S. negotiating teams to the GATT Uruguay Round negotiations on subsidies and on antidumping practices, and provided policy advice concerning the administration of the U.S. antidumping and countervailing duty laws.

Mr. Lorentzen holds a Bachelors of Arts degree in international relations from Bradley University, and a Masters degree in international studies from The Johns Hopkins University School of Advanced International Studies. A resident of Washington, DC, Mr. Lorentzen was raised in Ohio, Indiana and Illinois and spent several years of study in France and Italy before coming to Washington in 1978.

Rosa M. Whitaker

Rosa Whitaker is the Assistant United States Trade Representative charged with overseeing U.S. trade relations with Africa. Her responsibilities include advancing the President's Partnership for Economic Growth and Opportunity in Africa initiative, which serves to enhance U.S. economic engagement with the countries of sub-Saharan Africa and support the region's full integration into the international trading system. Her Office of African Affairs is responsible for a broad range of bilateral, regional and multinational initiatives to facilitate trade and investment between the United States and Africa, including measures to open markets and improve investment climates.

Prior to her current position, Ms. Whitaker was Senior Foreign Trade Advisor to Congressman Charles B. Rangel, the Ranking Democratic Member of the U.S. House of Representatives, Ways and Means Committee. In this capacity, Ms. Whitaker addressed numerous international trade issues, including those related to the World Trade Organization and the African Growth and Opportunity Act.

In her previous career as a U.S. Foreign Service Officer, Ms. Whitaker worked in the Department of State's International Energy Policy Office, where her wide-ranging responsibilities included support for worldwide energy infrastructure projects. Additional Foreign Service experience include work at the U.S. Embassy in Cote d'Ivoire, where she led negotiations finalizing the rescheduling of Cote d'Ivoire's official debt to the U.S. She also co-founded and managed the first U.S.-Africa Trade and Investment Conference within the Telecommunications sector. Ms. Whitaker holds a Bachelors and Masters Degree from American University in Washington, D.C.

USING WTO "TRADE REMEDIES": PROS AND CONS

By: Gary N. Horlick

The WTO permits three major forms of "trade remedies" (also referred to as "commercial defense instruments"): antidumping duties (AD), countervailing duties (CVD), and safeguards.[1] As tariffs and other non-tariff barriers fall, these measures are used more and more frequently. Some have argued that the availability of these measures, by making it possible to protect selected industries under specified conditions, makes it easier to liberalize the economy in general,[2] while others argue that these measures are simply another form of protectionism. Under either point of view, however, these remedies are integral features of the multilateral trading system, and their use is subject to terms and conditions that are designed to prevent or minimize the scope for any protectionist abuse.

Each of the three trade remedies must be analyzed by a country in terms of its positive and negative aspects, being careful to take into account the use of the measures by the country itself against imports, as well as the application of those measures to its exports by other WTO members. Each country, after analyzing these points in the context of its own situation, can then decide on its policy for the use of these instruments.

Trade Liberalization and Trade Remedies

Most economists agree that trade liberalization increases the standard of living (and competitiveness of the economy) in the country that liberalizes.

Frequently as trade barriers are eliminated, imports increase. Some or all of that increase may be the result of the lowering of trade barriers. Some of the imports, however, may be goods sold at prices which may be considered either subsidized, within the meaning of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement) and Article VI of GATT 94, or "dumped", under the WTO Antidumping Agreement (AD Agreement) and Article VI of GATT 94. These products may be the subject of AD or CVD actions by the importing country. In addition, a large increase in imports under certain circumstances may be the subject of certain safeguards measures (including tariffs and/or quotas) for a temporary period, under the WTO Safeguards Agreement, and Article XIX of GATT 94.

[1] These trade remedies apply only to trade in goods. There have been discussions (with varying degrees of enthusiasm) about negotiation of subsidies rules and safeguard rules for services, but the practical and business difficulties which would attend such instruments in the services area (to say nothing of antidumping measures) so far have appeared great enough so that no real negotiation has begun.

[2] Greg Mastel, Antidumping Laws and the U.S. Economy (Economic Strategy Institute, M.E.Sharp, Inc.) (1998).

An increase of imports may well reduce the profitability or production of one or more economic sectors that do not benefit from an increase in exports. Even if the economy of the country as whole has benefited, there may be political or economic pressure to assist the negatively impacted sectors. These three trade remedies provide WTO-consistent ways to accomplish that goal, but only so long as the WTO rules are applied fully and in good faith. By the same token, a number of techniques used to provide import protection in the past, such as minimum import prices or arbitrary Customs valuations, are no longer permitted by the WTO, and trade remedies applied inconsistently with the WTO rules will face WTO dispute resolution challenges and retaliation against the offending country's exports.

In short, the use of these three trade remedies is permitted but also circumscribed by existing WTO rules. Because these rules are quite complex, applying the trade remedy rules requires a certain amount of investment in personnel, resources, and training. Technical assistance is available through the WTO, other international organizations such as UNCTAD, and many development assistance agencies such as USAID, Canada International Development Agency, and so on.

Antidumping Duties

Antidumping duties may be imposed when imported goods are found to be imported at prices found to be "dumped" (defined further on) and causing injury by that dumping *to a domestic industry which produces the same (or a nearly identical) product.*

Imposition of AD duties is not required - - a country can choose to resolve the case through an undertaking (subject to the AD Agreement rules) by the foreign exporters to end the dumping, or it may impose no duty, or impose less than the full amount of the possible duty (e.g., if the imported product is a necessary consumer good, or a necessary input for an important export).

"Dumping" is defined as the sale of the imported good at less than its "normal value" - - typically, its price in its home market or its "constructed value" (cost of production, general, selling and administrative expenses, plus profits), although on rare occasions the normal value is the price in a third market. The calculation of dumping can be quite complex, and subject to very detailed rules in the AD Agreement. Normally, the importing country authority sends a lengthy questionnaire to the exporting companies. Once the responses to the questionnaire are received (typically in computer readable format), they are analyzed in great detail, with precise measurement of the price of each sale and each of the costs associated with it. This information is then "verified" by sending qualified staff to visit the exporting companies' facilities for a period ranging from several days to weeks. The process requires the authorities to have staff knowledgeable in accounting, international trade law, and frequently the specific industries involved.

The process of determining injury is similar. Detailed questionnaires are sent to the local producers, to inquire as to their profits, sales, production, employment, inventories, and many other factors. The information is then aggregated and analyzed, again by staff with specialized skills in accounting, law, business finance, and the specific industries.

The application of anti-dumping measures can be controversial. Antidumping decisions are frequently challenged in local courts, newspapers, and before the WTO. To date, there have been two antidumping decisions by WTO panels, and more cases are currently before panels. Notably, panels so far have required very strict adherence to the rules in the AD Agreement - - failure to comply with all the procedural and substantive rules has led to findings of WTO inconsistency, even if the failure to comply arguably had no impact on the outcome of the antidumping investigation.

AD measures are the most widely used of the trade remedies. There were 312 AD cases begun by WTO members in 1999, compared to 41 CVD cases and 14 safeguards cases. Prior to the Uruguay Round, approximately 90% of all AD cases were by five countries (the U.S., EU, Australia, Canada, and New Zealand). Since the Uruguay Round, more than 50% of cases are by countries other than those five, mainly developing countries.[3]

Possible reasons for the popularity of AD cases include:

- Antidumping duties tend to be quite high (in the United States, for example, they average over 50% in recent years, while CVD and safeguard duties rarely reach 20%). Experience in other jurisdictions is similar, although use of countervail is much lower in other jurisdictions.

- Many governments are reluctant to begin CVD cases, which accuse other governments of subsidies, since governments often feel vulnerable to charges that they subsidize themselves.

- AD measures are applied to a specific country or countries, unlike safeguards, which are at least nominally applied on a MFN basis.

Antidumping duties, like any tariff, pose a dilemma for developing countries, because they raise local costs. In addition, administration of antidumping duties is technically quite complex, and it demands fairly sophisticated resources. Developing countries interested in starting an antidumping regime might wish to contact smaller developing countries such as Chile and Indonesia, which have been able to manage the process without an excessive burden on public administration or imports.

[3] For an invaluable source of information, see Jorge Miranda, Raúl A. Torres, and Mario Ruiz, The International use of Antidumping- 1987-1997, 32 Journal of World Trade 5 (October 1998).

Countervailing Duties

CVD cases are similar in structure to AD cases. The importing country must find that the exporting country subsidizes (as defined in the SCM Agreement) the imported product, and that the effects of the subsidies cause injury. In practice, the injury investigation is handled in the same way as an AD case.[4] Investigations of subsidies are quite different than AD investigations. The questionnaire must be tailored to the specific subsidies under investigation (unlike AD questionnaires, which tend to be standard forms). It is sent mainly to the foreign government, rather than to individual exporters as in AD cases (although it is "best practice" to also investigate the subsidies received by the exporters, to match them against the subsidies given by foreign government). While AD investigations typically examine sales in the past year or so, subsidy investigations can reach back as far as 15 or 20 years, with consequent problems of old records being routinely destroyed, not to mention floods, fires and so on. The definitions in the SCM Agreement are complex and/or subject to certain interpretation, so that once one gets beyond the most straightforward of subsidies (e.g., a fixed cash grant for each export), the analysis can become very challenging, e.g., whether government equity investments in private companies were made on commercial terms as a reasonable private investor would do. Complex cases can require not only accounting, legal and economic skills but also investment bankers, financial consultants and securities analysts.

CVD duties tend to be considerably lower than AD duties. The rules in the SCM Agreement effectively constrain authorities in CVD cases to not impose duties much greater than the actual amount of the subsidy. Subsidies given by most countries are quite small, with the exception perhaps of some agricultural products and a few countries rich enough to give large subsidies. Consequently, there is less incentive to bring CVD cases then AD cases since the same injury must be shown for both.

Safeguards

Article XIX of GATT 1994 and the WTO Safeguards Agreement permit the imposition of tariffs or quotas on imported goods even though no dumping or subsidy can be shown. These safeguard measures, also referred to as "escape clause" measures, are intended to provide temporary relief while local industry adjusts to or recovers from a change in circumstances and increase in competing imports. Recent WTO Appellate Body rulings make clear that the cause of the injury must be circumstances unforeseen at the time of the original tariff binding. Thus, safeguard cases require only an investigation of injury to the local industry, albeit with somewhat higher standards to meet than the injury investigated in an AD or CVD case. As a result, safeguard investigations can be

[4] In theory, the investigation of injury resulting from subsidies could examine phenomena different from injury caused by dumping, but in practice no one seems to do this.

considerably simpler than AD or CVD investigations. Nevertheless, there are considerably fewer safeguard cases than AD or CVD investigations. One possible reason is that the Safeguards Agreement mandates continuing scrutiny of the importing country's actions at a higher level of detail at meetings of the WTO Safeguards Committee, while AD and CVD cases are not subject to any detailed scrutiny in either the AD or CVD Committees unless a panel is sought. In this connection, it is worth noting that the EU has challenged almost every significant safeguard measure imposed on its exporters since 1995. Perhaps countries fear that the likelihood of a WTO challenge is more likely if they impose a safeguard measure then a AD or CVD investigation.

In addition, safeguard remedies must be imposed on an MFN basis (with some exceptions), which greatly increases the number of countries likely to be irritated, and safeguard measures must be phased out over a fixed period of time, while AD or CVD measures in theory can-remain in place as long as they are needed to address the conditions which necessitated them in the first instance (although both are subject to five year "sunset" reviews).

Conclusions

1. AD and CVD procedures are considerably more complex to manage than safeguards proceedings, and require more sophisticated resources.

2. So far, WTO panels and the Appellate Body have been quite demanding of countries trying to impose any of the three trade remedies. The difficulty for small developing countries is shown by the panel decision in Guatemala - - Cement from Mexico, which shows the necessity for even a small developing country undertaking its first case to comply fully with each of the complex procedural rules of the WTO Agreements.

3. Considerable technical assistance is available from the WTO, other international organizations, and national authorities.[5]

[5] In seeking technical assistance from a national trade remedy authority, developing countries should be wary of trying to imitate the complex and expensive bureaucracies in place of some of the larger users of trade remedies, such as the EU, U.S., Mexico, or Canada. A "new user" of trade remedies should also be wary of imitating practices of countries with a long history of use of these three trade remedies. Frequently, practices have grown up in those "old user" countries which stay in place even when their rationales no longer exist - - indeed, it is not unusual to hear

Defense of Export Interests

Developing country exporters face considerable challenges in their exposure to foreign AD, CVD and safeguard actions. Small companies facing 100-page long AD questionnaires or conceptually complex CVD questionnaires may not be able to spare the human resources to deal with the case, particularly in smaller markets, while small country exporters may well find themselves "sideswiped" by the MFN application of safeguard measures aimed at larger countries' exporters. That said, the structural tendency may run in the opposite direction. For small developing countries, the U.S. or EU may well be the largest single market, larger than even the domestic market, and thus worth spending the money on outside help to defend the case.

rationales for practices given by administrators unaware of the real reasons for the practices they are using, because the origins have been lost in the mist of time (anything more than 15 years, it would appear).

Utilisation des «remèdes pour le Commerce » de l'OMC : Les «pour » et les «contre »

Par Gary N. Horlick

L'OMC autorise trois principaux types de «remèdes du commerce » (appelés aussi «instruments de défense commerciale ») : les droits antidumping (AD), les droits de valeur compensatoire (CVD), et les sauvegardes[1]. Au fur et à mesure que les barrières tarifaires et non-tarifaires tombent, ces mesures sont utilisées de plus en plus fréquemment. Certains ont avancé que l'accessibilité de ces mesures, en rendant possible la protection d'industries sélectionnées sous certaines conditions, rend plus facile la libéralisation de l'économie en général[2] (Note 2), tandis que d'autres soutiennent que ces mesures sont tout simplement une autre forme de protectionnisme. Cependant, que ce soit de l'un ou de l'autre de ces points de vue, ces remèdes font partie intégrante du système du commerce multilatéral et leur utilisation est soumise à des modalités qui sont conçues pour prévenir ou réduire les risques de tout excès protectionniste.

Chacun de ces trois types de remèdes doit être analysé par un pays en termes d'aspects positifs et négatifs, en prenant soin de tenir compte de l'utilisation de ces mesures par le pays lui-même contre les importations, aussi bien que de l'application de ces mesures par d'autres membres de l'OMC à ses exportations. Chaque pays, après avoir analysé ces points dans le contexte de sa propre situation, peut alors décider de sa politique d'utilisation de ces instruments.

Libéralisation du Commerce et Remèdes du Commerce

La plupart des économistes admettent que la libéralisation du commerce augmente le niveau de vie (et la compétitivité de l'économie) dans le pays qui libéralise.

Fréquemment, à mesure que les barrières commerciales sont éliminées, les importations augmentent. Une partie ou la totalité de cette augmentation peut être le résultat de l'abaissement des barrières commerciales. Certaines des importations, cependant, peuvent porter sur des marchandises vendues à des prix qui peuvent être considérés comme déjà subventionnés, au sens de l'Accord de l'OMC sur les Subventions et les Mesures de Valeur Compensatoire (Accord SCM) et de l'Article VI du GATT de 94, ou bien «dumpés », selon l'Accord

[1] Ces remèdes du commerce s'appliquent seulement au commerce des marchandises. Il y a eu des discussions (avec des degrés variables d'enthousiasme) sur une négociation de règles de subventions et des sauvegardes pour les services, mais les difficultés pratiques et commerciales que devraient résoudre de tels instruments dans le domaine des services (sans parler des mesures antidumping) sont apparues jusqu'ici suffisamment grandes pour qu'aucune négociation réelle n'ait commencé.

[2] Greg Mastel. Antidumping Laws and the U.S. Economy (Economic Strategy Institute, M.E.Sharp, Inc.) (1998).

Antidumping de l'OMC (Accord AD) et l'Article VI du GATT de 94. Ces produits peuvent faire l'objet d'actions AD ou CVD de la part du pays importateur. En outre, une augmentation importante des importations dans certaines circonstances peut faire l'objet de certaines mesures de sauvegarde (y compris les tarifs et/ou les quotas) de façon temporaire, dans le cadre de l'Accord sur les Sauvegardes de l'OMC et de l'Article XIX du GATT de 94.

Une augmentation des importations peut éventuellement réduire la rentabilité ou la production de l'un ou plus des secteurs économiques qui ne bénéficie pas d'une augmentation des exportations. Même si l'économie du pays dans son ensemble en a tiré avantage, il peut y avoir une pression politique ou économique pour assister les secteurs touchés négativement. Ces trois remèdes du commerce offrent des façons d'atteindre ce but en accord avec l'OMC, mais seulement dans la mesure où les règles de l'OMC sont appliquées complètement et de bonne foi. De la même façon, un certain nombre de techniques utilisées par le passé pour protéger les importations, telles les prix minimums à l'importation ou les estimations

douanières arbitraires, ne sont plus autorisées par l'OMC, et les remèdes du commerce appliqués d'une façon qui ne soit pas en accord avec les règles de l'OMC entraîneront des interpellations et provoqueront des représailles contre les exportations du pays fautif.

En bref, l'utilisation de ces trois remèdes du commerce est permise mais également restreinte par les règles existantes de l'OMC. Parce que ces règles sont plutôt complexes, l'application des règles des remèdes du commerce exige une quantité certaine d'investissement en personnel, ressources et formation. Une assistance technique est disponible par le biais de l'OMC, ainsi que d'autres organisations internationales telles que l'UNCTAD et de nombreuses agences d'aide au développement comme l'USAID, l'Agence pour le Développement International du Canada, etc.

Droits Antidumping

Des droits antidumping peuvent être imposés quand des marchandises importées s'avèrent l'être à des prix dits «dumpés» (définis plus loin) et que ce dumping cause un dommage *à une industrie nationale qui produit un produit identique ou similaire.*

Il n'est pas obligatoire d'imposer des droits antidumping ; un pays peut choisir de régler la question au moyen de l'engagement par les exportateurs étrangers (conforme aux règles de l'Accord AD) de mettre un terme au dumping, ou bien ce pays peut n'imposer aucun droit, ou bien des droits d'un montant inférieur à celui qui serait possible (par exemple si le produit importé est un bien de première nécessité, ou un intrant nécessaire à une exportation importante).

Le «dumping» se définit comme la vente de la marchandise importée à un prix inférieur à sa «valeur normale» -- en moyenne son prix sur le marché domestique ou bien sa «valeur de fabrication» (coût de production, dépenses générales, de distribution et administratives, et bénéfices), bien que dans de rares occasions la valeur normale soit le prix sur un troisième marché. L'estimation du dumping peut être plutôt complexe, et sujette à des règles très détaillées de l'Accord AD. Normalement, les autorités compétentes du pays importateur envoient un long

questionnaire aux sociétés exportatrices. Après réception des réponses au questionnaire (en général sous forme informatisée), celles-ci sont analysées de façon très détaillée, avec des mesures précises du prix de chaque vente et de chacun des coûts qui y sont associés. Ces renseignements sont ensuite «vérifiés » grâce à l'envoi d'une équipe qualifiée qui visitent les installations des sociétés exportatrices pendant une période qui peut s'étendre de plusieurs jours à plusieurs semaines. Le processus exige que les autorités compétentes disposent d'une équipe qualifiée en comptabilité, en droit du commerce international et fréquemment de spécialistes des industries concernées.

Le processus pour déterminer l'existence d'un dommage est similaire. Des questionnaires détaillés sont envoyés aux producteurs locaux, pour enquêter sur leurs bénéfices, leurs ventes, leur production, leurs salariés, leurs inventaires, et beaucoup d'autres facteurs. Les renseignements obtenus sont ensuite réunis et analysés, encore une fois par une équipe qualifiée en comptabilité, droit, finance et dans la branche concernée

L'application des mesures antidumping peut être sujette à controverse. Des décisions antidumping sont souvent attaquées devant des cours de pays membres, dans des journaux, et devant l'OMC. A aujourd'hui, il y a eu deux décisions prises par des instances de l'OMC et d'autres cas sont étudiés actuellement par ces instances. De façon notable, ces instances ont jusqu'ici exigé une adhésion très stricte aux règles de l'Accord AD – un manque de conformité à toutes les règles tant de procédure que de fond a abouti à des conclusions en désaccord avec l'OMC, même si le défaut de conformité concerné n'avait pas d'impact sur le déroulement de l'enquête antidumping.

Les mesures AD sont les plus largement utilisées des remèdes du commerce. Il y a eu 312 procédures AD engagées par des membres de l'OMC en 1999, contre 41 procédures de droits compensateurs (CVD) et 14 pour des mesures de sauvegarde. Avant l'Uruguay Round, environ 90% des procédures AD émanaient de cinq pays (les Etats-Unis, l'Union Européenne, l'Australie, le Canada et la Nouvelle Zélande). Depuis l'Uruguay Round, plus de 50% des procédures émanent de pays autres que ceux-là, essentiellement des pays en voie de développement[3] (Note 3).

Quelques raisons possibles de la popularité des procédures AD :

- Les droits antidumping tendent à être plutôt élevés (aux Etats-Unis par exemple ils s'élèvent en moyenne à plus de 50% au cours des dernières années, alors que les droits compensateurs (CVD) et de sauvegarde atteignent rarement 20%). L'expérience dans d'autres juridictions est similaire, bien que l'utilisation des mesures compensatoires soit beaucoup plus faible dans d'autres juridictions.
- Beaucoup de gouvernements sont réticents devant les procédures CVD, qui accusent d'autres gouvernements d'accorder des subventions, quand ils se sentent souvent eux-mêmes vulnérables aux mêmes accusations.

[3] Pour une source d'information inestimable, voir Jorge Miranda, Raul A. Torres et Mario Ruiz. The International use of Antidumping 1987-1997. 32 Journal of World Trade 5 (Octobre 1998).

- Les mesures AD sont appliquées à un ou des pays donnés, contrairement aux mesures de sauvegarde, qui sont au moins applicables de façon nominale sur une base MFN.

Les droits antidumping, comme tout tarif, posent un dilemme aux pays en voie de développement, parce qu'ils augmentent leurs coûts nationaux. En outre, l'administration des droits antidumping est techniquement plutôt complexe, et elle exige des ressources passablement sophistiquées. Les pays en voie de développement intéressés par la mise en œuvre d'un régime antidumping peuvent contacter de plus petits pays en voie de développement tels que le Chili ou l'Indonésie, qui ont été capables de mener à bien le processus sans imposer une charge excessive à l'administration publique ou aux importations.

Les droits compensateurs

Les procédures CVD sont similaires quant à la structure aux procédures AD. Le pays importateur doit constater que le pays exportateur subventionne (selon la définition de l'Accord SMC) le produit importé, et que les effets de la subvention causent un dommage. En pratique, l'enquête sur le dommage éventuel est conduite de la même façon que pour la procédure AD[4]. Les enquêtes sur les subventions sont assez différentes des enquêtes AD. Le questionnaire doit être conçu sur mesure pour les subventions spécifiques objet de l'enquête (contrairement aux questionnaires AD, qui sont plutôt des documents standard). Il est envoyé surtout au gouvernement étranger, plutôt qu'à des exportateurs individuels comme pour les procédures AD (bien qu'il soit de bonne règle d'enquêter aussi sur les subventions reçues par les exportateurs, pour les comparer aux subventions données par le gouvernement étranger). Alors que les enquêtes AD examinent en général les ventes de l'année précédente ou à peu près, les enquêtes portant sur des subventions peuvent remonter jusqu'à 15 ou 20 ans en arrière, avec les problèmes afférents d'anciens registres détruits d'office, sans parler des inondations, des incendies, etc. Les définitions de l'Accord SMC sont complexes et/ou sujettes à une certaine interprétation, de telle sorte que dès qu'on va au-delà des formes les plus directes de subventions (par exemple une subvention monétaire attribuée à chaque exportation), l'analyse peut devenir un véritable défi, par exemple pour déterminer si les investissements gouvernementaux en fonds propres dans des sociétés privées ont été faits sur des bases commerciales identiques à celles d'un investisseur privé raisonnable. Certains cas complexes peuvent exiger non seulement des compétences en comptabilité, en droit et en économie mais aussi des banquiers d'investissement, des consultants financiers et des analystes de valeurs.

Les droits compensateurs tendent à être considérablement plus bas que les droits AD. Les règles de l'Accord SMC contraignent efficacement les autorités compétentes pour les procédures CVD à ne pas imposer des droits beaucoup plus élevés que le montant de la subvention. Les subventions accordées par la plupart des pays sont plutôt faibles, à l'exception peut-être de certains produits agricoles et de quelques pays assez riches pour octroyer des subventions importantes. En conséquence, il y a moins d'incitation à engager des procédures CVD que des procédures AD, puisque le même dommage doit être démontré sans les deux cas.

[4] En théorie, l'enquête sur un dommage résultant de subventions pourrait examiner des phénomènes différents des dommages causés par le dumping, mais dans la pratique personne ne semble faire cela.

Mesures de sauvegarde

L'Article XIX du GATT de 1994 et l'Accord sur les Sauvegardes de l'OMC permettent d'imposer des tarifs ou des quotas sur des marchandises importés même si le dumping ou des subventions ne sont pas mis en évidence. Ces mesures de sauvegarde, dénommés également mesures de «clause échappatoire», visent à procurer un soulagement temporaire pendant que l'industrie locale s'adapte à ou se remet d'un changement de circonstances et d'une augmentation d'importations concurrentielles. De récentes décisions de la Cour d'Appel de l'OMC établissent clairement que la cause du dommage doit être due à des circonstances non prévues au moment de la fixation du tarif d'origine. Ainsi, les procédures de sauvegarde exigent seulement une enquête aux fins de déterminer l'existence d'un dommage causé à l'industrie nationale, quoique avec des exigences à atteindre plus élevées que pour les dommages dont on recherche l'existence dans une procédure AD ou CVD. En conséquence, des enquêtes de sauvegarde peuvent être beaucoup plus simples que des enquêtes de type AD ou CVD. Pourtant, il y a beaucoup moins de procédures de sauvegarde que d'enquêtes AD ou CVD. Une des raisons peut en être que l'Accord sur les Sauvegardes demande un examen minutieux continuel des actions du pays importateur à un niveau de détail plus élevé aux réunions du Comité des Sauvegardes de l'OMC, tandis que les cas de type AD et CVD ne sont soumis à aucun examen détaillé, ni dans les Comités AD ni dans les Comités CVD, sauf si une commission est sollicitée. Dans ce rapport, il est intéressant de noter que l'Union Européenne a contesté presque chaque mesure de sauvegarde significative imposée à ses exportateurs depuis 1995. Peut-être que les pays craignent que la possibilité d'une contestation de l'OMC soit plus probable s'ils imposent une mesure de sauvegarde plutôt qu'une enquête AD ou CVD.

En plus, des mesures de sauvegarde doivent être imposées sur une base MFN (avec quelques exceptions), ce qui accroît grandement le nombre de pays susceptibles d'être irrités, et les mesures de sauvegarde doivent être éliminées au bout d'un certain laps de temps, alors que les mesures AD ou CVD en théorie peuvent rester en place aussi longtemps que nécessaire pour obtenir les conditions qui les ont exigées en premier lieu (bien que toutes deux soient soumises à réexamen tous les cinq ans).

Conclusions

1. Les procédures AD et CVD sont beaucoup plus complexes à mettre en œuvre que les mesures de sauvegarde, et exigent des ressources plus sophistiquées.

2. Jusqu'ici les instances de l'OMC et la Cour d'Appel ont été plutôt exigeantes pour les pays qui ont essayé d'imposer l'un des trois remèdes du commerce. La difficulté pour les petits pays en voie de développement est mise en évidence dans la décision de la commission dans l'affaire Guatemala—Ciment du Mexique, qui montre la nécessité, même pour un petit pays en voie de développement soumettant sa première affaire, de se conformer complètement à chacune des règles complexes de procédure des Accords de l'OMC.

3. Une assistance technique considérable est disponible auprès de l'OMC, d'autres organisations internationales et auprès des autorités compétentes nationales.[5]

Défense des Intérêts à l'Exportation

Les exportateurs des pays en voie de développement affrontent des défis considérables quand ils s'exposent aux actions AD, CVD et de sauvegarde de pays étrangers. De petites sociétés confrontées à des questionnaires AD de 100 pages de long ou à des questionnaires CVD d'une conception complexe peuvent ne pas être capables de détacher les ressources humaines pour s'occuper de l'affaire, en particulier sur des marchés relativement réduits, tandis que des exportateurs de petits pays peuvent très bien se retrouver «mis sur la touche » par l'application MFN de mesures de sauvegarde qui s'adressent à des exportateurs de pays plus grands. Ceci dit, la tendance structurelle peut courir dans la direction opposée. Pour de plus petits pays en voie de développement, les Etats-Unis ou l'Union Européenne peuvent bien être le seul marché le plus grand, plus grand même que le marché intérieur, et ainsi valoir la peine de dépenser de l'argent dans une aide extérieure pour défendre l'affaire.

[5] - Dans la recherche d'une aide technique auprès d'une autorité nationale compétente sur les remèdes du commerce, les pays en voie de développement devraient se garder d'essayer d'imiter les bureaucraties en place complexes et coûteuses de certains des usagers plus importants de remèdes du commerce, tels que l'Union Européenne, les Etats-Unis, le Mexique ou le Canada. Un «nouvel utilisateur » des remèdes du commerce devrait aussi se garder d'imiter les pratiques de pays ayant un long passé en tant qu'utilisateurs de ces trois remèdes du commerce. Fréquemment, des pratiques ont grandi dans ces pays «vieux usagers » qui restent en place même quand leurs raisons n'existent plus – vraiment, il n'est pas rare d'entendre des raisons de pratiques données par des administrateurs ignorants des réelles raisons des pratiques qu'ils utilisent, parce que les origines se sont perdues dans la nuit des temps (tout ce qui a plus de 15 ans, semblerait-il).

DISPUTE SETTLEMENT

The WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) is a central element of the new international trading system established by the WTO Agreement. The DSU provides a way for countries to ensure that their access to markets is not impaired by the failure of others to abide by WTO rules, and that other countries equally live up to the bargains they have made. This assurance of market access aids countries in building export industries and in attracting investment as they liberalize their own trade policies. The attached paper prepared by the WTO Secretariat gives a description of the WTO dispute settlement system.

Africa has participated only in a very few WTO disputes so far. South Africa has been the subject of one complaint by India (against South African antidumping measures on pharmaceuticals); Zimbabwe has defended its commercial interests as a third party in the Canadian dispute against France's ban on asbestos. But Sub-Saharan African countries to date have not used WTO dispute settlement proceedings to safeguard their access to markets abroad. Many other countries are using the DSU system successfully to get other countries to remove measures seen as contrary to WTO rules. In fact, over 192 complaints involving 150 distinct matters have been brought since the WTO was established and roughly half have gone beyond the consultation stage. Developing countries have brought over 20 percent of these complaints.

Some have suggested that the low level of African participation may be due to factors such as the relatively small size of many African country markets, the lack of awareness of African exporters about WTO rules, reluctance to bring complaints against major countries or a lack of trained personnel who can bring a WTO complaint.

Whatever the reason for the lack of African participation, African countries are likely to benefit more from the international trading system if they make use of all of the tools the system provides for ensuring fair access to world markets. For this reason, the paper on Building National Infrastructure discusses measures countries may want to take to ensure that they can participate in the dispute settlement activities of the WTO as well as in its other activities.

A tool that could help African countries is the new Advisory Centre on WTO Law, founded at Seattle on 1 December 1999. Membership of the Centre is open to WTO Members and those in the process of accession, and will be free for least-developed countries. The Centre will provide seminars on WTO law, provide affordable legal advice, and provide internships for government officials. Zimbabwe was a founding member of the Centre. The agreement establishing the Centre will enter into force once 20 Members complete their ratification

process and the financial commitments exceed $12 million; the organizing group hopes to have it up and running by the end of this year.

RÈGLEMENT DES DIFFÉRENDS

Le Mémorandum d'accord sur les règles et procédures régissant le règlement des différends (L'Accord de règlement des différends) est un élément clé du nouveau système commercial international mis en place par l'Accord de l'OMC. L'Accord de règlement des différends fournit aux pays membres un moyen de s'assurer que leur accès au marché n'est pas entravé par les manquements d'autres pays aux règles de l'OMC et que d'autres pays se conforment aux accords qu'ils ont acceptés. Cette garantie d'accès au marché aide les pays à développer l'industrie des exportations et à attirer des investisseurs à mesure qu'ils libéralisent leurs politiques commerciales. Le document ci-joint préparé par le Secrétariat décrit le système de règlement des différends de l'OMC.

Jusqu'à présent, l'Afrique n'a que rarement fait partie de différends enregistrés auprès de l'OMC. L'Inde a logé une plainte contre l'Afriqe du Sud (contre les mesures antidumping sud-africaine en matière de produits pharmaceutiques) ; le Zimbabwe a défendu ses intérêts commerciaux en tant que partie tierce dans le cadre d'un différend canadien contre l'interdiction d'amiante française. Cependant, les pays sud-sahariens n'ont pas encore eu recours aux règles et procédures de règlement de différends de l'OMC pour protéger leur accès aux marchés étrangers. Nombre d'autres pays ont utilisé le système de l'Accord de règlement des différends pour forcer d'autres pays à lever des mesures considérées comme une violation des règles de l'OMC. Plus de 192 plaintes concernant 150 affaires différentes ont été déposées depuis la création de l'OMC et environ la moitié est allée au-delà du stade des consultations. De ces plaintes, plus de 20 pour cent proviennent des pays en développement.

Certains sont d'avis que la faible participation africaine serait par exemple due à la petite taille des marchés de nombreux pays d'Afrique, à l'insuffisance de connaissance des exportateurs africains en matière des règles de l'OMC, au manque de désir de porter plainte contre de grands pays ou à la carence en personnel qualifié pouvant loger ces plaintes devant l'OMC.

Quelle que soit la raison des pays africains pour ne pas participer, il est probable qu'ils tireraient meilleur parti du système commercial international s'ils avaient recours aux outils que le système met à leur disposition en vue d'assurer un accès équitable aux marchés du monde. Voilà pourquoi le document sur la Construction de l'infrastructure nationale expose les mesures que certains pays pourraient prendre afin de veiller à ce qu'ils puissent participer aux activités de règlement de différends de l'OMC ainsi qu'à d'autres.

Le nouveau Centre de conseil juridique de l'OMC, créé le 1er décembre 1999 à Seattle, pourrait être d'une aide précieuse aux pays d'Afrique. L'adhésion à ce centre est réservée aux membres de l'OMC et à ceux dont la demande d'adhésion est en cours d'approbation, et sera gratuite pour les pays moins développés. Le Centre offrira des séminaires sur la loi de l'OMC, fournira un conseil juridique abordable et organisera des stages de formation pour les fonctionnaires. Le Zimbabwe était un des membres fondateurs du Centre. L'accord établissant le Centre entrera en vigueur une fois que les 20 membres terminent le processus de ratification et que les engagements financiers dépassent 12 millions de dollars ; le groupe organisateur espère que le Centre entrera en service d'ici la fin de l'année.

Settling disputes

The WTO's 'most individual contribution'

"No review of the achievements of the WTO would be complete without mentioning the Dispute Settlement system, in many ways the central pillar of the multilateral trading system and the WTO's most individual contribution to the stability of the global economy. The new WTO system is at once stronger, more automatic and more credible than its GATT predecessor. This is reflected in the increased diversity of countries using it and in the tendency to resolve cases 'out of court' before they get to the final decision — 19 out of 71 cases so far. The system is working as intended — as a means above all for conciliation and for encouraging resolution of disputes, rather than just for making judgements. By reducing the scope for unilateral actions, it is also an important guarantee of fair trade for [less powerful countries]."

Renato Ruggiero
17 April 1997

1. The WTO's 'most individual contribution'

Without a means of settling disputes, the rules-based system would be worthless because the rules could not be enforced. The WTO's procedure underscores the rule of law, and it makes the trading system more secure and predictable. The system is based on clearly-defined rules, with timetables for completing a case. First rulings are made by a panel and endorsed (or rejected) by the WTO's full membership. Appeals based on points of law are possible.

However, the point is not to make rulings. The priority is to settle disputes, through consultations if possible. By mid-April 1999, 30 out of 170 cases had been settled "out of court", without going through the full panel process.

Principles: equitable, fast, effective, mutually acceptable

WTO members have agreed that if they believe fellow-members are violating trade rules, they will use the multilateral system of settling disputes instead of taking action unilaterally. That means abiding by the agreed procedures, and respecting judgements.

What is this agreement called? *Understanding on Rules and Procedures Governing the Settlement of Disputes*

Typically, a dispute arises when one country adopts a trade policy measure or takes some action that one or more fellow-WTO members considers to be breaking the WTO agreements, or to be a failure to live up to obligations. A third group of countries can declare that they have an interest in the case and enjoy some rights.

A procedure for settling disputes existed under the old GATT, but it had no fixed timetables, rulings were easier to block, and many cases dragged on for a long time inconclusively. The Uruguay Round agreement introduced a more structured process with more clearly defined stages in the procedure. It introduced greater discipline for the length of time a case should take to be settled, with flexible deadlines set in various stages of the procedure. The agreement emphasizes that prompt settlement is essential if the WTO is to function effectively. It sets out in considerable detail the procedures and the timetable to be followed in resolving disputes. If a case runs its full course to a first ruling, it should not normally take more than about one year — 15 months if the case is appealed. The agreed time limits are flexible, and if the case is considered urgent (e.g. if perishable goods are involved), then the case should take three months less.

The Uruguay Round agreement also made it impossible for the country losing a case to block the adoption of the ruling. Under the previous

More cases can be good news

If the courts find themselves handling an increasing number of criminal cases, does that mean law and order is breaking down? Not necessarily. Sometimes it means that people have more faith in the courts and the rule of law. They are turning to the courts instead of taking the law into their own hands.

For the most part, that is what is happening in the WTO. No one likes to see countries quarrel. But if there are going to be trade disputes anyway, it is healthier that the cases are handled according to internationally agreed rules. There are strong grounds for arguing that the increasing number of disputes is simply the result of expanding world trade and the stricter rules negotiated in the Uruguay Round; and that the fact that more are coming to the WTO reflects a growing faith in the system.

GATT procedure, rulings could only be adopted by consensus, meaning that a single objection could block the ruling. Now, rulings are automatically adopted unless there is a consensus to reject a ruling — any country wanting to block a ruling has to persuade all other WTO members (including its adversary in the case) to share its view.

Although much of the procedure does resemble a court or tribunal, the preferred solution is for the countries concerned to discuss their problems and settle the dispute by themselves. The first stage is therefore consultations between the governments concerned, and even when the case has progressed to other stages, consultation and mediation are still always possible.

How are disputes settled?

Settling disputes is the responsibility of the Dispute Settlement Body (the General Council in another guise). The Dispute Settlement Body has the sole authority to establish "panels" of experts to consider the case, and to accept or reject the panels' findings or the results of an appeal. It monitors the implementation of the rulings and recommendations, and has the power to authorize retaliation when a country does not comply with a ruling.

- **First stage: consultation** (up to **60 days**). Before taking any other actions the countries in dispute have to talk to each other to see if they can settle their differences by themselves. If that fails, they can also ask the WTO director general to mediate or try to help in any other way.
- **Second stage: the panel** (up to **45 days** for a panel to be appointed, plus **6 months** for the panel to conclude). If consultations fail, the complaining country can ask for a panel to be appointed. The country "in the dock" can block the creation of a panel once, but when the Dispute Settlement Body meets for a second time, the appointment can no longer be blocked (unless there is a consensus against appointing the panel).

Officially, the panel is helping the Dispute Settlement Body make rulings or recommendations. But because the panel's report can only be rejected by consensus in the Dispute Settlement Body, its conclusions are difficult to overturn. The panel's findings have to be based on the agreements cited.

The panel's final report should normally be given to the parties to the dispute within six months. In cases of urgency, including those concerning perishable goods, the deadline is shortened to three months.

The agreement describes in some detail how the panels are to work. The main stages are:

- **Before the first hearing**: each side in the dispute presents its case in writing to the panel.
- **First hearing: the case for the complaining country and defence**: the complaining country (or countries), the responding country, and those that have announced they have an interest in the dispute, make their case at the panel's first hearing.

Panels

Panels are like tribunals. But unlike in a normal tribunal, the panelists are usually chosen in consultation with the countries in dispute. Only if the two sides cannot agree does the WTO director general appoint them. This only happens rarely.

Panels consist of three (occasionally five) experts from different countries who examine the evidence and decide who is right and who is wrong. The panel's report is passed to the Dispute Settlement Body, which can only reject the report by consensus.

Panellists for each case can be chosen from a permanent list of well-qualified candidates, or from elsewhere. They serve in their individual capacities. They cannot receive instructions from any government.

How long to settle a dispute?

These approximate periods for each stage of a dispute settlement procedure are target figures — the agreement is flexible. In addition, the countries can settle their dispute themselves at any stage. Totals are also approximate.

60 days	Consultations, mediation, etc
45 days	Panel set up and panelists appointment
6 months	Final panel report to parties
3 weeks	Final panel report to WTO members
60 days	Dispute Settlement Body adopts report (if no appeal)
Total = 1 year	(without appeal)
60-90 days	Appeals report
30 days	Dispute Settlement Body adopts appeals report
Total = 1y 3m	(with appeal)

- **Rebuttals**: the countries involved submit written rebuttals and present oral arguments at the panel's second meeting.
- **Experts**: if one side raises scientific or other technical matters, the panel may consult experts or appoint an expert review group to prepare an advisory report.
- **First draft**: the panel submits the descriptive (factual and argument) sections of its report to the two sides, giving them two weeks to comment. This report does not include findings and conclusions.
- **Interim report**: The panel then submits an interim report, including its findings and conclusions, to the two sides, giving them one week to ask for a review.
- **Review**: The period of review must not exceed two weeks. During that time, the panel may hold additional meetings with the two sides.
- **Final report**: A final report is submitted to the two sides and three weeks later, it is circulated to all WTO members. If the panel decides that the disputed trade measure does break a WTO agreement or an obligation, it recommends that the measure be made to conform with WTO rules. The panel may suggest how this could be done.
- **The report becomes a ruling**: The report becomes the Dispute Settlement Body's ruling or recommendation within 60 days unless a consensus rejects it. Both sides can appeal the report (and in some cases both sides do).

Appeals

Either side can appeal a panel's ruling. Sometimes both sides do so. Appeals have to be based on points of law such as legal interpretation — they cannot reexamine existing evidence or examine new evidence.

Each appeal is heard by three members of a permanent seven-member Appellate Body set up by the Dispute Settlement Body and broadly representing the range of WTO membership. Members of the Appellate Body have four-year terms. They have to be individuals with recognized standing in the field of law and international trade, not affiliated with any government.

The appeal can uphold, modify or reverse the panel's legal findings and conclusions. Normally appeals should not last more than 60 days, with an absolute maximum of 90 days.

The Dispute Settlement Body has to accept or reject the appeals report within 30 days — and rejection is only possible by consensus.

The case has been decided: what next?

Go directly to jail. Do not pass Go, do not collect ... Well, not exactly. But the sentiments apply. If a country has done something wrong, it should swiftly correct its fault. And if it continues to break an agreement, it should offer compensation or suffer a suitable penalty that has some bite.

Even once the case has been decided, there is more to do before trade sanctions (the conventional form of penalty) are imposed. The priority at this stage is for the losing "defendant" to bring its policy into line with the ruling or recommendations. The dispute settlement agreement stresses that "prompt compliance with recommendations or rulings of the DSB [Dispute Settlement Body] is essential in order to ensure effective resolution of disputes to the benefit of all Members".

If the country that is the target of the complaint loses, it must follow the recommendations of the panel report or the appeals report. It must state its intention to do so at a Dispute Settlement Body meeting held within 30 days of the report's adoption. If complying with the recommendation immediately proves impractical, the member will be given a "reasonable period of time" to do so. If it fails to act within this period, it has to enter into negotiations with the complaining country (or countries) in order to determine mutually-acceptable compensation — for instance, tariff reductions in areas of particular interest to the complaining side.

If after 20 days, no satisfactory compensation is agreed, the complaining side may ask the Dispute Settlement Body for permission to impose limited trade sanctions ("suspend concessions or obligations") against the other side. The Dispute Settlement Body must grant this authorization within 30 days of the expiry of the "reasonable period of time" unless there is a consensus against the request.

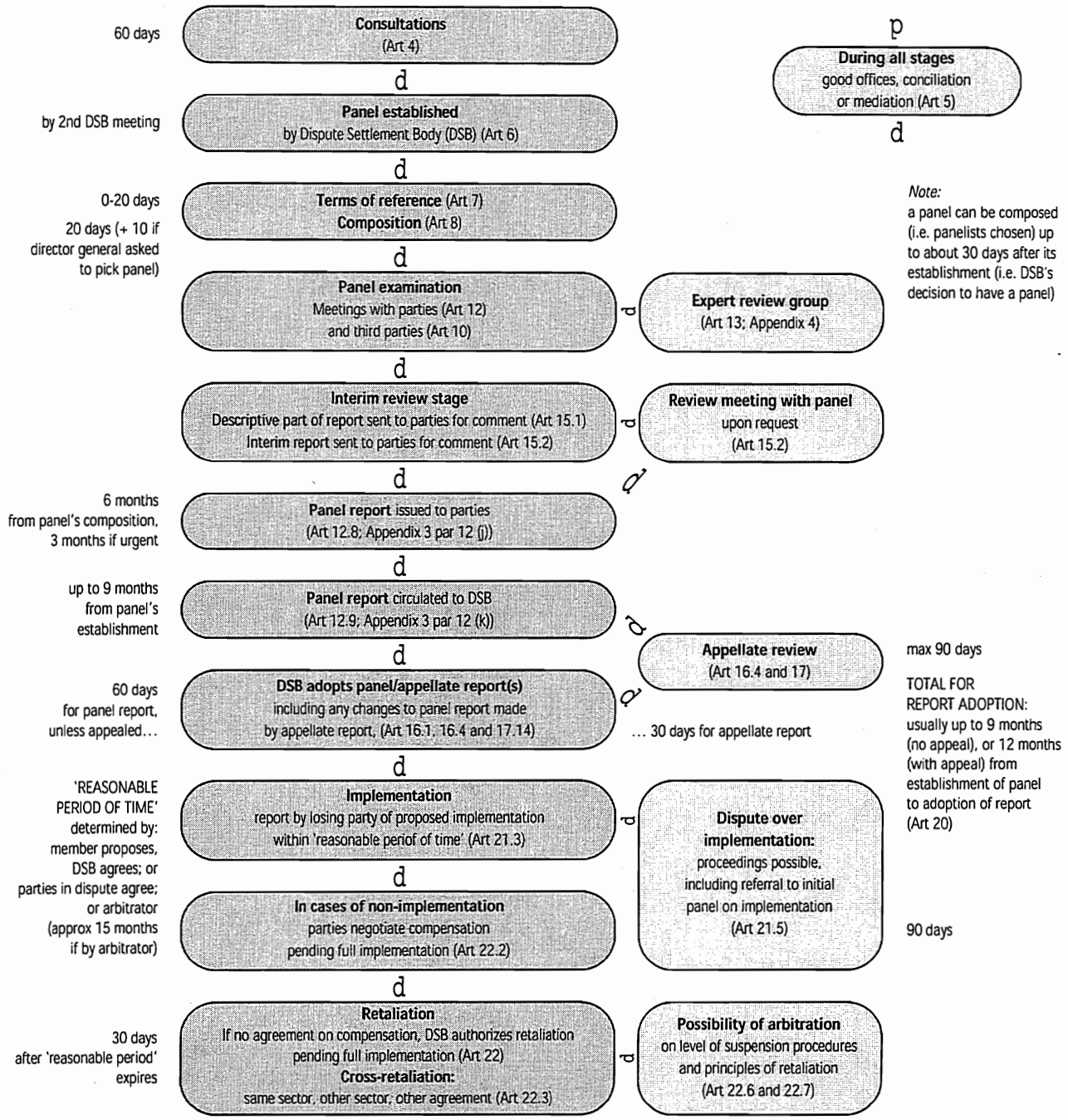
In principle, the sanctions should be imposed in the same sector as the dispute. If this is not practical or if it would not be effective, the sanctions can be imposed in a different sector of the same agreement. In turn, if this is not effective or practicable and if the circumstances are serious enough, the action can be taken under another agreement. The objective is to minimize the chances of actions spilling over into unrelated sectors while at the same time allowing the actions to be effective.

In any case, the Dispute Settlement Body monitors how adopted rulings are implemented. Any outstanding case remains on its agenda until the issue is resolved.

2. The panel process

The various stages a dispute can go through in the WTO. At all stages, countries in dispute are encouraged to consult each other in order to settle 'out of court'. At all stages, the WTO director general is available to offer his good offices, to mediate or to help achieve a conciliation.

Note: some specified times are maximums, some are minimums, some binding, some not



3. Case study: the timetable in practice

On 23 January 1995, Venezuela complained to the Dispute Settlement Body that the United States was applying rules that discriminated against gasoline imports, and formally requested consultations with the United States. Just over a year later (on 29 January 1996) the dispute panel completed its final report. (By then, Brazil had joined the case, lodging its own complaint in April 1996. The same panel considered both complaints.) The United States appealed. The Appellate Body completed its report, and the Dispute Settlement Body adopted the report on 20 May 1996, one year and four months after the complaint was first lodged.

The United States and Venezuela then took six and a half months to agree on what the United States should do. The agreed period for implementing the solution was 15 months from the date the appeal was concluded (20 May 1996 to 20 August 1997). The Dispute Settlement Body has been monitoring progress — the United States submitted "status reports" on 9 January and 13 February 1997, for example.

The case arose because the United States applied stricter rules on the chemical characteristics of imported gasoline than it did for domestically-refined gasoline. Venezuela (and later Brazil) said this was unfair because US gasoline did not have to meet the same standards — it violated the "national treatment" principle and could not be justified under exceptions to normal WTO rules for health and environmental conservation measures. The dispute panel agreed with Venezuela and Brazil. The appeal report upheld the panel's conclusions (making some changes to the panel's legal interpretation. The United States agreed with Venezuela that it would amend its regulations within 15 months and on 26 August 1997 it reported to the Dispute Settlement Body that a new regulation had been signed on 19 August.

Time (0 = start of case)	Target/ actual period	Date	Action
-5years		1990	US Clean Air Act amended
-4 months		September 1994	US restricts gasoline imports under Clean Air Act
0	"60 days"	23 January 1995	Venezuela complains to Dispute Settlement Body, asks for consultation with US
+1 month		24 February 1995	Consultations take place. Fail
+2 months		25 March 1995	Venezuela asks Dispute Settlement Body for a panel
+2 1/2 months	"30 days"	10 April 1995	Dispute Settlement Body agrees to appoint panel. US does not block. (Brazil starts complaint, requests consultation with US.)
+3 months		28 April 1995	Panel appointed. (31 May, panel assigned to Brazilian complaint as well)
+6 months	9 months (target is 6-9)	10-12 July and 13-15 July 1995	Panel meets
+11 months		11 December 1995	Panel gives interim report to US, Venezuela and Brazil for comment
+1 year		29 January 1996	Panel circulates final report to Dispute Settlement Body
+1 year, 1 month		21 February 1996	US appeals
+1 year, 3 months	"60 days"	29 April 1996	Appellate Body submits report
+1 year, 4 months	"30 days"	20 May 1996	Dispute Settlement Body adopts panel and appeal reports
+1 year, 10 1/2 months		3 December 1996	US and Venezuela agree on what US should do (implementation period is 15 months from 20 May)
1 year, 11 1/2 months		9 January 1997	US makes first of monthly reports to Dispute Settlement Body on status of implementation
+2 years, 7 months		19-20 August 1997	US signs new regulation (19th). End of agreed implementation period (20th)

Chapitre 3
Règlement des différends

1. La « contribution la plus originale » de l OMC

Sans un moyen de régler les différends, le système fondé sur les règles ne serait d aucune utilité car les règles ne pourraient pas être appliquées. La procédure de l OMC consacre le règne du droit et permet de rendre le système commercial plus sûr et plus prévisible. Le système est fondé sur des règles clairement définies, assorties d un calendrier pour l examen d une affaire. Les décisions initiales sont rendues par un groupe spécial et approuvées (ou rejetées) par l ensemble des Membres de l OMC. Il est possible de faire appel sur les points de droit.

Comment s appelle cet accord?

Mémorandum d accord sur les règles et procédures régissant le règlement des différends

Cependant, il ne s agit pas de rendre des décisions mais, en priorité, de régler les différends, si possible par voie de consultations. Au début de 1997, 19 sur 71 affaires ont été réglées à l amiable, sans passer par l ensemble de la procédure de groupe spécial.

Les principes: équité, rapidité, efficacité et solution mutuellement acceptable

Les Membres de l OMC sont convenus de recourir au système multilatéral de règlements des différends au lieu de prendre des mesures unilatérales s ils estiment que d autres Membres enfreignent les règles commerciales. Autrement dit, ils appliqueront les procédures convenues et respecteront les jugements rendus.

Dans la plupart des cas, un différend naît lorsqu un pays adopte une mesure de politique commerciale ou d autre nature qui est considérée par un ou plusieurs autres Membres de l OMC comme une violation des Accords de l OMC ou un manquement aux obligations. Un troisième groupe de pays peuvent déclarer avoir un intérêt dans l affaire et bénéficier de certains droits.

La multiplication des affaires est peut-être un bon signe

Si les tribunaux se voient confier un nombre croissant d affaires criminelles, cela signifie-t-il que le droit et l ordre public sont malmenés? Pas forcément. Parfois, cela veut dire que les gens ont davantage confiance dans les tribunaux et dans le règne du droit. Ils s adressent aux tribunaux au lieu de faire justice eux-mêmes.

Pour l essentiel, c est ce qui se passe à l OMC. Personne n a envie de voir des pays se disputer. Mais s ils sont inévitables, il vaut mieux que les différends commerciaux soient traités conformément à des règles convenues au niveau international. Il y a de bonnes raisons de penser que le nombre croissant de différends est simplement le résultat de l expansion du commerce mondial et des règles plus rigoureuses négociées lors du Cycle d Uruguay, et que si l OMC est davantage sollicitée, cela témoigne d une confiance de plus en plus grande dans le système.

Une procédure de règlement des différends existait dans le cadre de l ancien GATT, mais il n y avait aucun calendrier établi, il était plus facile de bloquer les décisions et beaucoup d affaires traînaient en longueur sans arriver à une solution. Le Mémorandum d accord issu du Cycle d Uruguay a mis en place un processus plus structuré, dont les étapes sont plus clairement définies. Il établit une discipline plus rigoureuse quant au délai imparti pour le règlement d une affaire ainsi que des échéances flexibles pour les différentes étapes de la procédure. Il souligne qu un règlement rapide est indispensable au bon fonctionnement de l OMC. Il énonce de manière très détaillée les règles de procédure à suivre et les calendriers à respecter à cette fin. La procédure complète, jusqu à la décision

Groupes spéciaux

Un groupe spécial ressemble à un tribunal. Mais à la différence des jurys habituels, ses membres sont généralement choisis en consultation avec les pays parties au différend. Ce n'est que lorsque les deux parties ne peuvent pas s'entendre qu'ils sont désignés par le Directeur général de l'OMC. Cela ne s'est produit que rarement.

Les groupes spéciaux se composent de trois (parfois cinq) experts venus de pays différents, qui examinent les preuves et décident qui a tort et qui a raison. Leur rapport est présenté à l'Organe de règlement des différends, qui ne peut le rejeter que par consensus.

Les membres d'un groupe spécial chargé d'une affaire particulière sont choisis soit parmi des personnes hautement qualifiées figurant sur une liste permanente soit d'une autre manière. Ils siègent à titre personnel et ne peuvent recevoir de directives d'aucun gouvernement.

partager ses vues.

Cette procédure rappelle beaucoup le système judiciaire mais on préfère inciter les pays intéressés à débattre de leurs problèmes et à régler eux-mêmes le différend. La première étape est donc celle de consultations entre les gouvernements concernés et, même lors des étapes ultérieures, il est toujours possible de faire appel aux consultations et à la médiation.

Comment s'effectue le règlement d'un différend?

L'Organe de règlement des différends (le Conseil général siégeant à un autre titre) est responsable en la matière. Il est seul compétent pour établir des « groupes spéciaux » composés d'experts chargés d'examiner l'affaire, et pour adopter ou rejeter les conclusions des groupes spéciaux ou les résultats de la procédure d'appel. Il surveille la mise en œuvre des décisions et recommandations, et est habilité à autoriser l'adoption de mesures de rétorsion si un pays ne se conforme pas à une décision.

- **Première étape: les consultations** (jusqu'à **60 jours**). Avant de prendre d'autres mesures, les parties de la première instance, ne doit pas en principe durer plus d'un an, ou plus de 15 mois s'il y a appel. Les délais convenus sont flexibles et, en cas d'urgence (c'est-à-dire lorsqu'il s'agit de produits périssables), le processus est écourté de trois mois.

Le Mémorandum d'accord issu du Cycle d'Uruguay empêche aussi un pays désavoué de bloquer l'adoption de la décision. D'après l'ancienne procédure du GATT, les décisions ne pouvaient être adoptées que par consensus, de sorte qu'une seule opposition suffisait pour les bloquer. Désormais, les décisions sont adoptées automatiquement sauf s'il y a consensus pour les rejeter. Ainsi, un pays désireux de bloquer une décision doit amener tous les autres Membres de l'OMC (y compris la partie adverse dans le différend) à

Combien de temps faut-il pour régler un différend?

Les chiffres indiqués ci-dessous correspondent à la durée approximative prévue en principe pour chaque étape d'une procédure de règlement des différends. Le Mémorandum d'accord est flexible à cet égard. En outre, les pays peuvent régler eux-mêmes leurs différends à tout moment. Les chiffres totaux sont aussi approximatifs.

60 jours	Consultations, médiation, etc.
45 jours	Etablissement du groupe spécial et désignation des membres du groupe
6 mois	Présentation du rapport final du groupe spécial aux parties
3 semaines	Présentation du rapport final du groupe spécial aux Membres de l'OMC
60 jours	Adoption du rapport par l'Organe de règlement des différends (s'il n'y a pas appel)
Total = 1 an	(sans appel)
60-90 jours	Présentation du rapport d'appel
30 jours	Adoption du rapport d'appel par l'Organe de règlement des différends
Total = 1 an et 3 mois	(avec appel)

ties au différend doivent discuter entre elles pour savoir si elles peuvent arriver à s'entendre. Si ces discussions n'aboutissent pas, elles peuvent aussi demander au Directeur général de l'OMC d'intervenir comme médiateur ou de toute autre manière.

- **Deuxième étape: le groupe spécial** (le délai prévu pour l'établissement d'un groupe spécial est de **45 jours** et le groupe a **six mois** pour achever ses travaux). Si les consultations n'aboutissent pas, le pays plaignant peut demander l'établissement d'un groupe spécial. Le pays incriminé peut l'empêcher une première fois, mais lors d'une deuxième réunion de l'Organe de règlement des différends (ORD), il n'est plus possible d'y faire opposition (sauf s'il y a consensus contre l'établissement du groupe spécial).

Le groupe spécial a officiellement pour tâche d'aider l'ORD à énoncer des décisions ou recommandations, mais comme son rapport ne peut être rejeté que par consensus à l'ORD, il est difficile d'infirmer ses conclusions. Les constatations du groupe doivent être fondées sur les accords invoqués.

Le rapport final du groupe spécial doit en principe être communiqué aux parties au différend dans un délai de six mois. En cas d'urgence, notamment lorsqu'il s'agit de produits périssables, ce délai est ramené à trois mois.

Le Mémorandum d'accord énonce en détail les procédures de travail des groupes spéciaux. Les principales étapes sont les suivantes:

- **Avant la première réunion:** chaque partie au différend expose par écrit au groupe spécial ses arguments.
- **Première réunion — les arguments du plaignant et ceux de la défense:** le ou les pays plaignants, le pays mis en cause, et ceux qui ont déclaré avoir un intérêt dans le différend, présentent leurs arguments à la première réunion du groupe spécial.
- **Réfutations:** les pays concernés présentent des réfutations écrites et des arguments oraux à la deuxième réunion du groupe spécial.
- **Experts:** si une partie soulève des questions de caractère scientifique ou technique, le groupe spécial peut consulter des experts ou désigner un groupe d'experts chargé d'établir un rapport consultatif.
- **Avant-projet de rapport:** le groupe spécial remet aux deux parties les sections descriptives (éléments factuels et arguments) de son projet de rapport et leur donne un délai de deux semaines pour présenter leurs observations. Ce rapport ne contient pas les constatations et conclusions.
- **Rapport intérimaire**: Le groupe spécial soumet ensuite un rapport intérimaire comprenant ses constatations et conclusions aux deux parties, qui disposent d'un délai d'une semaine pour demander un réexamen.
- **Réexamen**: La phase de réexamen ne doit pas dépasser deux semaines. Pendant cette période, le groupe spécial peut tenir d'autres réunions avec les deux parties.
- **Rapport final**: Un rapport final est transmis aux deux parties et, trois semaines plus tard, il est distribué à tous les Membres de l'OMC. Si le groupe spécial conclut que la mesure commerciale incriminée est effectivement contraire à un Accord de l'OMC ou à une obligation dans le cadre de l'OMC, il recommande que la mesure soit rendue conforme aux règles de l'OMC. Il peut suggérer comment procéder à cette fin.
- **Le rapport devient une décision**: Le rapport devient, dans les 60 jours suivants, une décision ou recommandation de l'Organe de règlement des différends, à moins qu'il n'y ait consensus pour le rejeter. Les deux parties peuvent faire appel du rapport (et il est arrivé qu'elles le fassent l'une et l'autre).

Appels

Chaque partie peut faire appel de la décision d'un groupe spécial. Parfois l'une et l'autre le font. L'appel doit être fondé sur des points de droit tels que les interprétations du droit; il ne

peut pas viser à obtenir le réexamen des preuves existantes ou l'examen de preuves nouvelles.

Chaque appel est traité par trois des sept membres d'un Organe d'appel permanent constitué par l'ORD et représentatif de la composition de l'OMC. Les membres de l'Organe d'appel sont nommés pour quatre ans. Il doit s'agir de personnes dont l'autorité est reconnue en matière de droit et de commerce international et qui n'ont aucune attache avec une administration nationale.

L'appel peut aboutir à la confirmation, à la modification ou à l'infirmation des constatations et conclusions juridiques du groupe spécial. La durée de la procédure ne doit pas dépasser, en principe, 60 jours, et en aucun cas 90 jours.

L'Organe de règlement des différends doit accepter ou rejeter le rapport de l'Organe d'appel dans un délai de 30 jours, le rejet n'étant possible que par consensus.

L'affaire est tranchée: que se passe-t-il maintenant?

Allez en prison. Avancez tout droit en prison. Ne passez pas par la case « Départ ». Ne recevez pas .... Non, sérieusement, cela ne se passe pas tout à fait ainsi mais le principe est le même. Si un pays a commis une faute, il doit la réparer sans tarder. Et s'il persiste à violer un accord, il doit offrir une compensation ou subir une punition assez sévère.

Même une fois que l'affaire a été tranchée, on peut encore agir avant que des sanctions commerciales (forme classique de la punition) ne soient imposées. A ce stade, l'objectif prioritaire est d'obtenir que le « défendeur » désavoué mette sa mesure en conformité avec la décision ou les recommandations. Le Mémorandum d'accord précise que « pour que les différends soient résolus efficacement dans l'intérêt de tous les Membres, il est indispensable de donner suite dans les moindres délais aux recommandations ou décisions de l'ORD ».

Si le pays visé par la plainte perd la partie, il doit mettre en œuvre les recommandations contenues dans le rapport du groupe spécial ou le rapport de l'Organe d'appel. Il doit annoncer son intention de le faire à une réunion de l'Organe de règlement des différends tenue dans les 30 jours suivant l'adoption du rapport. S'il ne peut se conformer immédiatement à la recommandation, un « délai raisonnable » pour le faire lui sera fixé. S'il ne s'exécute dans ce délai, il doit engager des négociations avec le ou les pays plaignants afin de trouver une compensation mutuellement satisfaisante, par exemple des réductions de droits de douane dans des domaines présentant un intérêt particulier pour la partie plaignante.

Si, à l'issue d'un délai de 20 jours, aucune compensation satisfaisante n'a été convenue, la partie plaignante peut demander à l'Organe de règlement des différends l'autorisation d'imposer des sanctions commerciales limitées (« de suspendre ... l'application de concessions ou d'autres obligations ») à l'encontre de l'autre partie. L'ORD doit accorder cette autorisation dans les 30 jours suivant l'expiration du « délai raisonnable », à moins qu'il n'y ait consensus pour rejeter la demande.

En principe, les sanctions devraient être imposées dans le même secteur que celui qui fait l'objet du différend. Si cela n'est pas possible ou efficace, elles peuvent être imposées dans un autre secteur visé par le même Accord. Si cela n'est pas non plus efficace ou possible, et si les circonstances sont suffisamment graves, la mesure peut être prise en vertu d'un autre accord. L'objectif est de limiter autant que possible la probabilité que la mesure prise n'ait des répercussions sur d'autres secteurs, tout en assurant son efficacité.

La « contribution la plus originale » de l'OMC

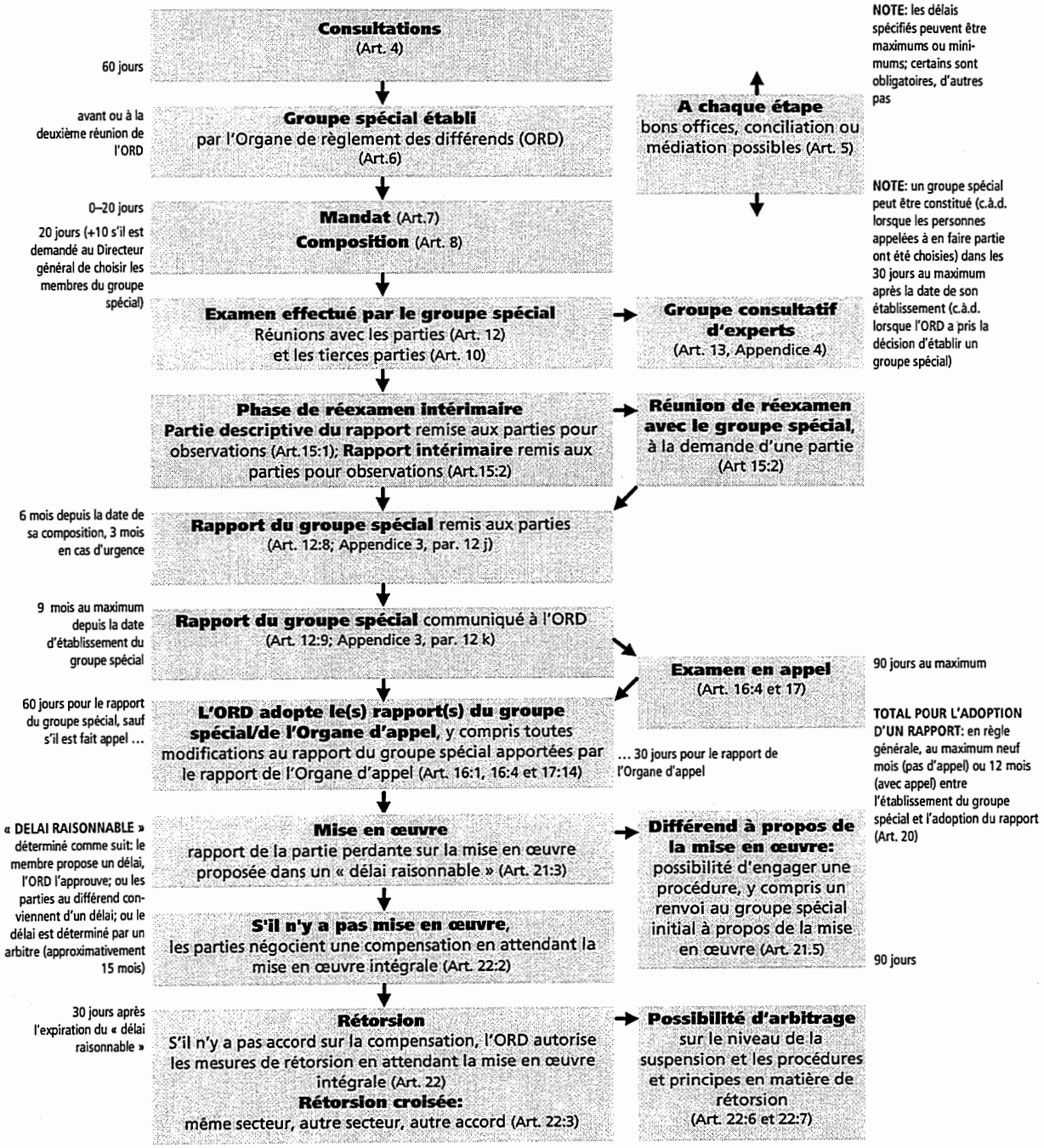
On ne peut pas faire un bilan complet des acquis de l'OMC sans mentionner le système de règlement des différends, qui est, à bien des égards, l'élément central du système commercial multilatéral et la contribution la plus originale de l'OMC à la stabilité de l'économie mondiale. Le nouveau système de l'OMC est à la fois plus solide, doté d'une plus grande automaticité et plus crédible que son prédécesseur du GATT. La preuve en est le nombre accru des pays qui y font appel et la tendance à trouver un règlement à l'amiable avant d'arriver à la décision finale, comme cela a été le cas pour 19 des 71 affaires jusqu'ici. Le système fonctionne comme prévu, essentiellement comme un mécanisme de conciliation et un moyen d'encourager le règlement des différends et non uniquement de rendre des jugements. En réduisant les possibilités de mesures unilatérales, il contribue aussi de manière importante à garantir des échanges équitables pour des [pays moins puissants]. »

Renato Ruggiero
17 avril 1997

Dans tous les cas, l'Organe de règlement des différends surveille l'application des recommandations et décisions adoptées. Toute affaire en suspens demeure à son ordre du jour jusqu'à ce que le problème soit réglé.

2. La procédure de groupe spécial

Les diverses étapes qu'un différend peut franchir à l'OMC. A chaque étape, les pays parties à un différend sont encouragés à tenir des consultations entre eux afin d'arriver à un règlement « extrajudiciaire ». A chaque étape, le Directeur général de l'OMC peut offrir ses bons offices ou sa médiation, ou aider à parvenir à une conciliation.



3. Etude de cas: chronologie d'une affaire

Le 23 janvier 1995, le Venezuela a porté plainte devant l'Organe de règlement des différends en faisant valoir que les Etats-Unis appliquaient des règles qui entraînaient une discrimination à l'encontre des importations d'essence, et il a officiellement demandé l'ouverture de consultations avec les Etats-Unis. Un peu plus d'un an plus tard (le 29 janvier 1996), le groupe spécial chargé de l'affaire a achevé l'élaboration de son rapport final. (A ce moment-là, le Brésil était devenu partie au différend, après avoir déposé sa propre plainte en avril 1996. Le même groupe spécial a examiné les deux plaintes.) Les Etats-Unis ont fait appel. L'Organe d'appel a établi son rapport, que l'Organe de règlement des différends a adopté le 20 mai 1996, un an et quatre mois après le dépôt de la première plainte.

Il a fallu ensuite six mois et demi aux Etats-Unis et au Venezuela pour s'entendre sur ce que les Etats-Unis devraient faire. Le délai convenu pour la mise en œuvre de la solution était de 15 mois à compter de la fin de la procédure d'appel (20 mai 1996 à 20 août 1997). L'Organe de règlement des différends a surveillé cette mise en œuvre: par exemple, les Etats-Unis lui ont présenté, les 9 janvier et 13 février 1997, des « rapports de situation ».

Le différend est né du fait que les Etats-Unis appliquaient à l'essence importée des règles plus rigoureuses concernant les particularités chimiques que celles qui régissaient l'essence raffinée dans le pays. De l'avis du Venezuela (et plus tard du Brésil), cela était inéquitable car l'essence américaine n'était pas assujettie aux mêmes normes; cette mesure était contraire au principe du « traitement national » et ne pouvait être justifiée au titre des exceptions aux règles normales de l'OMC concernant les mesures sanitaires et les mesures de protection de l'environnement. Le groupe spécial chargé du différend a donné raison au Venezuela et au Brésil. Dans son rapport, l'Organe d'appel a confirmé les conclusions du groupe spécial (en modifiant sur quelques points l'interprétation du droit donnée par le groupe spécial). Les Etats-Unis ont proposé d'apporter des modifications à leurs règlements, qui ne sont cependant pas encore adoptées.

Durée (0 = point de départ de la procédure)	**Délai prévu dans le Mémorandum d'accord/durée effective**	**Date**	**Déroulement de l'affaire**
–5 ans		1990	La Loi américaine sur la lutte contre la pollution atmosphérique est modifiée.
–4 mois		Septembre 1994	Les Etats-Unis limitent les importations d'essence en vertu de la Loi sur la lutte contre la pollution atmosphérique.
0	*« 60 jours »*	23 janvier 1995	Le Venezuela une dépose porte plainte devant l'Organe de règlement des différends (ORD) et demande l'ouverture de consultations avec les Etats-Unis.
+ 1 mois		24 février 1995	Les consultations ont lieu. Elles échouent.
+ 2 mois		25 mars 1995	Le Venezuela demande à l'ORD d'établir un groupe spécial.
+ 2 mois et demi		10 avril 1995	L'ORD accepte d'établir un groupe spécial. Les Etats-Unis ne font pas opposition.
	« 30 jours »		(Le Brésil dépose aussi une plainte et demande l'ouverture de consultations avec les Etats-Unis.)
+ 3 mois		28 avril 1995	Le Groupe spécial est établi. (Le 31 mai, il est également chargé d'examiner la plainte du Brésil.)
+ 6 mois	*9 mois (Délai prévu: 6 mois + prolongation)*	10-12 juillet et 13-15 juillet 1995	Le Groupe spécial se réunit.
+ 11 mois		11 décembre 1995	Le Groupe spécial remet son rapport intérimaire aux Etats-Unis, au Venezuela et au Brésil pour observations.
+ 1 an		29 janvier 1996	Le Groupe spécial présente son rapport final à l'Organe de règlement des différends.
+ 1 an et 1 mois	*« 60 jours »*	21 février 1996	Les Etats-Unis font appel.
+ 1 an et 3 mois		29 avril 1996	L'Organe d'appel présente son rapport.
+ 1 an et 4 mois	*« 30 jours »*	20 mai 1996	L'Organe de règlement des différends adopte le rapport du Groupe spécial et le rapport de l'Organe d'appel.
+ 1 an et 10 mois et demi		3 décembre 1996	Les Etats-Unis et le Venezuela sont d'accord sur ce que les Etats-Unis devraient faire (le délai de mise en œuvre est de 15 mois à compter du 20 mai).
1 an et 11 mois et demi		9 janvier 1997	Les Etats-Unis présentent à l'Organe de règlement des différends un rapport de situation sur la mise en œuvre.
+ 2 ans et 7 mois		20 août 1997	Fin du délai convenu de mise en œuvre

U.S.-Africa Discussion of the IFI Role in Trade-Related Capability Building and Technical Assistance

May 4, 2000

3:00 p.m. – 4:30 p.m.

USTR Annex, Rooms 1 and 2

Speakers

Ambassador Susan G. Esserman, Deputy United States Trade Representative
Stuart Eizenstat, Deputy Treasury Secretary
Alan Larson, Under Secretary of State
Emmy Simmons, Deputy Assistant Administrator for USAID
Ministers of Gabon, Ghana and Uganda to lead African response

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PAPERS AND ATTACHMENTS

Attachment A: IMF/WB Development Committee Communique (April 2000)

Attachment B: Communique of International Monetary and Financial Committee of Board of Governors of IMF (April 2000)

Attachment C: Joint Statement by heads of IMF, WB & WTO (Nov. 1999)

SPEAKER BIOGRAPHIES

His Excellency Daniel Abodakpi

Minister Abodakpi recently assumed the leadership of Ghana's Ministry of Trade and Industry where he has served since 1991 in promoting the liberalization of trade policies. As a Member of Parliament, he has worked to improve the socio-economic life of the Ghanaian constituency. Minister Abodakpi also serves as the Chairman of the Ghana Export Promotion council, the Ghana National Procurement Agency, the Ghana Free Zones Board and the Business Assistance Fund Implementation Committee. He is also a member of various parliamentary committees including the Economic Management Team and the Policy Management Group of the Office of the President.

His Excellency Al-Haji Brig. Moses Ali

Minister Ali currently holds the positions of Second Deputy Prime Minister and Minister of Tourism, Trade and Industry, the latest appointments in his resume of leadership roles in Uganda. Minister Ali has also acted as Third Deputy Prime Minister, Minister of Tourism, Wildlife and Antiquities, Minister of Culture, Youth and Sports, Minister of Finance, and Minister Responsible for Local Government. He has been a member of Ministerial Conferences for the WTO, UNIDO, UNCTAD, East African Community and COMESA, as well as Governor of the World Bank, African Development Bank, and Islamic Development Bank.

Ambassador Susan G. Esserman

Susan G. Esserman is Deputy United States Trade Representative with the rank of Ambassador. Her portfolio encompasses the development of trade policy and negotiations in the World Trade Organization and other multilateral fora, as well as Europe, Russia and the Newly Independent States of the Former Soviet Union, the Middle East and Africa.

Ambassador Esserman has held three other senior posts in the Clinton Administration: General Counsel to the Office of the United States Trade Representative, where she had lead responsibility for all legal issues related to U.S. trade policy, including the enforcement of U.S. rights under international trade agreements; Assistant Secretary for Import Administration, where she was responsible for enforcement and development of policy in connection with the antidumping and countervailing duty laws; and, Acting General Counsel at the Department of Commerce.

Prior to entering the government, Ambassador Esserman was a partner at the Washington, D.C. law firm of Steptoe & Johnson, where she specialized in international trade law and litigation. She began her career as a law clerk to U.S. District Judge Oliver Gasch. She

received her law degree from the University of Michigan Law School (1977), where she was on the Editorial Board of the Law Review. She graduated from Wellesley College (1974) with honors.

Deputy Secretary Stuart E. Eizenstat

Stuart E. Eizenstat, Deputy Secretary of the Treasury, is the second-highest ranking official at the Treasury Department. He has been an Administration leader on promoting democracy and human rights in Cuba, and continues his work as Special Envoy for Property Claims in Central and Eastern Europe, a position he has held since 1995.

From 1997 to 1999, Mr. Eizenstat served as Under Secretary of State for Economic, Business and Agricultural Affairs. As the State Department's senior economic official, he advised the Secretary on international economic policy and led the work on issues ranging from trade negotiations to bilateral relations with major international partners. At the conclusion of his service at the State Department, Secretary Madeleine Albright awarded him the Distinguished Honor Award.

From 1996 to 1997, Mr. Eizenstat was Under Secretary of Commerce for International Trade Administration, which has responsibility for promoting U.S. exports, assisting American business efforts abroad and developing trade policy. In this position, he established the Compliance Center, which for the first time has given the U.S. government the capacity to monitor foreign government compliance with trade agreements reached with the United States.

Mr. Eizenstat served as U.S. Ambassador to the European Union in Brussels, Belgium. He was Partner and Vice Chairman of the law firm and Chairman of the Washington office of Powell, Goldstein, Frazer and Murphy. From 1977 to 1981, Mr. Eizenstat was President Carters chief domestic policy adviser as Assistant to the President for Domestic Affairs and Policy and Executive Director of the Domestic Policy staff. Stuart Eizenstat received his law degree from Harvard University in 1967 and is an honors (Phi Beta Kappa) graduate in political science from the University of North Carolina at Chapel Hill.

Emmy Simmons

Emmy Simmons is Deputy Assistant Administrator and Director of the Center for Economic Growth and Agricultural Development, Global Bureau, United States Agency for International Development (USAID). Emmy has been with USAID since 1978 and has served in various positions including:

--Agricultural economist on PPC's Policy Development and Program Review staff;
--Regional agricultural economist on the Sahel Development Planning Team (based in Bamako, Mali);

--Director of the Strategic Planning Division of the Office of Development Planning in the Africa Bureau, Washington;
--Director of the Regional Program Economics Office in REDSO/ESA, working out of Nairobi, Kenya; and
--Director of the Office of Program and Project Development, USAID/Russia

Prior to joining USAID, Emmy worked as an Economist with the Ministry of Planning and Economic Affairs in Liberia. Ms. Simmons served in the Peace Corps in the Philippines from 1962-64. She earned her MS in agricultural economics from Cornell in 1967.

Rosa M. Whitaker

Rosa Whitaker is the Assistant United States Trade Representative charged with overseeing U.S. trade relations with Africa. Her responsibilities include advancing the President's Partnership for Economic Growth and Opportunity in Africa initiative, which serves to enhance U.S. economic engagement with the countries of sub-Saharan Africa and support the region's full inte

gration into the international trading system. Her Office of African Affairs is responsible for a broad range of bilateral, regional and multinational initiatives to facilitate trade and investment between the United States and Africa, including measures to open markets and improve investment climates.

Prior to her current position, Ms. Whitaker was Senior Foreign Trade Advisor to Congressman Charles B. Rangel, the Ranking Democratic Member of the U.S. House of Representatives, Ways and Means Committee. In this capacity, Ms. Whitaker addressed numerous international trade issues, including those related to the World Trade Organization and the African Growth and Opportunity Act.

In her previous career as a U.S. Foreign Service Officer, Ms. Whitaker worked in the Department of State's International Energy Policy Office, where her wide-ranging responsibilities included support for worldwide energy infrastructure projects. Additional Foreign Service experience include work at the U.S. Embassy in Cote d'Ivoire, where she led negotiations finalizing the rescheduling of Cote d'Ivoire's official debt to the U.S. She also co-founded and managed the first U.S.-Africa Trade and Investment Conference within the Telecommunications sector. Ms. Whitaker holds a Bachelors and Masters Degree from American University in Washington, D.C.

Development Committee

Communiques

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April 2000 (English)
(April 17, 2000)

COMMUNIQUÉ ALSO AVAILABLE IN FRENCH AND SPANISH

COMMUNIQUÉ

1. The 61st meeting of the Development Committee was held in Washington, D.C., on April 17, 2000 under the chairmanship of Mr. Tarrin Nimmanahaeminda, Minister of Finance of Thailand. The Committee's deliberations took place against the background of growing public debate about the appropriate roles of international institutions at a time when governments and people throughout the world confront the opportunities and rapid changes brought about by globalization. In their discussions of how to strengthen efforts to reduce poverty, to intensify the attack on HIV/AIDS, and to expand the benefits of trade to all countries, Ministers emphasized the importance they attach to preserving and further strengthening the family of multilateral institutions as a powerful force for global progress, equity and stability.

2. **Intensifying Action Against HIV/AIDS.** Ministers emphasized that the HIV/AIDS epidemic, which has already infected about 50 million people, is not only a very serious public health concern and the cause of great human suffering, but a severe danger to development progress itself. Ministers recognized that HIV/AIDS weakens economic growth, governance, human capital, labor productivity, and the investment climate, thereby undermining the foundations of development and poverty reduction. Ministers noted that the epidemic now poses not only an acute danger to development in Sub-Saharan Africa, but is a rapidly growing threat in Asia and the Caribbean, and a probable threat in many Eastern European countries and elsewhere as well. As HIV spreads quickly, even countries with currently low infection rates cannot afford to delay strengthening anti-HIV/AIDS programs.

3. In view of this alarming situation, the Committee called for rapid intensification of international action on the global HIV/AIDS crisis. Given the urgency of prevention and the vast needs for care and treatment, the Committee stressed the importance of effective partnerships to encourage each actor in the international system to focus on its comparative strength. Ministers urged governments, international agencies, civil society, the media and the private sector, including the pharmaceutical industry, to step up their efforts, building on experience gained in on-going activities. They urged developing and transition countries to increase their political and economic commitment to combating HIV/AIDS, to address the epidemic on a multisectoral basis, to scale up programs to nationwide - and in some cases regional - scope, to strengthen the primary health care systems needed for effective delivery of services, and to provide more resources directly to local communities. The Committee encouraged industrialized countries and international organizations to mainstream

HIV/AIDS in their development programs and to devote increased financial and institutional resources on a scale commensurate with the scope of the crisis. Ministers recognized that support for capacity building is particularly important in addressing this long-lasting development problem.

4. Ministers welcomed the World Bank's expanded efforts against HIV/AIDS, in particular its active participation in the UNAIDS partnership, its new HIV/AIDS strategy for Africa, and its work with the Global Alliance for Vaccines and Immunizations (GAVI). They urged the Bank to intensify its HIV/AIDS work on a global basis, focusing on its areas of expertise, and called on the Bank and the Fund to take full account of HIV/AIDS in their support for poverty reduction strategies and the HIPC Initiative.

5. **Trade, Development and Poverty Reduction**: Ministers emphasized the critical importance of trade for development and poverty reduction. They noted that accelerated and sustainable growth is a necessary condition for reducing poverty, and that more open economies tend to grow faster than closed ones; evidence suggests that substantial benefits could be gained from further liberalization of trade regimes in both developed and developing (including transition) countries. Ministers recognized that developed countries have much to do to improve market access for developing countries' exports (e.g. agriculture, textiles). Developing countries need to implement appropriately sequenced outward-oriented reforms that will permit trade expansion to promote development and poverty reduction. Ministers noted that the majority of the poorest countries lag behind in their integration into the world trading system. Additional domestic and international reforms are needed, including special consideration of enhanced market access for these countries (e.g. by extending comprehensive and predictable duty- and quota-free market access). Ministers also noted the potential of regional integration to help developing countries increase their share in global markets. Ministers strongly endorsed a timely initiation of WTO multilateral trade negotiations that address, *inter alia*, issues of most concern to developing countries.

6. Ministers emphasized that countries should ensure that their efforts to expand trade are integrated into a comprehensive framework for development that includes the necessary complementary reforms and investment in institutions, infrastructure and social programs. Ministers endorsed the commitment of the World Bank and the IMF to use their programs to support these efforts, which are increasingly reflected in countries' poverty reduction strategies. Ministers reiterated their call on the Bank, the Fund and WTO to cooperate with other parties in developing effective programs of capacity building for trade, including through an improved Integrated Framework for Trade Related Assistance for the Least Developed Countries. The Committee urged the Bank to mainstream trade in its country assistance programs by providing greater financial and technical support to improve trade-related infrastructure and institutions, including building domestic capacity for trade policy and negotiations, and by undertaking a strengthened research program on, *inter alia*, trade barriers to developing country exports, the issues developing countries face in implementing the Uruguay Round Agreement and the complex links between trade and poverty.

7. **Heavily Indebted Poor Countries Debt Initiative (HIPC):** Ministers noted the progress made in implementing the enhanced HIPC framework endorsed by the Committee at its last meeting. Five countries - Bolivia, Mauritania, Mozambique,

Tanzania and Uganda - have thus far reached their decision points under this new framework, bringing total committed debt relief under the HIPC Initiative to more than $14 billion; moreover, up to fifteen additional country cases could be considered by the Bank and Fund Executive Boards this year. Ministers encouraged the governments of HIPC-eligible countries to continue to work closely with the Bank and Fund and other partners in pursuing sound policies and delivering effective reform programs so that the delivery of HIPC debt relief, and the related poverty reduction strategies, can move forward as swiftly as possible. The Committee welcomed the establishment by the Bank and the Fund of a joint implementation committee (JIC) to facilitate effective implementation of the enhanced HIPC Initiative and the new poverty reduction strategy approach.

8. Ministers appreciated that participation in the enhanced framework had now been approved by the governing bodies of a majority of multilateral institutions, although they recognized that successful implementation of the Initiative will depend upon the timely availability of adequate financing to meet their full debt relief costs. While these institutions were encouraged to utilize their own resources for this purpose to the greatest extent possible, Ministers recognized that many multilateral institutions needed additional bilateral support on an urgent basis. Ministers welcomed donor pledges and commitments of resources, including those announced since September, and urged that these pledges be turned into actual commitments as soon as possible. They also recognized that even with these pledges, the Initiative remains under-funded. Donors that had not yet done so were urged to make generous contributions to the HIPC Trust Fund. Ministers reiterated the need to ensure that debt relief does not compromise the financing from concessional facilities such as IDA. Ministers also reiterated the importance of the principle that all bilateral creditors should participate fully in the provision of relief under the enhanced Initiative, while recognizing the need for flexibility in exceptional cases.

9. **Poverty Reduction Strategies:** Ministers welcomed progress in implementation of the Poverty Reduction Strategy approach. The Committee had endorsed this approach at its last meeting as a means to strengthen the link between debt relief, and external assistance more generally, and poverty reduction, and to enhance the poverty focus of all Bank and Fund concessional lending. Ministers noted that many governments in low-income countries had begun to develop, through transparent and participatory processes, country-owned, comprehensive strategies that addressed key issues in tackling poverty, such as equitable growth, governance and corruption, and institution and capacity building. Ministers welcomed the steps taken by governments to develop and implement interim strategies that permit HIPC debt relief and concessional lending to be provided while governments prepare more comprehensive poverty reduction strategies.

10. Recognizing that this approach involves new ways of assisting low-income countries, Ministers urged the Fund and Bank to allocate adequate resources to support the PRSP process. The institutions were urged to continue to work collaboratively with member countries and other development partners to develop full poverty reduction strategies, integrated with macroeconomic and fiscal policies. These strategies should incorporate lessons learned as implementation proceeds, including concentration on a limited number of clear, realistic and measurable performance targets and including those related to the International Development Goals. As

poverty reduction strategies need to be mainstreamed, Ministers emphasized they should be fully integrated into countries' budget cycles. They also emphasized the importance of increased efforts, including both technical assistance and funding, to improve statistics and other data and the analytical skills at the country level needed to make the approach a success. Moreover, they encouraged bilateral and multilateral agencies to support governments in the preparation of their strategies. These agencies were also encouraged to participate in the discussion of the design of these strategies with the objective of increasingly aligning their assistance programs to these strategies as they are put in place, thereby strengthening donor coordination and reducing excessive burdens on developing country governments.

11. **Report of the Commonwealth Secretariat/World Bank Joint Task Force on Small States:** Ministers welcomed the report to the Development Committee and its analysis of the special characteristics of small states that make them particularly vulnerable, while noting that a number of larger states shared some or all of the same characteristics. They noted the report's conclusions that tackling small states' development challenges will take a combination of correct domestic policy action, continued external assistance, and where achievable, improvements in the external environment. They also noted the report's recommendation that the circumstances of small states should be taken into account in the policies and programs of the multilateral trade, finance and development organizations. The Committee supported World Bank and IMF proposals for their future work programs on the issues of small states, as set out in the report, and agreed that these steps could make a valuable contribution in helping small states face their development challenges.

12. **International Financial Architecture - Role of the World Bank:** Ministers welcomed the Bank's continuing contribution to global efforts to reduce the risk, and mitigate the impact, of future financial crises, noting that actions and policies that reduce vulnerability to crises also support successful development. The Committee welcomed the close collaboration that had developed between the Bank and the Fund on the program of financial sector assessments, the reports on the observance of standards and codes, and the work on debt management. Ministers encouraged the Bank to make systematic use of these assessments in designing, delivering and mobilizing support for capacity building.

13. **IBRD Financial Capacity:** Ministers reviewed an updated report on this subject from the World Bank and confirmed that the Bank's finances remain sound. At the same time, Ministers recognized that the Bank's financial capacity may at some point limit its ability to respond to future demands. Ministers requested management and the Executive Board to keep this subject under review and continue to report regularly to the Committee.

14. **Next Meeting**: The Committee's next meeting is scheduled for September 25, 2000 in Prague, Czech Republic.

Development Committee

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April 2000 (French)
(April 17, 2000)

COMMUNIQUÉ

1. La 61e réunion du Comité du développement s'est tenue à Washington le 17 avril 2000 sous la présidence de M. Tarrin Nimmanahaeminda, ministre thaïlandais des Finances. Les délibérations du Comité ont eu pour arrière-plan un débat public de plus en plus intense sur le rôle qui incombe aux institutions internationales cependant que les gouvernements et les peuples du monde entier font face aux opportunités et aux mutations rapides engendrées par la mondialisation. Durant leurs délibérations, au cours desquelles ils ont examiné les moyens de renforcer les activités de lutte contre la pauvreté, d'intensifier l'offensive contre le VIH/SIDA et de faire profiter tous les pays des bienfaits du commerce international, les ministres ont souligné qu'ils tenaient à préserver et à consolider la famille des institutions multilatérales, qui représente un puissant outil de progrès, d'équité et de stabilité dans le monde.

2. Intensifier la campagne contre le VIH/SIDA. Les ministres soulignent que l'épidémie de VIH/SIDA, qui a déjà infecté une cinquantaine de millions de personnes, n'est pas seulement un problème dramatique de santé publique et la cause de terribles souffrances humaines, mais également un grave danger pour le développement lui- même. Les ministres constatent que le VIH/SIDA porte atteinte à la croissance économique, à la gouvernance, au capital humain, à la productivité de la main-d'oeuvre et au climat des investissements, sapant ainsi les fondations du développement et de la lutte contre la pauvreté. Les ministres font observer que non seulement l'épidémie compromet gravement le développement de l'Afrique subsaharienne, mais qu'elle constitue en outre un danger grandissant en Asie et dans les Caraïbes, et une menace probable dans de nombreux pays d'Europe orientale et d'ailleurs. Étant donné la rapidité avec laquelle le VIH/SIDA se répand, même les pays où le taux d'infection actuel n'est pas très élevé ne peuvent pas se permettre d'attendre pour renforcer leurs programmes de lutte.
3. Devant cette situation alarmante, le Comité demande une intensification rapide de la campagne internationale contre la crise du VIH/SIDA. Étant donné l'urgence d'une action de prévention et l'ampleur des besoins de traitement et de soins, le Comité souligne qu'il importe de former des partenariats efficaces, pour encourager tous les intervenants du système international à tirer parti de leurs points forts. Les ministres demandent instamment aux gouvernements, aux institutions internationales, à la société civile, aux médias et au secteur privé, et notamment aux sociétés pharmaceutiques, d'intensifier leurs efforts en se fondant sur l'expérience acquise à ce jour. Ils engagent instamment les pays en développement et en transition à poursuivre la lutte contre le VIH/SIDA avec une détermination accrue, tant sur le plan

politique que sur le plan économique, à mener l'action dans tous les secteurs, à donner aux programmes une portée nationale, voire régionale, à renforcer les systèmes de soins de santé primaires afin qu'ils puissent assurer les services avec efficacité, et à accroître le volume des ressources fournies directement aux communautés locales. Le Comité encourage les pays industrialisés et les organisations internationales à placer la lutte contre le VIH/SIDA au centre de leurs programmes de développement et à y consacrer des ressources financières et institutionnelles à la mesure de la crise. Les ministres déclarent qu'il est particulièrement important d'appuyer le renforcement des capacités pour résoudre ce problème de développement tenace.

4. Les ministres applaudissent l'action menée par la Banque mondiale contre le VIH/SIDA, en particulier sa participation active au partenariat ONUSIDA, sa nouvelle stratégie contre le VIH/SIDA en Afrique et ses activités dans le cadre de l'Alliance mondiale pour les vaccins et l'immunisation. Ils pressent la Banque d'intensifier ses travaux dans le domaine du VIH/SIDA à l'échelle mondiale, en mettant l'accent sur ses domaines de compétence, et ils demandent à la Banque et au Fonds de tenir pleinement compte du VIH/SIDA dans leur soutien aux stratégies de lutte contre la pauvreté et dans l'Initiative PPTE.

5. Commerce, développement et lutte contre la pauvreté : Les ministres soulignent l'importance cruciale du commerce dans le développement et la réduction de la pauvreté. Ils affirment qu'une croissance accélérée et durable est une condition nécessaire de réduction de la pauvreté et que les économies ouvertes prospèrent généralement plus vite que les économies fermées. L'expérience semble prouver qu'il y aurait beaucoup à gagner d'une libéralisation plus poussée des régimes commerciaux, tant pour les pays développés que pour les pays en développement, y compris les pays en transition. Les ministres reconnaissent que les pays développés ont beaucoup à faire pour ouvrir les marchés aux importations en provenance des pays en développement (par exemple les produits agricoles et les textiles). Les pays en développement doivent appliquer, dans l'ordre approprié, des réformes axées sur l'ouverture économique qui permettront à l'expansion du commerce de promouvoir le développement et le recul de la pauvreté. Les ministres font observer que la majorité des pays les plus pauvres sont peu intégrés au système commercial international. Des réformes supplémentaires s'imposent aux plans intérieur et international. Il convient en particulier d'envisager des dispositions spéciales pour aider ces pays à accéder plus facilement aux marchés (par exemple en leur offrant un accès global, en franchise et hors contingent, régi par des règles transparentes). Les ministres constatent que l'intégration régionale peut offrir aux pays en développement le moyen d'accroître leur part des marchés mondiaux. Les ministres expriment le ferme espoir que les négociations commerciales multilatérales commenceront sans tarder sous les auspices de l'OMC, et qu'elles traiteront, entre autres, des problèmes qui présentent le plus d'intérêt pour les pays en développement.

6. Les ministres soulignent que les pays doivent veiller à ce que leurs efforts visant à développer le commerce s'inscrivent dans un cadre de développement général comprenant les réformes d'accompagnement et les investissements nécessaires dans les institutions, les infrastructures et les programmes sociaux. Les ministres entérinent la décision de la Banque mondiale et du FMI de se servir de leurs programmes pour soutenir ces efforts, qui figurent dans la stratégie de lutte contre la pauvreté d'un nombre croissant de pays. Ils demandent de nouveau à la Banque, au Fonds et à

l'OMC de coopérer avec d'autres parties pour élaborer des programmes efficaces de renforcement des capacités dans le domaine du commerce, notamment à travers un Cadre intégré amélioré pour l'assistance technique liée au commerce en faveur des pays les moins avancés. Le Comité demande instamment à la Banque de faire du commerce une composante à part entière de ses programmes d'aide et de fournir des ressources financières et techniques supplémentaires aux pays pour aider à améliorer les infrastructures et institutions pertinentes. Il conviendrait également qu'elle les aide à renforcer leurs capacités intérieures dans les domaines de la politique et des négociations commerciales et qu'elle développe son programme de recherche sur, entre autres, les barrières aux exportations des pays en développement, les problèmes auxquels se heurtent ces pays dans la mise en oeuvre des accords d'Uruguay et les liens complexes entre le commerce et la pauvreté.

7. Initiative pour l'allégement de la dette des pays pauvres très endettés (PPTE) : Les ministres prennent acte des progrès accomplis dans la mise en oeuvre du cadre PPTE renforcé approuvé par le Comité à sa réunion précédente. À ce jour, cinq pays - la Bolivie, la Mauritanie, le Mozambique, l'Ouganda et la Tanzanie - ont atteint leur point de décision au titre de l'Initiative renforcée, ce qui porte à plus de 14 milliards de dollars le montant total des engagements d'allégement de la dette pris depuis le début de l'Initiative. Une quinzaine de cas supplémentaires pourraient être examinés par les Conseils de la Banque et du Fonds cette année. Les ministres encouragent les gouvernements des pays admis à bénéficier de l'Initiative à continuer de coopérer étroitement avec la Banque et le Fonds et avec leurs autres partenaires pour suivre de bonnes politiques et mettre en oeuvre des programmes de réformes efficaces. Ils pourront ainsi bénéficier d'un allégement de leur dette et appliquer leur stratégies de lutte contre la pauvreté dans les meilleurs délais. Le Comité applaudit la création par la Banque et le Fonds d'un Comité conjoint en vue de faciliter la mise en oeuvre de l'Initiative PPTE renforcée et des nouveaux cadres stratégiques de lutte contre la pauvreté.

8. Les ministres ont appris avec satisfaction que les organes de direction de la majorité des institutions multilatérales avaient entériné leur participation au cadre renforcé, mais ils ont conscience que l'Initiative ne pourra donner les résultats escomptés que si les institutions en question obtiennent en temps voulu les financements dont elles auront besoin pour couvrir la totalité des coûts de l'allégement de la dette qu'elles assumeront. Il est souhaitable qu'elles recourent dans toute la mesure possible à leurs propres ressources, mais les ministres reconnaissent qu'il faut fournir d'urgence un appui bilatéral supplémentaire à un grand nombre d'institutions multilatérales. Ils accueillent avec satisfaction les annonces de contribution des bailleurs de fonds, y compris celles qui ont été faites depuis septembre, et lancent un appel pressant pour que ces annonces se traduisent aussitôt que possible en engagements effectifs. Ils notent également que ces contributions ne suffiront pas à couvrir tous les besoins financiers au titre de l'Initiative. Les bailleurs de fonds qui ne l'ont pas encore fait sont invités à verser des contributions généreuses au Fonds fiduciaire PPTE. Les ministres rappellent qu'il ne faut pas que l'allégement de la dette compromette les financements accordés par d'autres mécanismes concessionnels, tels que l'IDA. Ils réaffirment aussi l'importance du principe suivant lequel tous les créanciers bilatéraux doivent s'associer pleinement aux opérations d'allégement au titre de l'Initiative renforcée, tout en

reconnaissant la nécessité de faire preuve de souplesse dans certains cas.

9. Stratégies de lutte contre la pauvreté : Les ministres se félicitent des progrès accomplis dans la mise en oeuvre des cadres stratégiques de lutte contre la pauvreté. Désireux de renforcer le lien entre l'allégement de la dette, et l'aide extérieure plus généralement, d'une part, et la lutte contre la pauvreté, d'autre part, le Comité a entériné cette approche à sa réunion précédente. Le Comité tenait également par là à axer davantage l'ensemble des prêts concessionnels de la Banque et du Fonds sur la pauvreté. Les ministres prennent acte du fait que, dans beaucoup de pays à faible revenu, le gouvernement a commencé à élaborer, selon un processus transparent et concerté, une stratégie globale qui lui est propre, articulée sur les principaux aspects de la lutte contre la pauvreté (par exemple l'équité dans la croissance, la gouvernance et la corruption, et le développement des institutions et des capacités). Les ministres applaudissent les mesures prises par les gouvernements pour élaborer et appliquer des stratégies intérimaires qui leur permettront de bénéficier d'un allégement de la dette au titre de l'Initiative PPTE et de recevoir des prêts concessionnels pendant qu'ils préparent des stratégies plus complètes de lutte contre la pauvreté.

10. Conscients du fait que cette approche implique de nouvelles façons d'aider les pays à faible revenu, les ministres demandent instamment au Fonds et à la Banque de prévoir des ressources suffisantes pour soutenir le processus de CSLP. Ils les invitent à continuer à collaborer avec les pays membres et avec les autres partenaires pour le développement pour élaborer des stratégies de lutte contre la pauvreté de grande envergure, intégrées aux politiques macroéconomiques et budgétaires. Il conviendrait que ces stratégies tiennent compte des enseignements de la mise en oeuvre et, en particulier, qu'elles se limitent à un petit nombre d'objectifs de performance clairs, réalistes et mesurables, au nombre desquels les Objectifs internationaux de développement. Étant donné que les stratégies de lutte contre la pauvreté doivent faire partie intégrante de la politique nationale, les ministres soulignent qu'elles doivent être pleinement prises en compte dans le cycle budgétaire des pays. Les ministres soulignent également que, pour que cette approche soit couronnée de succès, il faut renforcer l'assistance technique et les ressources financières consacrées à l'amélioration des statistiques et des données en général, ainsi que des compétences analytiques au niveau des pays. Ils invitent en outre les organismes bilatéraux et multilatéraux à aider les autorités nationales à préparer leur stratégie. Ils les encouragent à participer aux délibérations sur la formulation de ces stratégies, afin que leurs propres programmes d'assistance y correspondent plus étroitement, renforçant ainsi la coordination entre les bailleurs de fonds et allégeant la charge excessive imposée aux autorités des pays en développement.

11. Rapport du Groupe d'intervention commun du Secrétariat du Commonwealth et de la Banque mondiale sur les petits États : Les ministres prennent acte avec satisfaction du rapport au Comité du développement et de son analyse des caractéristiques propres aux petits États qui expliquent leur vulnérabilité particulière, notant cependant qu'un certain nombre d'États plus grands présentent eux aussi tout ou partie de ces caractéristiques. Ils prennent note des conclusions du rapport, à savoir que pour relever les défis liés au développement des petits États, il sera nécessaire d'associer de bonnes politiques au plan intérieur, la poursuite

de l'assistance extérieure et, là où cela est possible, des améliorations de l'environnement extérieur. Ils prennent également note de la recommandation du rapport suivant laquelle il convient de tenir compte de la situation des petits États dans les politiques et les programmes des organisations multilatérales commerciales, financières et de développement. Le Comité appuie les propositions de la Banque mondiale et du FMI concernant leurs programmes de travail futurs sur les questions intéressant les petits États, telles qu'elles figurent dans le rapport, et conviennent que ces mesures pourraient contribuer utilement à aider les petits États à s'attaquer à leurs problèmes de développement.

12. Architecture financière internationale - Rôle de la Banque mondiale : Les ministres se félicitent de voir que la Banque mondiale continue à participer aux efforts menés à l'échelle mondiale pour réduire les risques de crises financières futures et pour en atténuer l'impact, notant que les mesures et les politiques qui aident les pays à résister aux crises sont aussi celles qui favorisent le développement. Le Comité applaudit la coopération étroite qui s'est établie entre la Banque et le Fonds dans le cadre du programme d'évaluation du secteur financier, des rapports sur l'observation des normes et des codes, et des activités relatives à la gestion de la dette. Les ministres engagent la Banque à recourir systématiquement à ces évaluations pour formuler, fournir et mobiliser un appui en faveur du renforcement des capacités.

13. Capacités financières de la BIRD : Les ministres ont examiné la version mise à jour d'un rapport de la Banque mondiale sur ce sujet et confirment que la situation financière de la Banque demeure solide. Ils reconnaissent cependant que les capacités financières de l'institution pourraient, à terme, l'empêcher de répondre pleinement à la demande future. Les ministres demandent à la direction et au Conseil des administrateurs de continuer à étudier ce dossier et à faire rapport régulièrement au Comité.

14. Prochaine réunion : La prochaine réunion du Comité aura lieu à Prague (République tchèque), le 25 septembre 2000.

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International Monetary Fund
700 19th Street, NW
Washington, D.C. 20431 USA

Communiqué of the International Monetary and Financial Committee of the Board of Governors of the International Monetary Fund

1. The International Monetary and Financial Committee held its inaugural meeting in Washington, D.C. on April 16, 2000, under the Chairmanship of Mr. Gordon Brown, Chancellor of the Exchequer of the United Kingdom.

Strengthening the IMF's Role in the Global Economy

2. The Committee's deliberations have taken place today against the background of a growing public debate about the directions in which the IMF and the international financial system should evolve to adapt to a rapidly changing economic environment. The debate also reflects a concern that the benefits the world economy is deriving from freer trade and more integrated and deeper international capital markets are not reaching everyone, especially in the developing countries. The Committee reaffirms its strong support for the Fund's unique role as the cornerstone of the international monetary and financial system and its ability, by virtue of its universal character, to help all of its members. With the support of all its members, the IMF has undergone continuous change to equip itself better to assist members to build the strong macroeconomic and institutional underpinnings required for international financial stability and the broader sharing of the benefits and opportunities of an open world economy. But more needs to be done, and the Committee therefore pledges to continue to work toward making the IMF more effective, transparent, and accountable.

World Economic Outlook

3. The Committee welcomes the rapid recovery of the world economy in 1999 and the prospect of even stronger growth in 2000. Global economic and financial conditions have improved markedly during the past year, with growth picking up in most regions of the world. Moreover, the acceleration of global growth has occurred without a significant increase in underlying inflation. This improvement has, in most instances, also reflected the pursuit of sound macroeconomic policies and continuing structural reforms in many countries, both advanced and developing. In particular, the Committee notes that:

· the expansion in the United States continues at a remarkable pace. Monetary and fiscal policies will need to remain prudent, and fiscal surplus policies should not be relaxed. National saving also needs to increase further;

· growth has also strengthened in western Europe and it is important that this is sustained. Monetary policy should remain supportive of growth through its focus on maintaining low inflation. Countries should also continue to pursue prudent fiscal policies. Stronger growth provides an opportunity to press ahead with fiscal reforms necessary to ensure the long-term sustainability of public finances, and to continue with further reforms of labor, capital, and product markets to ensure that the pace of growth is sustained; and

· there are some positive signs in Japan. However, a durable economic recovery has

yet to be secured and deflationary concerns still remain. It is important that macroeconomic policies continue to be supportive until recovery in private demand is firmly established; structural reforms, especially through sustained financial and corporate sector restructuring, will be crucial in boosting confidence and paving the way for a return to sustained growth.

4. While welcoming the increases in oil production that will help stabilize oil prices and support continuing non-inflationary growth in global output, the Committee notes that the current outlook is still vulnerable in several respects. In particular, substantial differences in economic performance continue to contribute to external imbalances. Against this background, the Committee stresses the importance of the policy priorities outlined above, which would help to promote a smooth transition toward a more sustainable and balanced pattern of economic growth.

5. The Committee notes that the strong performance in North America and the increase in growth in western Europe have provided a more supportive environment for growth elsewhere in the world:

· in Asia, China and India have continued to grow rapidly; and economic recovery in the crisis-affected countries has gained significant momentum. In most countries, macroeconomic policies should still be directed toward providing support for recovery. However, in the countries where recovery is most advanced, policies should turn to strengthening the conditions for sustainable growth. The Committee urges all countries to maintain the momentum behind their structural reform efforts;

· in Latin America, the downturn in 1999 was generally milder than initially foreseen, and signs of a broad-based recovery are already evident in the context of further declines in inflation. However, further fiscal consolidation remains a priority, especially in those cases where external financing requirements remain large;

· Russia's economic performance has improved, with economic growth attributable in part to higher oil prices and the 1998 devaluation, as well as macroeconomic policies. Growth in Russia will be sustained only if major strides are made to strengthen institutions, especially the rule of law, and to create an attractive environment for domestic and foreign investors, thus tackling the issue of capital flight. Economic conditions are also strengthening in other transition economies; and

· the recent recovery in oil prices and in some other commodity markets are providing support to many countries' own efforts in the Middle East and Africa. These countries have an opportunity to accelerate economic reforms and diversification. Other countries have performed less well for a variety of reasons, including inappropriate policies, unfavorable weather conditions, or continued conflict. The Committee encourages these countries to strengthen their adjustment efforts with the help of the international community.

6. The Committee reiterates the critical importance of open and competitive markets as a key component of efforts to sustain growth and stability in the global economy and to reduce poverty. Improving access to industrial country markets for products of developing countries will be crucial to support their reform efforts. The Committee welcomes the initiation of WTO negotiations in agriculture and services, and supports the early launch of a new round of multilateral trade negotiations, which would bring benefits to all countries, including the poorest. The Committee calls on the IMF to continue to work with the World Bank, the WTO, and other interested parties to improve the effectiveness of trade-related technical assistance and to build institutional capacity. It encourages the Fund to give appropriate emphasis to trade policy reforms in its policy advice to all its members, including under Fund-supported programs, and in country poverty reduction strategies.

Review of Fund Facilities

7. The Committee agrees that the Fund's financial operations should continue to adapt to the changing nature of the global economy, including the rapid growth and integration of international capital markets. Against this background, the Committee welcomes the progress that has been made in reviewing the Fund's non-concessional facilities. It endorses the Board's decision to simplify the array of IMF facilities by eliminating four facilities?the Currency Stabilization Fund, support for commercial bank Debt and Debt Service Reduction, the Buffer Stock Financing Facility, and the contingency element of the Compensatory and Contingency Financing Facility?and by streamlining the Compensatory Financing Facility.

8. The Committee has set out a number of principles that should underpin this review, including the need to preserve the Fund's ability to provide and catalyze financial support to all member countries according to individual country circumstances, and with due consideration of social implications. The Fund's facilities should encourage countries to adopt strong ex ante measures to prevent crises, including, where appropriate, observance of internationally agreed codes and standards, and the maintenance of good relations with private creditors. The Fund must retain the ability to help countries respond quickly and effectively to short-run balance of payments problems. In defined circumstances where balance of payments difficulties are expected to be of a long-term nature, the Fund will also need to be able to support reforms that deal with structural problems, while encouraging countries to move toward sustainable access to, and reliance on, private capital. The Fund must also be able to respond rapidly and on an appropriate scale to crises of capital market confidence, and it should do so on terms that mitigate moral hazard and encourage rapid repayment. In this context, the IMF should take appropriate steps to involve the private sector in forestalling and resolving crises.

9. With these principles in mind, the Committee asks the Executive Board to continue its review of these issues and, in particular, to consider the policies on the maturity, pricing structure, and other aspects of existing facilities, with a view to ensuring that they provide the right incentives, in particular by enhancing the effectiveness of the CCL, without compromising the initial eligibility criteria, and by avoiding unduly prolonged use of resources provided under the SBA and EFF. The Committee asks the Executive Board to secure rapid progress and to report at the Committee's next meeting.

Safeguards and Misreporting

10. The Committee affirms that, while episodes of misreporting of information to the Fund or allegations of misuse of Fund resources have been few, such incidents are nonetheless extremely serious and undermine the trust that binds the Fund and its members, as well as public confidence in the Fund. The Committee therefore welcomes the Board's adoption of a strengthened framework of measures to safeguard the use of Fund resources, pursuant to the Interim Committee's call in September 1999, and to deter misreporting and misuse of Fund resources. The Committee stresses that the forceful application of the strengthened framework is critical to enhancing the integrity of the Fund's financial operations.

11. The Committee especially welcomes the Board's decision to adopt the new framework for the conduct of safeguards assessments. It also welcomes the requirement that all countries making use of Fund resources will publish annual central bank financial statements that are independently audited in accordance with internationally accepted standards. The Committee also welcomes the decisions to broaden the application of tools for addressing misreporting when it comes to light, including by applying the Guidelines on Misreporting to prior actions and other essential information, lengthening the two-year limitation period, and making public the relevant information in cases of misreporting, in line with the Board's decision. It agrees that the effectiveness of this policy be reviewed after 12 to 18 months.

Private Sector Involvement

12. The Committee underscores the importance of prevention as the first line of defense against crises. Countries participating in international capital markets and their private creditors should seek, in normal times, to establish a strong, continuous dialogue. Collective action clauses could have an important role to play in facilitating orderly crisis resolution.

13. The IMF has an important role to play with regard to crisis resolution. The Committee agrees that the approach adopted by the international community should provide for flexibility to address diverse cases within a framework of principles and tools, and be based on the IMF's assessment of a country's underlying payment capacity and prospects of regaining market access.

14. In some cases, the combination of catalytic official financing and policy adjustment should allow the country to regain full market access quickly. In some cases, emphasis should be placed on encouraging voluntary approaches, as needed, to overcome creditor coordination problems. In other cases, the early restoration of full market access on terms consistent with medium-term external sustainability may be judged to be unrealistic, and a broader spectrum of actions by private creditors, including comprehensive debt restructuring, may be warranted to provide for an adequately financed program and a viable medium-term payments profile.

15. In those cases where debt restructuring or debt reduction may be necessary, the Committee agrees that IMF-supported programs should put strong emphasis on medium-term sustainability and should strike an appropriate balance between the contributions of the private external creditors and the official external creditors, in light of financing provided by international financial institutions. The Committee notes the need to aim for fairness in the treatment of different classes of private creditors, and that private sector involvement should proceed on the basis that no class of creditors should be considered inherently privileged. The IMF should review the country's efforts to secure needed contributions from private creditors in light of these considerations, as well as medium-term sustainability. The responsibility for negotiation with creditors is placed squarely with debtor countries. The international financial community should not micromanage the details of any debt restructuring or debt reduction negotiation.

16. The Committee agrees that the IMF should consider whether private sector involvement is appropriate in programs supported by the Fund. In this regard, the Committee also agrees on the need to provide greater clarity to countries about the terms and conditions of their programs. When all relevant decisions have been taken, the Fund should set out publicly how and what policy approaches have been adopted.

Review of Surveillance; Links between Surveillance and Standards and Codes

17. The Committee welcomes the recent internal review of Fund surveillance, which built upon the June 1999 external evaluation. Progress is being made in adapting surveillance to changing global realities and to strengthening it in key areas, including financial sector issues, and external debt and capital account developments. The Committee also welcomes the sharper focus on exchange rate policies, and their consistency with underlying macroeconomic and other policies, and institutional arrangements. Issues outside the traditional core areas of surveillance should generally be considered when they are likely to have a significant impact on macroeconomic and financial stability. The Committee urges that the Fund improve further its multilateral surveillance by taking account of international implications of national policies. The Committee notes the importance of the provision of comprehensive, timely, high quality, and accurate information to the Fund in line with the SDDS and GDDS, and calls upon the Fund to help and encourage members in adopting and meeting these standards.

18. The Committee agrees that the Fund's focus on financial vulnerabilities must be strengthened further, and supports vulnerability analyses in IMF surveillance. To this end, the Committee: (i) encourages the further development and integration of indicators of country financial vulnerability in the IMF's ongoing surveillance and operational work; (ii) calls on the IMF, in collaboration with the World Bank, to complete promptly guidelines on sovereign debt management; and (iii) asks the Board to work further on how to incorporate into surveillance and technical assistance the work under way on the policy on official reserves.

19. The Committee welcomes the work of the Fund and the Bank in preparing Reports on the Observance of Standards and Codes (ROSCs) and in implementing the pilot Financial Sector Assessment Program (FSAP) that could serve as the primary basis for enhancing the Fund's monitoring of the financial sector in the context of Article IV surveillance through Financial System Stability Assessments (FSSAs). It endorses the decision to continue the FSAP and expand the coverage to 24 countries on a voluntary basis for the coming year. The Committee looks forward to a report on the progress with these programs at its next meeting.

20. The Committee recognizes the importance of adherence to international standards and codes of good practice in improving the policy environment and in reducing countries' macroeconomic and financial vulnerability. It reaffirms that the adherence to such codes is voluntary. The Committee agrees that the Article IV surveillance process provides the appropriate framework within which to organize and discuss with national authorities the implications of assessments of adherence to standards and codes, and calls upon the Executive Board to agree on the modalities. The Committee also recognizes the possible need for technical assistance to help meet relevant standards. Fund surveillance will be the principal mechanism through which the results of many initiatives under way in the IMF and elsewhere to strengthen the international monetary system will come together, including in the areas of standards and codes, financial system assessments, data provision, and transparency. This will pose new challenges for the Fund, especially on how to draw on the work and special expertise of other institutions in its surveillance. In this regard, the Committee welcomes the work that has been done by the Fund-in collaboration with the World Bank and other relevant bodies-to encourage the adoption of standards and codes. It looks forward to the results of the pilot exercise on the preparation of ROSCs, and encourages the publication of ROSCs on a voluntary basis. The Committee encourages the Executive Board to continue its work on how to incorporate into surveillance the results of these various initiatives, and looks forward to a review of progress at its next meeting.

21. The Committee welcomes the progress made in the Fund and other fora in developing and strengthening standards and codes for data dissemination; for transparency in fiscal, monetary, and financial policies; for banking supervision; and for securities and insurance regulation. It urges the Fund to continue with this work, including through outreach activities, and with the provision of technical assistance.

22. The Committee takes note of the reports of the Financial Stability Forum (FSF) Working Groups on highly leveraged institutions, offshore financial centers, and capital flows, and the report on standards and codes. It welcomes the work done by the FSF, and requests the Executive Board to undertake an assessment of the recommendations relevant to the Fund.

Transparency and Accountability

23. The Committee reiterates the importance it attaches to greater transparency in policy making in improving the functioning of national economies as well as the international financial system. It also underscores the importance of enhanced transparency and accountability of the international financial institutions themselves. In this regard, the

Committee welcomes continuing progress in a number of areas:

· the widespread release-currently in 80 percent of cases-of Public Information Notices following Article IV consultations and of letters of intent and other program documents underpinning Fund financial programs; and the issuance of Chairman's statements following Executive Board discussions of use of Fund resources;

· the voluntary participation of 60 countries (compared with the initial target of 20) in the pilot project for the release of Article IV staff reports;

· the expanded publication of information on the Fund's liquidity position, members' accounts with the Fund, and the Fund's quarterly financial transactions plan;

· the systematic publication of policy documents in a wide range of areas to encourage public comment and discussion;

· the publication, under the pilot study for the preparation of ROSCs, of modules for 11 countries, and the modules for an additional 20 countries now under preparation; and

· the publication of the Executive Board's Work Program.

24. The Committee encourages further actions to make the policies of the Fund, and members' policies, more transparent without compromising the Fund's role as confidential advisor.

25. The Committee welcomes the decision by the Fund to establish an independent evaluation office, which will complement the Fund's ongoing internal audit and self-evaluation activities. It urges the Executive Board to agree on the terms of reference, structure, staffing, and operating procedures, and to report back to the Committee at its next meeting. The Committee looks forward to regular reports on the activities of the office to future IMFC meetings.

The HIPC Initiative and Poverty Reduction and Growth Strategies

26. The Committee notes the recent progress in implementing the enhanced HIPC Initiative, which is aimed at providing faster, deeper, and broader debt relief and strengthening the link between debt relief and poverty reduction. It urges all those with a stake in the HIPC Initiative to work for faster and effective implementation, and to give the HIPC process the highest priority so that as many countries as possible can reach the decision point by the end of the year. The Committee welcomes the establishment of a Bank/Fund Joint Implementation Committee to facilitate implementation of the HIPC Initiative and the poverty reduction strategy process. In this connection, it welcomes the decision to provide regular reports on progress in country cases to the two Executive Boards.

27. The Committee welcomes the progress made in developing country-owned poverty reduction strategies as the framework for Fund and World Bank concessional lending and for linking debt relief under the enhanced HIPC Initiative to concrete poverty reduction programs and growth strategies, so as to ensure that the resources freed are directed to key poverty reduction measures. The Committee urges all countries involved to move ahead as quickly as possible with the preparation of Poverty Reduction Strategy Papers (PRSPs) in a participatory manner, integrating priority measures for poverty reduction and structural reforms within a growth-oriented macroeconomic framework.

28. The Committee reiterates that macroeconomic stability, transparent management of public resources, and good governance are essential for achieving sustainable growth and poverty reduction. The Fund has a critical role to play in helping countries adopt and

implement appropriate macroeconomic policies. The Committee welcomes the clear delineation of the cooperative but distinct roles of the Fund and Bank, and notes that the Fund will rely on the Bank to lead in helping countries to develop policies to combat poverty and improve social conditions.

29. The Committee reaffirms the importance of the principle of full participation in the HIPC Initiative by all creditors. In this respect, it calls on all bilateral creditors to play their part, while recognizing the need for flexibility in exceptional cases. It stresses that debt relief can be effective only if it complements and reinforces sound policies implemented by HIPC countries and leads to an increase in resource flows. It welcomes the decisions adopted by the Executive Board, and the actions taken by many members, to ensure the financing for the Fund's participation in the HIPC Initiative and for the Poverty Reduction and Growth Facility (PRGF). It encourages all members and multilateral institutions to complete this process as soon as possible.

Tribute to Michel Camdessus

30. The members of the Committee unanimously pay tribute to Mr. Michel Camdessus for the vision, skill, and energy with which he led the International Monetary Fund as Managing Director through 13 years of unprecedented challenges. Over this period, international monetary and financial cooperation was tested by the growing openness of the world economy; the rapid spread of market economy principles throughout much of the world; financial crises of unexpected virulence and scope; and the growing danger of marginalization of the poorest economies. Under his leadership, the IMF moved on many fronts-strengthening surveillance; launching greater openness and transparency; and introducing innovative financial facilities to help resolve the debt crisis of the 1980s and the financial crises of the 1990s, and, through the establishment of the Enhanced Structural Adjustment Facility (now the Poverty Reduction and Growth Facility), to support and sustain the integration of the Fund's low-income members into the world economy. The members of the Committee wish to record their deep appreciation of Mr. Camdessus' many contributions, which were always marked by his personal enthusiasm and optimism, and his characteristic blend of commitment to financial discipline with devotion to alleviating the hardships of the most vulnerable.

31. The Committee warmly welcomes the appointment of Mr. Horst Köhler as the new Managing Director, and expresses its deep gratitude to Mr. Stanley Fischer for his stewardship of the Fund in the interim.

32. The next meeting of the IMFC will be held in Prague on September 24, 2000.

ANNEX
Revised

INTERNATIONAL MONETARY AND FINANCIAL COMMITTEE ATTENDANCE

April 16, 2000

Chairman

Gordon Brown

Acting Managing Director

Stanley Fischer

Members or Alternates

Hamad Al-Sayari, Governor, Saudi Arabian Monetary Agency
(Alternate for Ibrahim A. Al-Assaf, Minister of Finance and National Economy, Saudi Arabia)
Giuliano Amato, Minister of the Treasury, Budget and Economic Planning, Italy
Eddie George, Governor, Bank of England
(Alternate for Gordon Brown, Chancellor of the Exchequer, United Kingdom)
Rod Kemp, Assistant Treasurer, Australia
(Alternate for Peter Costello, Treasurer, Australia)
Xiao Gang, Deputy Governor, People's Bank of China
(Alternate for Dai Xianglong, Governor, People's Bank of China)
Cristóbal Montoro, Secretary of State for Economy, Spain
(Alternate for Rodrigo de Rato Figaredo, Second-Vice President and Minister of Economy and Finance, Spain)
N'Golo Coulibaly, Minister of Economy and Finance, Côte d'Ivoire
(Alternate for Emile Doumba, Minister of Finance, Economy, Budget and Privatization, Gabon)
Hans Eichel, Federal Minister of Finance, Germany
Laurent Fabius, Minister of Economy, Finance and Industry, France
Viktor Gerashchenko, Chairman, Central Bank of the Russian Federation
Abdelouahab Keramane, Governor, Banque d'Algérie
Mohammed K. Khirbash, Minister of State for Finance and Industry, United Arab Emirates
José Luis Machinea, Minister of Economy, Argentina
Pedro Sampaio Malan, Minister of Finance, Brazil
Trevor A. Manuel, Minister of Finance, South Africa
Paul Martin, Minister of Finance, Canada
Masaru Hayami, Governor, Bank of Japan
(Alternate for Kiichi Miyazawa, Minister of Finance, Japan)
Sauli Niinistö, Minister of Finance, Finland
Didier Reynders, Minister of Finance, Belgium
Yashwant Sinha, Minister of Finance, India
Lawrence H. Summers, Secretary of the Treasury, United States
Kaspar Villiger, Minister of Finance, Switzerland
A.H.E.M. Wellink, President, De Nederlandsche Bank
(Alternate for Gerrit Zalm, Minister of Finance, Netherlands)
Mrs. Zeti Akhtar Aziz, Deputy Governor, Bank Negara Malaysia

Observers

Yilmaz Akyuz, Chief, Macro-Economics and Development Policies, UNCTAD
Andrew D. Crockett, Chairman, FSF
Willem F. Duisenberg, President, ECB
André Icard, Assistant General Manager, BIS
Donald J. Johnston, Secretary-General, OECD
Ian Kinniburgh, Director, Development Policy Analysis Division, UN
Eddy Lee, Director, International Policy Group, ILO
Michael Moore, Director-General, WTO
Pedro Solbes Mira, Commissioner in charge of Economic and Monetary Affairs, European Commission
James D. Wolfensohn, President, World Bank

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PRESS RELEASE
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JOINT STATEMENT BY THE HEADS OF THE INTERNATIONAL MONETARY FUND (IMF), THE WORLD BANK, AND THE WORLD TRADE ORGANIZATION (WTO)

30 November 1999

Mr. Michel Camdessus, Managing Director of the IMF, Mr. James D. Wolfensohn, President of the World Bank, and Mr. Mike Moore, Director-General of the WTO, have issued this joint statement to the Third WTO Ministerial Conference.

During the past two years, which have been difficult for many of our member countries, the multilateral trading system has been an anchor of strength and stability in the world economy. Its rules are an essential element of the framework for international economic policy cooperation. The damaging economic and social effects of financial crisis have been felt widely, yet the consequences would have been far worse if the crisis had provoked a protectionist trade response. A broad-based recovery in world economic activity and a return to macroeconomic stability is now underway. In these circumstances, it is important that resort to restrictive trade measures continues to be resisted firmly, and that further steps are taken to open markets and enhance competition in order to strengthen the contribution of trade to poverty alleviation and development.

Poverty afflicts an intolerably large proportion of the world's population. The evolution towards a more open, integrated and competitive global economy offers great potential for fostering growth and the economic and social development needed to eradicate poverty. But the human and social benefits of economic globalization do not accrue automatically, and globalization presents particular challenges for the poorest countries. Supporting their efforts to integrate more fully into the world economy is an urgent task for the international community, and one to which our three organisations are strongly committed.

All WTO Members will benefit from increased participation of developing countries in trade. We shall build on the strong collaboration between our three organisations to enhance the capacity of developing countries to use the new trade negotiations, and their membership in the WTO, to foster their economic and social development. Trade, and trade policy reform, must be made more effective tools for poverty reduction, particularly in the poorest countries, and we intend to increase our support for countries to use the opportunities offered by the global economy as key elements of their strategies for poverty reduction and development. The World Bank *Comprehensive Development Framework*, and Bank and Fund efforts to develop Poverty Reduction Strategies together with countries and other development partners, can be used to link the economic, social and environmental implications of trade to the design and implementation of

environmental implications of trade to the design and implementation of comprehensive and coherent policy, institutional and investment responses.

Trade liberalization and trade policy reform, despite their long-run benefits, require economic adjustment with its consequences for employment and other economic and social outcomes. We stand ready to assist countries to tackle the adjustment process, and to build-in the necessary social and economic policy responses, through policy analysis, developing safety nets, financial support, and technical assistance. Development partners of countries engaged in the process of adjusting to trade reforms should also contribute to this effort, most importantly by ensuring an adequate flow of financial resources to developing countries to allow their economic and social development programmes to be tackled comprehensively

New WTO negotiations offer an excellent opportunity for governments collectively to renew their commitment to a comprehensive liberalisation of international trade. We call on WTO Members to be ambitious and far-sighted in setting their negotiating objectives. The negotiations have the potential to yield results that improve the functioning of the world economy and create greater opportunities for developing countries. In particular, there are large potential gains to be had from further multilateral liberalization of trade in those goods and services that are of particular export interest to developing countries. Efforts to secure greater market access for all products of developing countries has been welcomed warmly by finance and development Ministers at the Annual IMF/World Bank Meetings.

Trade liberalization has proceeded, both through implementation of the Uruguay Round results and subsequent WTO agreements on telecommunications and financial services and on information technology products, as well as through autonomous trade reform efforts. These efforts are providing a valuable source of productivity growth in the world economy. We encourage governments to continue to undertake trade liberalization and the related policy reforms needed to correct structural weaknesses and market distortions in their economies. We believe that the value of autonomous trade liberalisation initiatives should be recognized in the WTO negotiating process. These initiatives contribute to the expansion of world trade, and convey real benefits not only to the countries taking them but also to their trading partners. This should be clearly acknowledged in the forthcoming WTO negotiations, by crediting countries which bind their autonomous trade liberalization under WTO rules.

As national economies become more inter-dependent, fostering poverty reduction through sustained, broadly shared, high quality growth depends to an important extent on inter-governmental cooperation to ensure that trade, finance, macroeconomic and development policies are mutually supporting. The IMF, the World Bank and the WTO have special responsibilities to assist our member governments in this regard, and we will continue to work together closely, under our Cooperation Agreements, to help them increase the coherence of economic policy-making. Support

for developing countries, and particularly for the poorest among them, in the new WTO negotiations will be a priority focus of our cooperation. We welcome guidance from our member Governments on other areas that they would wish to see us address.

Building National Infrastructure for Managing WTO Issues

May 5

8:30 am – 9:30 am

USTR Annex, Rooms 1 and 2

Speakers

Honorable Tidjane Thiam, Former Ivorian Minister of Planning
Douglas L. Tinsler, Senior Vice President, Global Division, Chemonics
John Morrall III, Branch Chief, Office of Information and Regulatory Affairs, Executive office of the President, Office of Management and Budget
Minister of Mali to lead African response

PAPERS AND ATTACHMENTS

Paper: "Building National Infrastructure" *(English/French)*

Attachment A: "WTO Advice on Trade Policy Coordination"

Attachment B: "Symposium des Ministres Africans du Commerce sur l'assistance Technique de L'OMC pour L'Afrique Subsaharienne"

SPEAKER BIOGRAPHIES

Tidjane Thiam

Tidjane Thiam began his career as an international consultant with McKinsey & Company. From 1986 to 1994 he worked successively in Paris, New York and several European Union countries. He has handled strategic planning, cross-border mergers and acquisitions and operational and financial restructuring for major international banking, pharmaceutical and manufacturing companies.

In 1994 Tidjane Thiam was called back to his country to become the first Ivorian Chief Executive Officer for the National Bureau for Technical Studies and Development (the "BNETD"). Attached to the Office of the President, the BNETD, created in 1978, is a consulting and engineering firm with 1300 employees and experts, which designs and implements investment projects totalling $700 million per annum in all the major sectors of the Ivorian economy. Tidjane Thiam significantly restructured the BNETD reducing its personnel by 30% to its current size and enabling it to provide its unique services to other African countries such as Tunisa, Benin and Guinea.

He designed and successfully implemented one of the most innovative and successful BOT programs in Africa. Projects realized as part of that program include the Abidjan Airport concession, the CIPREL Power Plant (210 MW), the Azito Power Plant (210 MW) (nominated by the Financial Times as one of the six boldest projects of 1999), and the Abidjan toll bridge. Through different initiatives Tidjan Thiam has been able to generate over $1 billion worth of foreign direct Investment (FDI) in infrastructure projects since 1995.

In 1998 Tidjane Thiam was selected to one of the annual 100 Global Leaders for Tomorrow by the World Economic Forum in Davos.

In August 1998 Tidajane Thaim was appointed Chairman of the BNETD and Minister of Planning and Development of Cote d'Ivoire, a position he held until December 1999. As such he was responsible for strategic planning and coordination of public investment in infrastructure and poverty alleviation. In recognition of his work Tidjane Thiam was named a member of the Davos World Economic Forum's annual 1999 Dream Cabinet. The Dream Cabinet is composed of a "selection politicians from across the that stand out as honest, effective leaders in the often muddied world of politics." [World Link *November/December 1999, page 14*]

Tidjane Thiam's private and public-sector work has provided him with extensive experience in most of the European Union countries, China, Japan, North and Central America and throughout Africa. He has been an invited speaker to numerous major international forums and contributed an article to **Newsweek's** special millennium edition called "Issues 2000."

In October 1999 James Wolfensohm, President of the World Bank, appointed Tidjane Thiam for a two-year term to the 20 member External Advisory Council of the World Bank Institute in Washington, DC.

Born on July 29, 1962 Tidjane Thiam holds engineering degrees from the *Ecole Polytechnique in Paris* and *Ecole Nationale Superieure des Mines de Paris,* the two top scientific universities in France, and an MBA from INSEAD, the top European business school. Tidjane Thiam is married and the father of two boys.

Douglas L. Tinsler

Doug Tinsler is currently Senior Vice President of the Global Division at Chemonics. Mr. Tinsler is a public sector development specialist with strong expertise in conceptualizing, implementing, and managing development initiatives worldwide. Mr. Tinsler came to Chemonics from the World Bank, where he was a senior public sector modernization specialist. Before this, he was deputy director of USAID/Costa Rica, where he helped oversee U.S. development assistance in that country. From 1984-1988, he was chief of USAID/Egypt's Office of Local Administration and Development, and from 1979-1984 was chief of USAID/Indonesia's Office of Rural Development. From 1976-1978, Mr. Tinsler led a task force addressing drought in the Sahel, and from 1969-1975 he served as a project officer with USAID/Philippines. Mr. Tinsler has an M.A. in economics from Stanford University, an M.A. in political science from Wayne State University, and a B.A. in economics from Michigan State University. He speaks fluent Spanish.

Honorable Minister Toure Alimata Traore

Minister Traore's has had a distinctive career in the Malian private and public sector. She spent 10 years at the Banque Malienne de Credit et de Depots (BMCD) where she held several senior positions. She left the BMCD to become the Chief Executive Officer of the National Society of Tobacco and Matches of Mali (SONATAM), after which time she was appointed to be the Malian Minister for Commerce and Industry.

His Excellency William J. Harrington

Minister Harrington has served in various posts in the Zambian government since 1994. Previous to his political leadership, he operated a trading and transportation business. Since joining the government, Minister Harrington has acted as Minister of Communications and Transport, Minister of Environment and Natural Resources, Minister of Sport, Youth and Child Development, and most recently as Minister of Commerce, Trade and Industry.

Rosa M. Whitaker

Rosa Whitaker is the Assistant United States Trade Representative charged with overseeing U.S. trade relations with Africa. Her responsibilities include advancing the President's Partnership for Economic Growth and Opportunity in Africa initiative, which serves to enhance U.S. economic engagement with the countries of sub-Saharan Africa and support the region's full integration into the international trading system. Her Office of African Affairs is responsible for a broad range of bilateral, regional and multinational initiatives to facilitate trade and investment between the United States and Africa, including measures to open markets and improve investment climates.

Prior to her current position, Ms. Whitaker was Senior Foreign Trade Advisor to Congressman Charles B. Rangel, the Ranking Democratic Member of the U.S. House of Representatives, Ways and Means Committee. In this capacity, Ms. Whitaker addressed numerous international trade issues, including those related to the World Trade Organization and the African Growth and Opportunity Act.

In her previous career as a U.S. Foreign Service Officer, Ms. Whitaker worked in the Department of State's International Energy Policy Office, where her wide-ranging responsibilities included support for worldwide energy infrastructure projects. Additional Foreign Service experience include work at the U.S. Embassy in Cote d'Ivoire, where she led negotiations finalizing the rescheduling of Cote d'Ivoire's official debt to the U.S. She also co-founded and managed the first U.S.-Africa Trade and Investment Conference within the Telecommunications sector. Ms. Whitaker holds a Bachelors and Masters Degree from American University in Washington, D.C.

BUILDING A NATIONAL INFRASTRUCTURE FOR MANAGING WTO ISSUES

International trade is a proven engine for economic growth and sustainable development. Therefore, initiatives to advance national trade policies that foster rather than inhibit trade and investment should be a key component of every country's national economic development strategy. There is broad recognition that participation in the WTO is critical to expanding trade and investment.1 The WTO establishes and provides mechanisms to develop, harmonize, and enforce global trading rules and open markets.

The United States supports the efforts underway by African countries to become full participants in the multilateral trading system. Participation begins with WTO membership, which is critical for nations hoping to expand exports, attract investment and raise growth rates. Today, thirty-eight African nations are WTO members.

A country, however, cannot participate effectively in the WTO if it does not have trained staff and an efficient administrative infrastructure. WTO membership places new challenges on the trade policy decision-making apparatus of member countries, and requires a more extensive infrastructure than that required in pre-WTO days.

Trade Policy Coordination

Effective policy coordination mechanisms are important to a government's ability to meet WTO requirements. A quick review of the types of decisions a government must make illustrates the range of government agencies and obligations associated with WTO membership. Governments have had to perform many specialized tasks to comply with WTO obligations. Special investigative procedures must be followed in the areas of dumping and countervailing duties. A country must satisfy certain pre-conditions and follow certain procedural steps before taking safeguard actions to protect domestic industries from increased imports. In the case of agricultural and textile/apparel imports, there are special safeguard procedures. Correct and timely notifications have to be made of programs, such as those providing subsidies and investment promotion incentives. Activities of the domestic agencies whose functions are covered by WTO rules must also be monitored. Agencies that might have to be monitored include those responsible for customs, patents and trademarks, food safety, regulation of telecommunications and financial services and industrial standards.

1 "IMPROVING AFRICAN PARTICIPATION IN THE WTO" by Richard Blackhurst, Bill Lyakurwa and Ademola Oyejide *Revised November 1999 Paper commissioned by the World Bank for a Conference at the WTO on 20-21 September 1999*

In order to take advantage of WTO mechanisms for addressing unfair foreign trade practices, the activities of trade partners must be monitored and evaluated for compliance with WTO rules. The private sector should be consulted in an effort to identify the most egregious barriers/foreign trade practices impacting a national economy. Agencies with specialized expertise should be consulted before a government launches a complaint about a foreign trade practice.

Governments must not only comply with existing WTO rules, but must also participate in negotiations on new rules. Various WTO agreements provide for additional negotiations in many areas including services and agriculture and reviews of existing agreements regarding intellectual property rights and disputes settlement proceedings. Thus, inter-ministerial policy coordination is crucial for effective WTO participation.

Good trade policy coordination requires both policy coordination unit and a sound inter-ministerial decision-making apparatus.

Policy Coordination Unit

The WTO Secretariat has noted that some governments have established special agencies to coordinate their participation in the WTO.2 Other governments have established special units within an existing ministry such as the ministry of trade. The paper on trade policy formulation in the United States discusses how the Office of the U.S. Trade Representative serves as the WTO trade policy coordination agency of the U.S. government. The paper on trade policy coordination in Senegal discusses how the Ministry of Trade and Industry in Senegal serves as the trade policy coordination unit for that country.

Functions:

A WTO policy coordination unit should be expected to carry out the following functions:

1. Coordinate development of the country's positions and strategies for WTO negotiations and meetings.
2. Ensure participation in WTO meetings.
3. Develop strategies for using WTO mechanisms to address foreign trade barriers/practices, which inhibit the country's exports.
4. Monitor a country's compliance with its WTO obligations and ensure that incidences of non-compliance are reviewed by senior officials.
5. Assemble and/or oversee the collection and development of trade, tariff and other

2 See Attachment A for a discussion by the WTO Secretariat on how other countries have handled the additional burdens imposed by the requirements of the Uruguay Round Agreements.

national economic data and information needed to conduct trade negotiations.
6. Serve as the focal point for dissemination of information on WTO matters, such as national and foreign government positions, notification deadlines and WTO developments.
7. Serve as the liaison between the country's WTO mission in Geneva and ministries and agencies at home involved in WTO-related matters.
8. Prepare briefing materials and decision memoranda on WTO matters for the head of government and other senior officials.
9. Serve as secretariat for the inter-ministerial trade policy decision-making body.
10. Serve as a liaison with the private sector, NGOs and outside research institutions.
11. Serve as a liaison with the legislative branch of government that may have to adopt legislation bringing national laws into compliance with WTO obligations.

Objectives:

The establishment of a unit in the government responsible for participating in the WTO should enable the government to achieve some of the following objectives regarding its participation in the WTO:

1. Establish an effective decision support system for the inter-ministerial body and senior officials responsible for WTO matters.
2. Institutionalize a system for ensuring continued effective participation in the WTO.
3. Ensure that ministers and other senior officials are well briefed and can make sound decisions based on a viable range of options and complete information.
4. Secure cooperation and support from the ministries and agencies that have, interests in WTO-related matters.
5. Provide for input from the private sector and other non-governmental interest groups.

Inter-Ministerial Trade Policy Coordination Mechanism

Given the range of government agencies that have an interest in WTO decisions, a country cannot expect to participate effectively in the WTO if it does not have an effective inter-ministerial decision making process. The policy coordination unit needs the cooperation, expertise and specialized knowledge of the different ministries responsible for developing and implementing government programs covered by WTO rules. The unit also must ensure that these ministries act in a manner consistent with the country's WTO obligations. The foregoing goals cannot be achieved if the policy coordination unit does not involve other ministries in the decision making process in a meaningful way.

The paper entitled "Trade policy formulation in the United States" (found under the Congressional Roundtable section of this briefing book) discusses the Trade Policy Staff/Trade Policy Review Group process which is the interagency trade policy decision mechanism employed in the United States since the 1970s. The attached paper on trade in Senegal discusses Senegal's inter-ministerial trade decision-making process.

Staffing and staff development

Providing adequate training for government officials working on WTO issues is a challenge for any country. In developing a trade policy coordination unit and an inter-minsterial decision-making apparatus, a government should train as many people as possible. This means that in addition to training staff in the policy coordination unit, some training should be given to people in the ministries with whom the unit will work, and to private sector and research community representatives to whom the unit will look for advice. Fortunately, technical assistance for trade policy capacity building is increasingly being made available by the WTO and other international organizations and by developed country governments. The U.S. Government sponsored "Guide to WTO-Related Technical Assistance Resources for Sub-Saharan Africa" provides details on the range of technical assistance programs available for African countries.

Care should also be given to how a country staff its trade policy coordinating unit. A coordinating unit with staff from different ministries would bring the wider range of expertise needed for complex issues, the strength that a diversity of backgrounds can provide, and the contacts that can facilitate cooperation needed from other ministries. Staff from other ministries could also be assigned to the policy coordination unit for temporary periods to assist with special projects or situations. USTR has benefited from using staff on loan from other agencies to solve the problem of limited staff and a mounting workload.

In addition to trade negotiators, a policy coordination unit will need economic analysts who can work with data and information systems on the national economy and can provide advice on the economic impact of various trade agreements and trade negotiating options. The economists should also interface with private sector economists and economists in economic research institutes.

University graduate-level students in the fields of economics, trade, law, agriculture or other relevant specialized areas could also be used to strengthen the Trade/WTO Coordinating Units. These students could receive academic credit and or small stipends for their work with the government on WTO issues. Involvement of students would also help a country to expand its base of national expertise on WTO issues.

The unit will also need legal support regarding the operation of the WTO Dispute Settlement Understanding, assessment of national laws to ensure WTO-consistency, and monitoring of

foreign laws for WTO compliance.

Role of Private Sector -Business, Labor, NGOs and Research Institutes

An important part of building a national infrastructure to manage trade policy is the establishment an effective working relationship with the private sector (i.e., private companies, labor, non-governmental organizations and economic research institutions). In setting trade negotiating objectives that reflect national interests, the government needs information from the private sector on its export and domestic market objectives (i.e., target markets overseas and products, domestic production plans that may be affected by imports). The government also needs input from NGO, civil society groups on their concerns about trade policies and how they may affect various segments of the society. Independent research groups can provide invaluable economic research and analysis, especially, when government resources are too limited to hire a number of economists. Because private sector/civil society interests often conflict, a government must establish a transparent system for ensuring input and advice from a broad range of domestic groups. Established rules and transparency in the national trade decision-making process are important to ensuring that the results of trade negotiations are enforceable and credible. The advice that a government receives from private sector interests will be more useful if the advisors understand the WTO agreements and the WTO system. Therefore, conferences and training vehicles for the private sector should be part of any plan for building a national trade policy infrastructure. The trade policy coordination unit in the government should have a staff person whose responsibilities include liaison with the private sector to facilitate a meaningful dialogue. The foregoing consideration is a cornerstone of the private sector advisory system discussed in the paper on the formulating trade policy in the United States.

Participating In WTO Work While Stretching Limited Resources

The trade policy infrastructure set forth in the preceding section cannot be built overnight. There are, however, things a government can do to enhance the effectiveness of its representation in the WTO. First, given the importance of international trade to economic growth and the necessity of competing effectively in a global economy, a government will want to reassess whether its allocation of resources for trade policy reflects the relative importance of trade policy to its national interests.3

As suggested earlier, a government's trade policy coordination unit should make use of the resources of other interested government agencies and the private sector in helping it analyze trade policy options. In participating in international negotiations, a government can make use of friendly neighbors who share the same interests on issues, regional organizations who may have more resources, and institutions established to provide specialized assistance. The

3 See "IMPROVING AFRICAN PARTICIPATION IN THE WTO" cited above.

work conducted in regional organizations is of particular importance since it helps countries understand their own economy and that of their neighbors and lays a foundation for future cooperation. For example, updating and preparing a national tariff schedule to participate in regional negotiations will help in preparations of a country's schedule for multi-national negotiations. In addition, country may want to develop institutions to provide specialized assistance to a group of countries in a similar situation. In November 1999 in Seattle, a group of WTO developing country members announced the formation of the Advisory Centre on WTO Law to provide training and legal assistance in WTO matters to its members and all least developed countries.

While this paper has focused on the trade policy infrastructure that countries need for effective participation in the international trading system, this infrastructure is only part of the infrastructure needed for meaningful participation in a global economy, and it will only work in the context of progress in building a larger infrastructure. For example, a country cannot effectively sell its goods and services in international markets if it does not have a good international telecommunications system. It is also difficult to participate effectively in international trade negotiations if a country lacks an efficient telecommunication system to ensure that the negotiators can consult continuously with interested parties in their country as the negotiations evolve.

Much work remains to be done. Building an effective infrastructure is a critical part of a much larger plan that must be developed in order to facilitate Africa's full integration into the multilateral trading system. The development of a sound national trade policy decision-making apparatus and infrastructure will help to ensure that greater opportunities and benefits accompany the obligations that African countries are assuming in the WTO.

CONSTRUCTION D'UNE INFRASTRUCTURE NATIONALE POUR GERER LES QUESTIONS DE L'OMC

Le commerce international est un moteur avéré de la croissance économique et du développement durable. Aussi, des initiatives pour faire avancer des politiques commerciales nationales qui favorisent le commerce et les investissements plutôt que de les freiner devraient être une composante clef de toute stratégie de développement économique national dans chaque pays. Il est largement reconnu que la participation à l'OMC est un facteur décisif d'expansion économique et en matière d'investissement. L'OMC établit et fournit des mécanismes pour développer, harmoniser et renforcer des règles de commerce global et des marchés ouverts.

Les Etats-Unis soutiennent les efforts consentis par les pays africains pour devenir des participants à part entière du système de commerce multilatéral. La participation commence avec l'adhésion à l'OMC, qui est décisive pour les pays désireux de développer les exportations, d'attirer les investisseurs et d'augmenter les taux de croissance. Aujourd'hui, trente huit pays africains sont membres de l'OMC.

Cependant, un pays ne peut pas participer effectivement à l'OMC s'il ne dispose pas d'une équipe formée et d'une infrastructure administrative efficiente. L'adhésion à l'OMC représente de nouveaux défis pour les instances de prise de décisions en matière de politique commerciale des pays membres et exige une infrastructure plus développée que celle requise avant l'adhésion à l'OMC.

Coordination De La Politique Commerciale

Des mécanismes de coordination pour une politique efficiente sont importants afin de permettre à un gouvernement de remplir les conditions requises par l'OMC. Un rapide examen du type de décisions qu'un gouvernement doit prendre illustre l'éventail d'obligations et d'actions gouvernementales associées à l'adhésion à l'OMC. Les gouvernements ont du remplir de nombreuses tâches particulières pour répondre aux exigences de l'OMC. Des procédures d'investigation particulières doivent être suivies dans les domaines du dumping et des mesures compensatoires. Un pays doit satisfaire certaines conditions préalables et suivre certaines étapes de procédure avant de prendre des mesures de sauvegarde pour protéger les industries nationales des importations accrues. Dans le cas des importations agricoles et du secteur textile ou de l'habillement, il y a des procédures de sauvegarde spéciales. Des notifications correctes et dans les temps doivent être faites concernant les programmes, tels que ceux qui offrent des subventions et des incitations pour promouvoir les investissements. Les activités des agences nationales dont les

fonctions sont couvertes par les règles de l'OMC doivent aussi être contrôlées. Les agences qui sont susceptibles d'être contrôlées comprennent celles qui sont responsables des douanes, des brevets et des marques, de la sécurité alimentaire, de la régulation des télécommunications, ainsi que des services financiers et des normes industrielles.

Afin de pouvoir utiliser les mécanismes de l'OMC pour le traitement des pratiques déloyales de commerce international, les activités des partenaires du commerce doivent être contrôlées et évaluées d'après leur conformité aux règles de l'OMC. Le secteur privé devrait être consulté afin d'identifier les obstacles et les pratiques du commerce international ayant le plus d'incidence sur l'économie nationale. Des agences spécialisées devraient être consultées avant qu'un gouvernement dépose une plainte contre une pratique du commerce international.

Les gouvernements ne doivent pas seulement se conformer aux règles actuelles de l'OMC, mais aussi ils doivent participer aux négociations sur les nouvelles règles. Différents accords de l'OMC prévoient des négociations additionnelles dans de nombreux domaines tels que les services et l'agriculture et des révisions d'accords existant qui concernent les droits de propriété intellectuelle et les procédures de règlement des différends. Ainsi, une coordination interministérielle des politiques est cruciale pour une participation effective à l'OMC.

Une bonne coordination de la politique commerciale exige à la fois une unité de coordination des politiques et un appareil de prise de décision interministériel solide.

Unité De Coordination Des Politiques

Le Secrétariat de l'OMC a remarqué que certains gouvernements ont établi des agences spéciales pour coordonner leur participation à l'OMC. D'autres gouvernements ont établi des unités spéciales à l'intérieur d'un ministère existant tel que le ministère du commerce. L'article sur la formulation de la politique commerciale aux Etats-Unis aborde la façon dont le Bureau des Représentants du Commerce des Etats-Unis joue le rôle d'agence coordinatrice des politiques du commerce de l'OMC pour le gouvernement des Etats-Unis. L'article sur la coordination des politiques commerciales au Sénégal aborde la façon dont le Ministère du Commerce et de l'Industrie au Sénégal sert d'unité de coordination des politiques du commerce pour ce pays.

Fonctions:

On devrait attendre d'une unité de coordination des politiques qu'elle remplisse les fonctions suivantes :

1. Coordonner le développement des stratégies et des positions du pays pour les réunions et les négociations de l'OMC.

2. Assurer la participation aux réunions de l'OMC.
3. Développer les stratégies pour utiliser les mécanismes de l'OMC qui concernent les pratiques faisant obstacle au commerce étranger, ce qui freine les exportations du pays.
4. Contrôler la mise en conformité d'un pays avec ses obligations vis-à-vis de l'OMC et garantir que les incidences de non-conformité sont examinées par des supérieurs responsables.
5. Assembler et/ou surveiller la collecte et le développement des données économiques nationales du commerce et des prix ainsi que l'information nécessaire pour conduire les négociations du commerce.
6. Servir de point central pour la dissémination de l'information sur les questions de l'OMC, telles que les positions des gouvernements nationaux et étrangers, la notification de délais à respecter et l'évolution de l'OMC.
7. Servir de liaison entre la mission du pays à l'OMC à Genève et les agences et ministres nationaux impliqués au pays dans des domaines liés à l'OMC.
8. Préparer les éléments de réunions et les mémos sur les décisions concertant les questions de l'OMC pour le chef du gouvernement et les autres dirigeants supérieurs.
9. Servir de secrétariat pour l'instance de prise de décision interministérielle sur la politique du commerce.
10. Servir de liaison avec le secteur privé, les ONG et les institutions de recherche extérieures.
11. Servir de liaison avec la branche législative du gouvernement qui peut avoir à légiférer pour mettre les lois nationales en conformité avec les obligations de l'OMC.

Objectifs:

L'établissement au sein du gouvernement d'une unité qui soit responsable de la participation à l'OMC devrait permettre au gouvernement d'atteindre certains des objectifs suivants en ce qui concerne sa participation à l'OMC :

1. Etablir un système efficace de soutien aux décisions pour l'instance interministérielle et les dirigeants supérieurs responsables des questions de l'OMC.
2. Institutionnaliser un système pour garantir une participation continue effective à l'OMC ;
3. Garantir que les ministres et les autres dirigeants supérieurs sont bien mis au courant et peuvent prendre des décisions solides basées sur un éventail valide d'options et une information complète.
4. S'assurer de la coopération et du soutien des ministres et des agences qui ont des intérêts dans les questions liées à l'OMC.
5. Pourvoir à la contribution du secteur privé et d'autres groupes d'intérêts non gouvernementaux.

Mécanisme De Coordination Interministériel Des Politiques Du Commerce

Etant donné l'éventail des agences gouvernementales qui ont un intérêt dans les décisions de l'OMC, un pays ne peut espérer participer effectivement à l'OMC s'il n'a pas un processus de prise de décision interministériel efficace. L'unité de coordination des politiques a besoin de la coopération, de l'expertise et des connaissances spécialisées des différents ministères responsables du développement et de la mise en œuvre des programmes gouvernementaux couverts par les règles de l'OMC. L'unité doit aussi s'assurer que ces ministères agissent de façon conforme aux obligations du pays quant à l'OMC. Tous ces objectifs ne peuvent être atteints si l'unité de coordination des politiques n'inclue pas les autres ministères dans le processus de prise de décision de façon significative.

L'article sur la formulation des politiques du commerce aux Etats-Unis aborde le processus de l'Equipe de Politique du Commerce/ Groupe d'Examen de Politique du Commerce qui est le mécanisme de décision inter agences de politique du commerce employé aux Etats-Unis depuis les années 1970. L'article sur la politique du commerce au Sénégal aborde le processus de prise de décision interministériel du commerce du Sénégal.

Constitution Et Formation D'une Equipe

Proposer une formation adéquate pour les dirigeants gouvernementaux travaillant sur les questions de l'OMC est un défi pour n'importe quel pays. En développant une unité de coordination de politique commerciale et une instance de prise de décision interministérielle, un gouvernement devrait former le plus de personnel possible. Ceci veut dire qu'en plus de former du personnel dans l'unité de coordination de politique, on devrait aussi faire de la formation pour les gens des ministères avec lesquels l'unité va travailler et aussi pour le secteur privé et pour les représentants des secteurs de recherche dont l'unité va rechercher les conseils. Heureusement, l'assistance technique pour la construction d'une force de politique du commerce est de plus en plus rendue accessible par l'OMC et d'autres organisations internationales, ainsi que par les gouvernements des pays développés. Le «guide des ressources d'assistance technique pour l'OMC pour l'Afrique Sub saharienne », sponsorisé par le gouvernement des Etats-Unis, donne des détails sur l'éventail de programmes d'assistance technique disponibles pour les pays africains.

On devrait aussi prendre soin de la façon dont un pays constitue l'équipe de son unité de coordination de politique du commerce. Une unité de coordination comprenant des membres de différents ministères apportera l'éventail d'expertise le plus large nécessaire pour des questions complexes, la force qu'une diversité d'origines peut donner, et les contacts qui peuvent faciliter la coopération nécessaire des autres ministères. Du personnel d'autres ministères pourrait aussi être assigné à l'unité de coordination politique de façon

temporaire pour apporter son assistance dans des projets ou des situations particulières. Le groupe d'examen de politique du commerce des Etats-Unis a utilisé du personnel prêté par d'autres agences pour résoudre le problème d'une équipe limitée et d'une charge de travail accrue.

En plus de négociateurs du commerce, une unité de coordination de politique aura besoin d'analystes économiques qui peuvent travailler à partir de systèmes d'information et de données sur l'économie nationale et peuvent donner des conseils sur l'impact économique de différents accords commerciaux et choix de négociations du commerce. Les économistes devraient aussi travailler en interface avec des économistes du secteur privé et des économistes des instituts de recherche économique.

Des étudiants de l'Université diplômés dans les domaines de l'économie, du commerce, du droit, de l'agriculture ou d'autres domaines spécialisés pertinents pourraient aussi être utilisés pour renforcer les Unités de Coordination du Commerce de l'OMC. Ces étudiants pourraient se voir octroyer des unités de valeur et/ou de petits appointements pour leur travail avec le gouvernement sur les questions de l'OMC. L'implication d'étudiants aiderait aussi un pays à élargir sa base d'expertise nationale sur les questions de l'OMC.

L'unité aura également besoin d'un soutien légal en ce qui concerne le fonctionnement de l'Accord de Règlement des Différends de l'OMC, la mise en conformité des lois nationales par rapport à l'OMC et le contrôle des lois étrangères quant à leur conformité à l'OMC.

Rôle Du Secteur Privé : Les Entreprises, Le Monde Du Travail, Les ONG Et Les Instituts De Recherche

Une partie importante de la construction d'une infrastructure nationale pour diriger la politique du commerce est l'établissement d'une relation de travail efficace avec le secteur privé (par exemple les sociétés privées, le monde du travail, les organisations non gouvernementales et les instituts de recherche économique). Pour fixer des objectifs de négociations du commerce, le gouvernement a besoin d'informations du secteur privé sur ses objectifs de marché national et à l'exportation (par exemple les marchés étrangers cibles et les produits, les plans de production nationale qui peuvent être affectés par les importations). Le gouvernement a aussi besoin de l'apport des ONG, des groupes de la société civile, quant à leurs préoccupations sur les politiques du commerce et la façon dont elles peuvent affecter plusieurs segments de la société. Des groupes de recherche indépendants peuvent fournir des analyses et des recherches économiques inestimables, en particulier lorsque les ressources gouvernementales sont trop limitées pour pouvoir engager de nombreux économistes. Parce que les intérêts de la société civile et ceux du secteur privé entrent souvent en conflit, un gouvernement doit établir un système transparent pour garantir les contributions et les conseils d'un large éventail de groupes nationaux. Des règles établies et la transparence du processus de prise de décision dans le commerce national sont importantes pour garantir que les résultats des négociations du

commerce sont exécutoires et crédibles. Les conseils que le gouvernement reçoit de la part des intérêts du secteur privé seront plus utiles si les conseillers comprennent les accords de l'OMC et le système de l'OMC. Aussi des conférences et des outils de formation pour le secteur privé devraient faire partie de tout plan de construction d'une infrastructure nationale de politique du commerce. L'unité de coordination de politique du commerce au gouvernement devrait désigner un membre de son équipe dont les responsabilités incluent la liaison avec le secteur privé afin de faciliter un dialogue constructif. Ce facteur est une pierre d'angle du système de conseil du secteur privé abordé dans l'article sur la formulation de la politique du commerce aux Etats-Unis.

Participer Au Travail De L'OMC Avec Des Ressources Limitées

L'infrastructure de politique du commerce évoquée dans la partie précédente ne peut se construire en un jour. Cependant, il y a des choses qu'un gouvernement peut faire pour augmenter l'efficacité de sa représentation à l'OMC. Tout d'abord, étant donné l'importance du commerce international pour la croissance économique et la nécessité d'être concurrentiel dans une économie globale, un gouvernement devra réexaminer si les ressources allouées à la politique du commerce reflètent bien l'importance de la politique du commerce pour ses intérêts nationaux.

Comme nous l'avons suggéré plus haut, une unité de coordination de politique du commerce devrait se servir des ressources des autres agences gouvernementales concernées ainsi que du secteur privé pour l'aider à analyser les choix de politique du commerce. En participant aux négociations internationales, un gouvernement peut utiliser des voisins amicaux qui partagent les mêmes centres d'intérêt, des organisations régionales qui peuvent avoir plus de ressources, et des institutions qui offrent une assistance spécialisée. Le travail mené par les organisations régionales est particulièrement important car il aide les pays à comprendre leur propre économie et celle de leurs voisins et pose les fondations d'une coopération future. Par exemple, l'actualisation et la préparation d'un programme national tarifaire pour participer aux négociations régionales aideront aux préparations de programmes nationaux pour des négociations multinationales. En outre, un pays peut souhaiter développer des institutions qui offrent une assistance spécialisée à un groupe de pays se trouvant dans la même situation. En novembre 1999 à Seattle, un groupe de pays en développement membres de l'OMC ont annoncé la formation du Centre de Conseil Juridique de l'OMC pour offrir formation et assistance juridique sur les questions de l'OMC à ses membres et à tous les pays les moins développés.

Alors que cet article s'est concentré sur l'infrastructure de politique du commerce dont les pays ont besoin pour une participation effective au système du commerce international, cette infrastructure est seulement une partie de celle qui est nécessaire pour une participation constructive dans l'économie globale, et elle ne pourra fonctionner que dans le contexte de progrès en matière de construction d'une infrastructure plus grande. Par exemple, un pays ne peut pas efficacement vendre ses produits et ses services sur les marchés internationaux s'il n'a pas un bon système de télécommunications internationales.

Il est également difficile de participer efficacement aux négociations du commerce international quand un pays manque d'un système efficace de télécommunications qui puisse garantir que les négociateurs soient capables de consulter continuellement les parties intéressées dans leur pays au fur et à mesure de l'évolution des négociations.

Beaucoup de travail reste à faire. Construire une infrastructure efficace est une partie décisive d'un plan beaucoup plus grand qui doit être développé afin de faciliter la complète intégration de l'Afrique dans le système de commerce multilatéral. Le développement d'une infrastructure et d'un appareil de prise de décision du commerce national valide aidera à garantir que des avantages et des opportunités plus grandes accompagnent les obligations que les pays africains assument dans l'OMC.

BUILDING NATIONAL INFRASTRUCTURE: ATTACHMENT A

WTO Advice on Trade Policy Coordination*

The Agreements reached in the Uruguay Round of trade negotiations have had an important impact on the way governments in developing countries and countries in transition manage trade and related policies. Members have established new institutions, allocated responsibilities more clearly and, in some case, revised administrative and policy practices to comply with the provisions of the Agreements.

The Agreements on Agriculture, Textiles and Clothing, Safeguards, anti-dumping and Subsidies and Countervailing Measures require the establishment of an "investigating authority" to determine the existence and extent of "dumping", subsidization, "material" or "serious injury", "serious damage" or trigger prices and trigger import volumes, on the basis of the criteria set out in the Agreements. The latter two Agreements, which deal with "unfair" practices, also provide for "Judicial review" which require the existence independent judicial, arbitral or administrative tribunals or procedures.

In many cases, existing specialized departments of Ministries have been made directly responsible for ensuring that the benefits and advantages offered by the WTO Agreements take real effect. The task of monitoring trading partners' implementation of the WTO obligations is usually carried out by a country's representatives to the WTO, and the trade sections of embassies abroad, in coordination with specialized departments of domestic ministries.

The policy coordination function is crucial in the management of these trade policy institutions. The oversight of compliance with WTO obligations, defense of trade interests using the WTO framework and participation in multilateral, bilateral or regional trade negotiations usually demands some centralized body with broadly based authority such as an office of the head of government.

* Source: "WTO & Developing Countries: an interactive guide" located on the WTO website, chapter 4 - Participation in the Trading System, section on - Implications for Trade Policy Administration.

Construction D'une Infrastructure Nationale Pour Gerer Les Questions De L'OMC: PIECE JOINTE A

Avis De L'OMC Sur La Coordination De La Politique Du Commerce

Les Accords conclus lors des négociations du commerce de l'Uruguay Round ont eu un impact important sur la façon dont les gouvernements dans les pays en développement et les pays en transition gèrent le commerce et les politiques qui s'y rapportent. Des pays membres ont établi de nouvelles institutions, ont réparti les responsabilités plus clairement et, dans certains cas, ont révisé leurs pratiques politiques et administratives pour remplir les conditions des Accords.

Les Accords sur l'Agriculture, les Textiles et l'Habillement, les Mesures de Sauvegardes, Antidumping, sur les Subventions et les Mesures Compensatoires exigent d'établir une «autorité enquêtrice » pour déterminer l'existence et le degré de «dumping », subvention, «dommage matériel ou sérieux », «dommage grave » ou bien des prix poussés ou des volumes d'importation poussés, sur la base des critères établis dans les Accords. Les deux derniers Accords qui portent sur des pratiques «déloyales », prévoient aussi un «contrôle Judiciaire » qui exige l'existence de procédures ou de tribunaux administratifs, d'arbitrage ou judiciaires qui soient indépendants.

Dans de nombreux cas, des départements spécialisés existant dans les ministères se sont vu directement confier la responsabilité de garantir que les bénéfices et les avantages offerts par les Accords de l'OMC étaient effectifs. La tâche de contrôler la mise en œuvre par les partenaires commerciaux des obligations de l'OMC est habituellement confiée aux représentants du pays auprès de l'OMC et aux sections commerciales des ambassades à l'étranger, en coordination avec les départements spécialisés des ministères du pays.

La fonction de la coordination de la politique est cruciale pour la gestion de ces institutions de politique du commerce. La surveillance de la conformité avec les obligations de l'OMC, de la défense des intérêts du commerce par l'utilisation du cadre de l'OMC et de la participation aux négociations du commerce régional, bilatéral ou multilatéral demande habituellement une instance centralisée qui ait une large autorité, comme par exemple un bureau du chef du gouvernement.

BUILDING NATIONAL INFRASTRUCTURE: ATTACHMENT B

SYMPOSIUM DES MINISTRES AFRICAINS DU COMMERCE SUR L'ASSISTANCE TECHNIQUE DE L'OMC POUR L'AFRIQUE SUBSAHARIENNE

ORGANISE PAR LES ETATS UNIS D'AMERIQUE DANS LE CADRE DU PARTENARIAT POUR LA CROISSANCE ECONOMIQUE ET LES OPPORTUNITES D'AFFAIRES EN AFRIQUE

REMARQUES PRELIMINAIRES

PAR MONSIEUR KHALIFA ABABACAR SALL,
MINISTRE DU COMMERCE ET DE L'ARTISANAT

SEATTLE, 29 novembre 1999

Mesdames, Messieurs,

Permettez-moi, à présent, de vous exposer notre expérience, en cours, dans le domaine du renforcement des capacités de notre pays, en vue d'œuvrer plus efficacement au sein de l'Organisation Mondiale du Commerce, d'une part, et d'exploiter, au mieux, les opportunités commerciales induites par l'ouverture des marchés, d'autre part.

Madame le Représentant ;

M.....

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Mesdames, Messieurs.

C'est avec un plaisir tout particulier que le Sénégal répond à votre invitation à prendre part, ici à Seattle, au symposium des Ministres africains du Commerce sur l'assistance technique de l'OMC pour l'Afrique subsaharienne.

C'est une excellente occasion pour nous de vous exprimer, au nom du Président de la République du Sénégal, au nom du Gouvernement et du Peuple sénégalais, toute notre gratitude pour cette marque de considération.

Permettez-moi également de souligner, pour m'en réjouir, votre belle initiative d'organiser, en marge de la troisième Conférence Ministérielle, un symposium sur la question fondamentale de

l'assistance technique, exclusivement consacré aux pays de l'Afrique subsaharienne.

En effet, cette partie de l'Afrique et, notamment les pays appartenant à l'Union Economique et Monétaire Ouest Africaine ont entrepris au cours de ces dernières années d'importantes réformes économiques visant à une plus grande ouverture commerciale sur le reste du monde.

Ces réformes couronnées, dans la plupart des cas, par d'importants succès, reconnus par nos partenaires au développement, traduisent l'option prise par nos dirigeants, d'assurer l'intégration de notre ensemble sous-régional à l'économie mondiale.

C'est dans ce contexte que s'inscrivent les efforts entrepris par le Sénégal, mon pays, en vue de mieux assurer son insertion au système commercial multilatéral et au commerce international.

SYMPOSIUM DES MINISTRES AFRICAINS DU COMMERCE SUR L'ASSISTANCE TECHNIQUE DE L'OMC POUR L'AFRIQUE SUBSAHARIENNE

ORGANISE PAR LES ETATS UNIS D'AMERIQUE DANS LE CADRE DU PARTENARIAT POUR LA CROISSANCE ECONOMIQUE ET LES OPPORTUNITES D'AFFAIRES EN AFRIQUE

PRESENTATION DU MODELE NATIONAL DU SENEGAL

PAR MONSIEUR KHALIFA ABABACAR SALL,
MINISTRE DU COMMERCE ET DE L'ARTISANAT

SEATTLE, 29 novembre 1999

C'est au cours du Conseil des Ministres qu'il a présidé le 02 juin 1998, au lendemain des cérémonies commémoratives du cinquantenaire du système commercial multilatéral, que le Chef de l'Etat du Sénégal avait donné les directives nécessaires, en vue d'instituer un mécanisme de suivi de l'évolution de notre pays dans un système commercial plus ouvert.

Précisées depuis lors, par la lettre de mission que Monsieur le Premier Ministre a bien voulu m'adresser, ces orientations ont été par la suite traduites dans le plan d'action du Ministère du Commerce et de l'Artisanat que j'ai l'honneur de diriger.

C'est ainsi qu'ont été créés :

- le Comité National des Négociations Commerciales Multilatérales ;
- et la Cellule Economique et Commerciale, au sein de la Mission Permanente du Sénégal à Genève.

I/ OBJECTIF, ROLE ET FONCTIONNEMENT DE CES CADRES INSTITUTIONNELS.

1.1 OBJECTIF

L'objectif visé à travers la mise en place de ces cadres est de mettre à la disposition du Gouvernement un outil de pilotage stratégique et de formulation de la politique commerciale extérieure.

Conçu comme un cadre institutionnel commun pour la conduite de nos relations commerciales internationales, dans un contexte marqué par la libéralisation et l'intégration des marchés ,la mise en place de ce Comité vise également à permettre :

- une meilleure maîtrise des enjeux, opportunités et contraintes favorisant la réalisation des ambitions de notre pays pour assurer son intégration profitable au commerce international ;
- une modernisation et une plus grande cohérence de la législation régissant les activités commerciales.

1.2 ROLE

Le comité national des négociations commerciales multilatérales a pour rôle de :

i- contribuer à la définition des objectifs de négociations commerciales que doivent atteindre les représentants du Sénégal aux réunions de l'Organisation Mondiale du Commerce ;

ii- harmoniser et formuler les positions nationales en matière de négociations commerciales multilatérales, plurilatérales, régionales et bilatérales ;

iii- faciliter la mise en œuvre et l'administration des accords commerciaux issus des négociations commerciales internationales auxquelles le Sénégal participe ainsi que les instruments juridiques connexes.

iv- Suivre et superviser les travaux de la Conférence des Nations -Unies pour le Commerce et le Développement, et ceux des autres instances internationales traitant des questions de commerce.

1.3 FONCTIONNEMENT

Au plan politique, le comité national a pour vocation de préparer les négociations des accords commerciaux internationaux, d'en superviser la mise en œuvre et d'en évaluer périodiquement les résultats.

Il réunit autour du Ministre chargé du commerce, responsable des négociations commerciales internationales, les Ministres en charge des questions concernées par les négociations, soit dans le domaine du commerce des produits agricoles, soit dans le domaine du commerce des produits industriels, soit dans le domaine du commerce des services, ainsi que les partenaires du secteur privé en leur qualité d'acteurs privilégiés du commerce international.

Au plan opérationnel, le comité est organisé en sous-comités techniques. Ces sous-comités comprennent les responsables des administrations impliquées dans la conduite de nos relations commerciales multilatérales, plurilatérales, régionales ou bilatérales ainsi que le secteur privé.

Au nombre de six, à l'heure actuelle, l'architecture des sous-comités est la suivante :

- Sous-Comité du commerce des marchandises ;
- Sous-comité du commerce des services ;
- Sous-Comité du commerce des Produits Agricoles ;
- Sous-comité du commerce et de l'environnement ;
- Sous-comité du commerce des investissements et du développement ;
- Sous-comité des Droits de la Propriété Intellectuelle qui touchent au Commerce.

Ainsi structuré et composé des principaux acteurs de notre commerce extérieur, publics comme privés, le comité des négociations commerciales multilatérales constitue dorénavant un cadre permanent de suivi des négociations commerciales auxquelles participe notre pays.

Quant à la Cellule Economique et Commerciale, que nous venons de créer, elle est placée sous l'autorité de l'Ambassadeur, Représentant Permanent du Sénégal auprès de l'Office des Nations Unies et de l'OMC.

Elle vient de recevoir l'affectation de deux cadres supérieurs, en complément d'effectifs.
Le processus de son organisation en vue de renforcer les capacités humaines, logistiques et opérationnelles de la Mission du Sénégal en matière de suivi des questions multilatérales et de commerce international est très avancé.

II/ LES PREMIERS RESULTATS ENREGISTRES

Depuis la mise en place de ces nouveaux mécanismes, des résultats encourageants dans le domaine de la maîtrise des enjeux et des règles du système commercial multilatéral ont été obtenus.

Un grand nombre d'acteurs publics comme privés s'intéressent de plus en plus aux questions de l'OMC.

Le processus analytique et d'échange de vues sur les accords, mené dans le cadre d'ateliers et/ou de séminaires, a permis de mieux appréhender certaines difficultés liées à la mise en œuvre des accords.

De même, il a contribué à mieux faire percevoir l'intérêt de recourir au cadre commercial multilatéral dans les échanges internationaux.

Enfin, les enseignements tirés du processus préparatoire de la troisième Conférence ministérielle, ainsi que des négociations ultérieures permettront d'assurer une plus grande cohérence de notre politique commerciale nationale régionale et multilatérale.

A terme, ce dernier acquis sera particulièrement utile pour mener à bonne fin l'important travail d'adaptation de la législation nationale ou régionale aux règles du système commercial multilatéral.

III/ PERSPECTIVES

L'intensité du travail accompli, au cours de ces derniers mois, dans le cadre de ces nouveaux mécanismes de gestion de l'OMC, constitue une exaltante expérience.

Mais elle a mis en relief l'importance des progrès et des efforts qui restent encore à réaliser, pour

améliorer l'expertise des acteurs concernés par le suivi des questions multilatérales.

Elle a également permis de constater l'immense besoin d'assistance technique, institutionnelle et financière utiles pour renforcer et améliorer les capacités nationales existantes.

Enfin, cette somme d'expériences, y compris les difficultés rencontrées ont achevé de convaincre les acteurs sur la nécessité de formuler et de mettre en œuvre, dans les meilleurs délais, un véritable programme de renforcement des capacités.

A cet effet, une première esquisse, intitulée programme de renforcement des capacités pour l'intégration du Sénégal au système commercial multilatéral et aux échanges internationaux a été préparée par les services du Ministère du Commerce.

Elle a été soumise au Cabinet de consultants pour recueillir leurs observations et commentaires, avant d'être présentée, sous peu, au Comité National pour approbation.

Dès l'achèvement de cette phase, elle sera soumise au Gouvernement et aux partenaires au développement, dont certains ont déjà manifesté leur intérêt pour appuyer ce programme.

CONCLUSION

C'est fort de la disponibilité de ces partenaires au développement que je voudrais, pour terminer, renouveler mes remerciements au Secrétariat de l'OMC pour sa constante sollicitude.

J'associe également à ces remerciements la FAO pour l'assistance que son Directeur Général a commencée à apporter à notre pays dans ce domaine, pas oublier l'organisation mondiale des douanes à Bruxelles dont la disponibilité mérite d'être soulignée.

Je voudrais féliciter, une fois de plus, le Gouvernement des Etats-Unis, singulièrement, l'USTR pour les initiatives déjà engagées en faveur du Sénégal.

Je ne saurai terminer sans décerner une mention spéciale au Gouvernement du Canada et à l'ACDI pour avoir bien voulu prendre en charge le financement de la composante Développement et Promotion des Exportations, afin de mieux tirer

profit des nouvelles opportunités d'ouverture des marchés.

Puisse cette initiative servir ~~pour~~ à orienter d'autres assistances dans la réalisation des infrastructures et autres services d'appui indispensables au développement du commerce de notre pays.

Enfin, j'exprime l'espoir que la troisième Conférence Ministérielle de Seattle qui s'ouvre demain, connaîtra le succès attendu.

Je souhaite surtout qu'elle entérine la proposition, appuyée par le Sénégal, de voir l'Organisation Mondiale du Commerce financer dorénavant les activités de coopération technique dans le cadre de son budget ordinaire.

U.S. WTO Consultative and Technical Assistance
For African Trade Ministers
Washington, DC
May 3-5, 2000

Agriculture, Services and Market Access Issues

May 5

9:40 am – 11:15 am

USTR Annex, Rooms 1 and 2

Speakers

Greg Frazier, U.S. Special Trade Negotiator for Agriculture and Food Policy
Peter Collins, Deputy Assistant USTR for Services and Investment
Barbara Keating, Executive Vice President of Computer Frontiers
Ministers of Kenya and Lesotho to lead African response

PAPERS AND ATTACHMENTS

Paper 1: "Agriculture: Key Issues in WTO Negotiations" *(English/French)*

Attachment A: "Future of Agricultural Trade"

Paper 2: "WTO Services Negotiations" *(English/ French)*

Attachment A: "Services – Rules for Growth and Investment"

Attachment B: "GATS and Developing Countries: A Case Study of India" *(English/French)*

Paper 3: "Market Access" *(English/French)*

Attachment A: "Tariffs: More Bindings and Closer to Zero" *(English/French)*

Attachment B: "Principles of the Trading System" *(English/French)*

SPEAKER BIOGRAPHIES

Barbara Keating

Ms. Barbara Keating is the Executive Vice President of Computer Frontiers, Inc. She has sixteen years experience as a business management and information technology expert skilled in the design, implementation and management of electronic networks and information services. As the founder of Computer Frontiers, Inc., Ms. Keating directs the company's business development and international consulting activities, and supervises all professional and support personnel in Washington D.C. and Africa. Over the past eight years, Ms. Keating has worked with African governments on Internet policy reforms, and implementing Internet related projects for the U.S. Agency for International Development (USAID). She is currently implementing several projects that integrate information technology into the daily business and marketing operations of small- and medium-sized business, and trade and business associations in east and southern Africa. She is also involved with getting internet technologies into education at all levels in several African countries. Her experience is enhanced by a Master of International Business Management degree from The American Graduate School of International Management, "Thunderbird."

Rosa M. Whitaker

Rosa Whitaker is the Assistant United States Trade Representative charged with overseeing U.S. trade relations with Africa. Her responsibilities include advancing the President's Partnership for Economic Growth and Opportunity in Africa initiative, which serves to enhance U.S. economic engagement with the countries of sub-Saharan Africa and support the region's full integration into the international trading system. Her Office of African Affairs is responsible for a broad range of bilateral, regional and multinational initiatives to facilitate trade and investment between the United States and Africa, including measures to open markets and improve investment climates.

Prior to her current position, Ms. Whitaker was Senior Foreign Trade Advisor to Congressman Charles B. Rangel, the Ranking Democratic Member of the U.S. House of Representatives, Ways and Means Committee. In this capacity, Ms. Whitaker addressed numerous international trade issues, including those related to the World Trade Organization and the African Growth and Opportunity Act.

In her previous career as a U.S. Foreign Service Officer, Ms. Whitaker worked in the Department of State's International Energy Policy Office, where her wide-ranging responsibilities included support for worldwide energy infrastructure projects. Additional Foreign Service experience include work at the U.S. Embassy in Cote d'Ivoire, where she led negotiations finalizing the rescheduling of Cote d'Ivoire's official debt to the U.S. She also co-founded and managed the first U.S.-Africa Trade and Investment Conference within the Telecommunications sector. Ms. Whitaker holds a Bachelors and Masters Degree from American University in Washington, D.C.

AGRICULTURE

KEY ISSUES IN WTO NEGOTIATIONS

Overview

WTO members initiated negotiations on agriculture this year. These negotiations give us the opportunity to increase the market orientation of world agriculture by cutting or eliminating tariffs and trade-distorting subsidies. Putting agricultural trade on a more rational basis by reducing market access barriers and trade-distorting subsidies is of particular importance in Africa, where agriculture accounts for over two-thirds of jobs and about one-third of GDP. Reforms will be aimed at distortions which have pernicious effects across the economies of exporting and importing countries -- wasting resources in less efficient economic activities, increasing opportunities for waste and fraud, exploiting the environment, and discouraging investment and innovation. Implementing reforms will move all members toward more productive, sustainable, and fair farm policies. This should provide new opportunities for farmers and ranchers around the world and increase the quantity and variety of food available to consumers in all countries, improving the quality of life and contributing to broader economic growth and prosperity.

Negotiations will focus on the three main areas identified in the Uruguay Round agreement: market access, export competition, and domestic support. In each of these areas, discussed below, the United States and other WTO members have called for significant reforms.

Market Access

Measures applied at the border to stop trade are the principal barrier to a freer and more open trading environment for agriculture. Market access barriers deny efficient producers the chance to compete in other markets and limit the variety and quality of products available to consumers. Removing market access barriers is the fundamental principal of the WTO, and we still have a long way to go in agriculture to open markets to competition.

The Uruguay Round Agreement set agricultural trade on a more predictable basis by requiring that all non-tariff measures, such as quotas and import bans, be converted to simple tariffs. While this was a necessary first step to removing trade barriers, many tariffs are still prohibitively high. For example, while the average tariff assessed by the United States on agricultural products is less than 10% (and nearly zero for industrial products) the average agriculture tariff allowed under the WTO in other countries exceeds 50%. Moreover, in some cases, effective market access is limited to a tariff-rate quota (TRQ), where only specific quantities of imports receive low-duties. All other imports are subject to high tariffs.

The Uruguay Round agreement started to reduce tariff levels: developed countries cut by an average of 36% over 6 years (with a minimum cut of 15% for any individual product) while developing countries cut by an average of 24% over 10 years (with a minimum cut of 10%). Least developed countries were not required to make any tariff reductions, but only bind maximum tariffs against future increase. WTO members agreed to create a special agricultural safeguard, to help facilitate the transition to a tariff-only system by allowing countries that replaced non-tariff measures to increase duties after a fall in prices or a surge of imports.

In the upcoming negotiations, many countries, including the United States, are calling for substantial cuts in agricultural tariffs, with the goal of eliminating as many as possible as soon as possible. Where TRQs (where a specific quantity of imports are allowed in at a low duty with all other imports facing the higher out-of-quota duty) remain as a transitional step before we achieve more open trade, we expect countries to negotiate for increases in the TRQ size and disciplines on the way in which they are administered. Similarly, some countries will make proposals to reform agricultural monopoly importers, which insert themselves between exporters and consumers and which can drive up prices, possibly restricting market access.

Proposals will also be advanced to further reduce practical problems in conducting trade by simplifying tariff systems, both by streamlining tariff calculations and by reducing disparities between tariffs, including in the following areas: *tariff escalation* (which disproportionately taxes imports of value-added or processed products more than raw materials), *tariff dispersion* (where substitutable products face different tariff levels), and *tariff variabilities* (when countries have high allowed tariff under the WTO but in practice charge lower tariffs which can vary over time and across shipments). Countries will also review the application of safeguard measures to restrict imports.

In one important area, measures applied to new agricultural and food processing technologies including biotechnology, more immediate work is required to ensure countries establish transparent, science-based, and predictable regulatory processes. Creating a supportive environment for the propagation of yield-enhancing biotech products is critical for meeting the needs of producers and consumers in the coming century.

Developing countries in general, and African countries in particular, have been disadvantaged by market access barriers. High tariffs and complex import regimes deny export opportunities in foreign markets and can discriminate against higher value products. Many developing countries could also benefit from increased market access, which allow consumers greater access to a wider range of products and encourages producers to provide their goods at lower costs.

Export Competition

Export subsidies are the most distorting trade tool because the level and direction of trade is directly determined by government subsidies. Today, the European Union (EU) is the only substantial export

subsidizer -- nearly all other countries agreed not to use, or only have limited recourse to, export subsidies in the last round of negotiations. The United States also has the ability to use significant levels of export subsidies for some products (at much lower levels than the EC) but has autonomously made internal policy changes to reduce subsidized exports. For example, the EC accounts for over 80% of total expenditures on agricultural export subsidies, spending over $7 billion annually. The United States spends around $100 million annually on export subsidies.

EU farmers, responding to domestic prices frequently twice the world price, produce more products than can be consumed in Europe but at such high prices that they can only be sold abroad with generous subsidies. These subsidies push other competitive suppliers out of the market, including products from developing countries, (which is expensive and unfair) and discourage production in countries that have a comparative advantage in agricultural production (which is wasteful and threatens future farm production needs).

In the Uruguay Round negotiations, countries acknowledged the corrosive nature of export subsidies and agreed to specific caps on both budgetary outlays and quantities of subsidized exports on a commodity-specific basis. Additionally, developed countries agreed to cut budgetary outlays by 36% and subsidized quantities by 21% over 6 years, with the few developed countries that used export subsidies obligated to cut by 24% and 14% respectively over 10 years. The agreement also recognized the special status of export credit policies, for which special disciplines are being developed in the OECD, and food aid measures.

The United States and many other countries (including the Cairns Group, the countries of the Western Hemisphere, APEC members and many other developing countries) have proposed that upcoming negotiations eliminate export subsidies. In addition, the WTO members should create rules to curb export monopolies, particularly grain boards in large exporting countries, that can disguise subsidies and exert distorting market power, along with other policies used to dispose of surplus commodities in cash markets on a non-market basis. In some countries these monopoly exporters also tax producers, diverting their income into the hands of others. Additionally, the negotiations should address distortive export restrictions maintained by some countries that use export taxes or quantitative restrictions as a supply management tool, recognizing that many developing countries use export measures as a means to raise revenue or meet other legitimate national policy goals. These reforms should help increase the market-orientation of international trade while giving extra assurances to producers in exporting countries and consumers in importing countries that trade reforms will provide real export opportunities and ensure food availability in all countries. Similarly, even as countries work to discipline export practices WTO rules need to continue to recognize the special role for export credit programs, to allow countries to continue to meet their needs in the face of liquidity limitations, and *bona fide* food aid programs to ensure people who lack access to adequate food can be assisted by other countries.

Domestic Support

In the Uruguay Round negotiations, countries agreed to distinguish trade distorting subsidies

(generally, those linked to the production of a specific crop or related to price support) from non trade-distorting subsidies (such as research and development, training, and environmental protection). The trade-distorting subsidies were capped and the process of reducing allowable levels of subsidies was begun: developed countries cut the Aggregate Measurement of Support (AMS) - which sums up total trade-distorting subsidies across all commodities - by 20% over six years, while developing countries cut by 13% over 10 years. Least developed countries were not required to make subsidy reductions, only to bind subsidy levels against future increase. The United States believes the WTO distinction between trade-distorting and non-trade-distorting policies is a good one: subsidies that distort markets and straitjacket producers should be cut, while programs that are aimed at general rural development goals or needed to increase a country's ability to produce agricultural products without distorting production incentives should not be reduced. These policies include services such as research, training, extension and advisory, inspection, and infrastructure.

Domestic subsidy programs which distort a farmer's production incentives are often the root cause of trade-distorting policies. Subsidy policies that increase domestic prices above world price levels require limiting price-competitive imports. They are also a substantial drain on government budgets. Over-production generated by high domestic prices can only be sold on world markets with export subsidies that bring the price down to the world price. While reining in distortive domestic subsidy programs has value in its own right for rationalizing agricultural production and encouraging economic growth, the WTO negotiations will focus on their trade-distorting elements.

The United States and a number of other countries have called for the upcoming negotiations to result in further cuts in trade-distorting support calculated under the AMS. In particular the United States is looking at approaches which will limit countries from providing disproportionate levels of trade-distorting support, noting that countries such as the EC and Japan provide substantially higher levels of this support than is warranted given the size of their agricultural economy. A general reduction in export and domestic subsidies will help other countries, particularly developing countries, compete with EC producers on a more level playing field. Additionally, the United States is reviewing ways to close loopholes that exempt subsidies linked to production from being included under the subsidy limits. In particular, under the so-called "blue box" provisions[1] countries can exempt support that is linked to production of specific commodities if that support is linked to supply-control programs. A number of countries have called for eliminating this exemption in the negotiations. Under the WTO agreement, certain policies are also exempt the AMS ceiling for developing countries if they meet certain development criteria. In the negotiations countries will examine these provisions to assess whether they continue to meet the twin objectives of limiting trade-distorting support and providing legitimate development assistance. We look forward to working with developing countries in this area to ensure their development needs are addressed.

[1] Article 6.5 of the Agreement on Agriculture

Other Topics

In addition to the issues directly related to WTO rights and obligations some countries have raised other topics in the preparatory process leading up to the negotiations. One has been the special needs of net food importing developing countries. In the Uruguay Round, WTO members noted the importance of avoiding negative effects for these countries and working to improve agricultural productivity and infrastructure[2]. While there has been no evidence of negative effects resulting from the WTO reform program, some countries have emphasized the need to take into account the special circumstances of these countries in the upcoming negotiations. The broader point on food security is that the range of reforms under discussion in each of the areas listed above will contribute to increasing purchasing power, reliability of supply, and expanding production capacity of the most efficient producers. Another issue raised by certain wealthy countries with relatively inefficient agricultural sectors has been the "multifunctionality" of agriculture. While unable so far to define this curious term, these countries have indicated that they may be interested in justifying trade-distorting measures because they contribute to the maintenance of historical agricultural production patterns and the role agriculture plays in achieving non-trade objectives. While all members support the concept of providing rural development assistance to rural communities and ensuring a vibrant farm sector, most members indicated their opposition to using these legitimate objectives to justify trade-distorting measures. As a consequence, some noting that "multifunctionality is the rich man's special and differential treatment" while others have stated "don't let your non-trade concerns become our trade concerns."[3]

[2]Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries

[3]The Philippines (for ASEAN) and South Africa, at the March 2000 special session of the Committee on Agriculture devoted to the agriculture negotiations, respectively.

AGRICULTURE

QUESTIONS ESSENTIELLES DES NEGOCIATIONS DE L'OMC

VUE D'ENSEMBLE

Cette année les membres de l'OMC ont entamé des négociations sur l'agriculture. Ces négociations nous donnent l'occasion d'accélérer l'orientation libérale de l'agriculture mondiale en réduisant ou en supprimant les droits de douane et les subventions qui faussent le marché. Mettre le commerce des produits agricoles sur une base plus rationnelle en réduisant les barrières à l'accès aux marchés et les subventions qui faussent le marché est particulièrement important en Afrique, où l'agriculture représente plus des deux-tiers des emplois et environ un-tiers du PIB. Les réformes viseront les distorsions qui ont des effets pernicieux sur les économies des pays importateurs et exportateurs (en gaspillant les ressources dans des activités économiques moins productives, en augmentant les occasions de gaspillage et de fraude, en exploitant l'environnement, et en décourageant l'investissement et l'innovation). La mise en œuvre de réformes orientera tous les membres vers des politiques agricoles plus productives, durables et équitables. Cela devrait offrir de nouvelles perspectives d'avenir aux agriculteurs et aux éleveurs du monde entier et augmenter la quantité et la variété de nourriture disponible pour les consommateurs dans tous les pays, en améliorant la qualité de vie et en contribuant à répandre la croissance économique et la prospérité.

Les négociations porteront sur les trois principaux domaines identifiés au cours du Cycle de l'Uruguay: l'accès aux marchés, la compétitivité à l'exportation, et le soutien interne. Pour chacun de ces domaines, abordés ci-après, les Etats-Unis et d'autres membres de l'OMC ont demandé des réformes significatives.

L'ACCES AUX MARCHES

Les mesures appliquées à la frontière pour freiner le commerce constituent la barrière principale à un environnement commercial pour l'agriculture plus libre et plus ouvert. Les barrières à l'accès aux marchés empêchent les agriculteurs productifs d'entrer en concurrence dans d'autres marchés et limitent la variété et la qualité des produits disponibles pour les consommateurs. Le principe fondamental de l'OMC est de supprimer les barrières à l'accès aux marchés, et il nous reste un long chemin à parcourir dans le domaine de l'agriculture pour ouvrir les marchés à la concurrence.

L'Accord du Cycle de l'Uruguay assoit le commerce agricole sur une base plus prévisible en exigeant que toutes les mesures non tarifaires, tels que les contingents et les interdictions d'importations, soient converties en droits de douane simples. Il s'agissait là d'une première

mesure nécessaire pour supprimer les barrières douanières, mais beaucoup de droits de douane sont encore élevés de façon prohibitive. Par exemple, alors que le droit de douane moyen appliqué par les Etats-Unis sur les produits agricoles est inférieur à 10% (et presque nul pour les produits industriels) le droit de douane agricole moyen permis conformément à l'OMC dans d'autres pays dépasse les 50%. De plus, dans certains cas, un accès aux marchés efficace est limité par un système de contingents tarifaires (SCT), où seulement des quantités données d'importations supportent des droits moins élevés. Toutes les autres importations sont soumises à des droits élevés.

L'Accord du Cycle de l'Uruguay a commencé à réduire les niveaux des droits de douane: les pays développés les ont réduits en moyenne de 36% sur 6 ans (avec une réduction minimum de 15% pour tout produit individuel) tandis que les pays en développement les ont réduits en moyenne de 24% sur 10 ans (avec une réduction minimum de 10%). Les pays les moins avancés n'étaient pas tenus d'effectuer de réductions quelconques des prix, mais seulement de fixer des prix maxima contre toute augmentation future. Les membres de l'OMC sont parvenus à un accord pour créer des mesures de sauvegardes agricoles spéciales, afin de faciliter la transition à un système uniquement de droits de douane en permettant aux pays ayant remplacé les mesures non-tarifaires d'augmenter les droits après une chute des prix ou un accroissement des importations.

Dans les négociations prochaines, beaucoup de pays, y compris les Etats-Unis, demandent des baisses importantes des droits de douane agricoles, avec pour objectif d'en éliminer le plus possible le plus vite possible. Là où les systèmes de contingents tarifaires (où une quantité donnée d'importations sont autorisées à entrer avec des droits moins élevés alors que toutes les autres importations font face aux droits hors contingent plus élevés) restent une mesure de transition en attendant que le commerce soit plus ouvert, nous comptons sur les pays pour qu'ils négocient pour des augmentations de la taille des SCT et pour plus de discipline dans la façon dont ils sont administrés. De même, certains pays vont faire des propositions pour réformer les importateurs qui ont des monopoles agricoles, servant d'intermédiaire entre les exportateurs et les consommateurs, et qui peuvent faire monter les prix, éventuellement en réduisant l'accès aux marchés.

Des propositions seront également présentées pour réduire encore plus les problèmes pratiques liés à l'administration du commerce en simplifiant les systèmes tarifaires, à la fois en rationalisant les calculs des droits de douanes et en réduisant les disparités entre les droits de douanes, y compris dans les domaines suivants: *la flambée des droits de douane* (qui taxe de manière disproportionnée les importations de produits à valeur ajoutée ou industriels plus que les matières premières), *la dispersion des droits de douane* (où les produits substituables font face à des niveaux tarifaires différents), et *les variabilités de droits de douane* (quand des pays ont des droits de douane élevés en conformité avec l'OMC mais en pratique font payer des droits plus bas qui peuvent varier dans le temps et selon les chargements). Les pays vont aussi revoir la mise en œuvre des mesures de sauvegarde pour restreindre les importations.

En ce qui concerne un domaine important, celui des mesures appliquées à de nouvelles technologies agricoles et agro-alimentaires y compris la biotechnologie, un travail plus urgent est nécessaire pour s'assurer que les pays établissent des processus de régulation prévisibles, fondés

sur la science et transparents. La création d'un environnement favorable à la propagation de produits de biotechnologie pour augmenter les rendements est décisive afin de pourvoir aux besoins des producteurs et des consommateurs au cours du siècle prochain.

Les pays en développement en général, et les pays africains en particulier, ont été désavantagés par les barrières à l'accès au marché. Des droits de douane élevés et des régimes d'importations complexes bloquent les possibilités d'exporter vers des pays étrangers et peuvent être discriminatoires pour les produits à plus forte valeur. Beaucoup de pays en développement pourraient aussi tirer profit d'un accès au marché plus large, qui permet aux consommateurs d'avoir un meilleur accès à une gamme plus large de produits et encourage les producteurs à fournir leurs biens à des prix plus bas.

CONCURRENCE A L'EXPORTATION

Les subventions à l'exportation constituent l'outil qui fausse le plus le commerce parce que le niveau et la direction du commerce sont directement déterminés par les subventions gouvernementales. Aujourd'hui, l'Union Européenne (UE) est la seule à subventionner de façon substantielle les exportations ; presque tous les autres pays ont convenu de ne pas utiliser, ou d'avoir un recours limité à des subventions à l'exportation, au cours du dernier cycle des négociations. Les Etats-Unis ont aussi la possibilité d'utiliser des niveaux significatifs de subventions à l'exportation pour certains produits (à des niveaux bien plus bas que la CEE) mais ils ont de façon autonome modifié leur politique interne de façon à réduire les exportations subventionnées. Par exemple, la CEE représente plus de 80% des dépenses totales pour les subventions à l'exportation de produits agricoles, dépensant plus de 7 milliards de dollars par an. Les Etats-Unis dépensent environ 100 millions de dollars par an pour les subventions à l'exportation.

Les agriculteurs européens, réagissant à des prix internes qui sont souvent deux fois plus élevés que le prix mondial, produisent plus de produits que ce qui peut être consommé en Europe mais à des prix si élevés qu'ils ne peuvent être vendus à l'étranger que grâce à de généreuses subventions. Ces subventions excluent du marché d'autres fournisseurs compétitifs, y compris les produits des pays en développement (ce qui revient cher et est déloyal), et décourage la production dans des pays qui ont un avantage relatif dans la production agricole (ce qui cause du gaspillage et menace les besoins de production agricole de l'avenir).

Au cours des négociations du Cycle de l'Uruguay, des pays ont reconnu la nature corrosive des subventions à l'exportation et ont convenu de fixer un plafond à la fois pour les dépenses budgétaires et pour les quantités de produits exportés subventionnés sur une base de marchandise primaire spécifique. De plus, les pays en développement ont convenu de réduire les dépenses budgétaires de 36% et les quantités subventionnées de 21% sur 6 ans, pendant que les quelques pays développés qui utilisaient des subventions à l'exportation seraient obligés de les réduire respectivement de 24 % et de 14 % sur 10 ans. L'accord reconnaissait aussi le statut particulier des politiques de crédits à l'exportation, pour lesquelles des disciplines spéciales sont développées au sein de l'OCDE, ainsi que pour les mesures d'aide alimentaire.

Les Etats-Unis et beaucoup d'autres pays (y compris le Groupe Cairns, les pays de l'hémisphère Ouest, les membres de l'APEC et de nombreux autres pays en développement) ont proposé que les prochaines négociations visent à éliminer les subventions à l'exportation. De plus, les membres de l'OMC devraient établir des règles pour freiner les monopoles à l'exportation, en particulier les comités céréaliers des grands pays exportateurs, qui peuvent dissimuler les subventions et exercer un pouvoir commercial de distorsion, et ceci avec d'autres politiques utilisées pour vendre les surplus de marchandises primaires sur les marchés monétaires sur une base non marchande. Dans certains pays ces exportateurs ayant le monopole imposent aussi des taxes aux producteurs, détournant leur revenu vers d'autres mains.

De plus, les négociations devraient traiter la question des restrictions à l'exportation qui faussent le commerce, maintenues par quelques pays qui utilisent les taxes à l'exportation ou les restrictions quantitatives comme un outil de gestion de l'offre, tout en reconnaissant que beaucoup de pays en développement utilisent les mesures à l'exportation comme moyen d'augmenter les revenus ou d'atteindre d'autres buts poursuivis par une politique nationale légitime. Ces réformes devraient aider à développer l'orientation libérale du commerce international tout en donnant aux producteurs dans les pays exportateurs et aux consommateurs dans les pays importateurs l'assurance que les réformes du marché fourniront de véritables opportunités à l'exportation et assureront une disponibilité alimentaire dans tous les pays. De la même façon, même lorsque les pays travaillent pour discipliner les pratiques à l'exportation, les règles de l'OMC doivent continuer à reconnaître le rôle particulier des programmes de crédits à l'exportation, pour permettre aux pays de continuer à pourvoir à leurs besoins face aux limitations de liquidités et *bona fide* aux programmes d'aide alimentaire pour s'assurer que les gens qui n'ont pas accès à une alimentation adéquate puissent être assistés par d'autres pays.

SOUTIEN INTERNE

Au cours des négociations du Cycle de l'Uruguay, les pays ont convenu de distinguer les subventions qui faussent le commerce (en général celles liées à la production d'une récolte spécifique ou liées au soutien des prix) des subventions qui ne faussent pas le commerce (telles que celles pour la recherche et le développement, la formation, et la protection de l'environnement). Les subventions qui faussent le commerce ont été limitées et le processus de réduction des niveaux admissibles des subventions a commencé: les pays développés ont réduit la Mesure Globale de Soutien (MGS) - qui additionne le total des subventions faussant le marché pour toutes les marchandises primaires - de 20 % sur six ans. Les pays en développement l'ont réduite de 13 % sur 10 ans. Les pays les moins avancés n'étaient pas tenus d'effectuer des réductions de subventions, mais seulement de bloquer les niveaux de subvention face à une augmentation future. Les Etats-Unis considèrent que la distinction faite par l'OMC entre les politiques faussant ou non le commerce est une bonne distinction: les subventions qui faussent les marchés et restreignent les producteurs devraient être limitées, tandis qu'on ne devrait pas réduire les programmes d'aide générale en faveur du développement rural ou nécessaires pour accroître la capacité d'un pays à produire des produits agricoles sans mesures d'incitation à la production qui faussent le marché. Ces politiques comprennent des services tels que la recherche, la formation, les services de conseils et de crédits, d'inspection, et l'infrastructure.

Les programmes de subventions internes qui sont des mesures d'incitation à la production pour un agriculteur sont souvent la cause première de politiques qui faussent le marché. Les politiques de subventions qui font monter les prix internes au-dessus des niveaux des prix mondiaux nécessitent des importations à des prix compétitifs limitatives. Elles représentent également une charge conséquente pour les budgets gouvernementaux. La surproduction engendrée par des prix internes élevés peut seulement être vendue sur des marchés mondiaux avec des subventions à l'exportation qui rabaissent le prix au niveau des prix mondiaux. Cependant que freiner les programmes de subventions internes qui faussent le marché a de la valeur en soi pour rationaliser la production agricole et encourager la croissance économique, les négociations de l'OMC se concentreront sur leurs éléments faussant le marché.

Les Etats-Unis et un certain nombre d'autres pays ont demandé que les prochaines négociations aboutissent à davantage de réductions de soutien faussant le marché calculé en fonction de la MGS. De façon plus particulière les Etats-Unis s'occupent des stratégies pour empêcher les pays de fournir des niveaux disproportionnés de soutien faussant le marché, notant que des pays tels que la CEE et le Japon fournissent de manière conséquente des niveaux plus hauts de ce type de soutien que ce qu'il est recommandé étant donné la taille de leur économie agricole. Une réduction générale des subventions internes et à l'exportation aidera les autres pays, en particulier les pays en développement, à faire concurrence aux producteurs de la CEE sur un meilleur pied d'égalité. De plus, les Etats-Unis sont en train de revoir les manières de remédier aux lacunes qui dispensent les subventions liées à la production d'être comprises dans les limites des subventions. En particulier, avec les mesures de «la catégorie bleue »[1] les pays peuvent exempter le soutien qui est lié à la production de marchandises primaires spécifiques si ce

[1] Article 6.5 de l'Accord sur l'Agriculture

soutien est lié à des programmes de contrôle de l'offre. Un certain nombre de pays ont demandé à ce que cette exemption soit éliminée au cours des négociations. Conformément à l'accord de l'OMC, certaines politiques sont aussi dispensées du plafond de la MGS pour les pays en développement s'ils répondent à certains critères de développement. Au cours des négociations les pays vont examiner ces mesures pour évaluer si elles continuent à répondre au double objectif de limitation du soutien faussant les marchés et d'offre d'une assistance au développement légitime. Nous sommes impatients de travailler avec des pays en développement dans ce domaine pour nous assurer que l'on s'occupe de leurs besoins de développement.

AUTRES SUJETS

En plus des sujets directement reliés aux droits et obligations de l'OMC, quelques pays ont soulevé d'autres questions au cours du processus préparatoire conduisant aux négociations. L'une d'entre elles concerne les besoins spéciaux en importations de produits alimentaires nets des pays en développement. Au cours du cycle de l'Uruguay, les membres de l'OMC ont noté l'importance d'éviter les effets négatifs pour ces pays et de travailler pour améliorer l'infrastructure et la productivité agricoles[2]. Tandis qu'il n'y a eu aucune preuve d'effets négatifs dus au programme de réforme de l'OMC, certains pays ont mis l'accent sur la nécessité de tenir compte dans les prochaines négociations des conditions particulières dans lesquelles ces pays se trouvent. Le point plus général sur la sécurité alimentaire est que l'éventail de réformes en cours dans chacun des domaines cités ci-dessus contribuera à accroître le pouvoir d'achat, la sûreté de l'offre, et à augmenter la capacité de production des producteurs les plus compétents. Une autre question soulevée par certains pays riches ayant un secteur agricole relativement inefficace a été la «multifonctionnalité » de l'agriculture. Bien qu'incapables jusqu'à maintenant de définir ce terme étrange, ces pays ont indiqué que cela pourrait les intéresser de justifier les mesures faussant les marchés parce qu'elles contribuent au maintien de modèles de production agricole historiques et au rôle que l'agriculture joue en remplissant des objectifs non commerciaux. Tandis que tous les membres soutiennent l'idée de fournir aux communautés rurales une assistance au développement rural et d'assurer un secteur rural florissant, la plupart des membres ont indiqué qu'ils s'opposaient à l'utilisation de ces objectifs légitimes pour justifier des mesures faussant les marchés. En conséquence, certains ont noté que «la multifonctionnalité est le traitement différentiel et spécial de l'homme riche » tandis que d'autres ont dit «ne laissez pas vos soucis non commerciaux devenir nos soucis commerciaux. »[3]

[2] Décision sur les mesures concernant les effets négatifs éventuels du programme de réforme pour les pays les moins avancés et les importations de produits alimentaires nets des pays en développement ;

[3] Les Philippines (pour l'ASEAN) et l'Afrique du Sud, à la session spéciale du Comité sur l'Agriculture de mars 2000 chargé des négociations sur l'agriculture, respectivement.

THE FUTURE OF AGRICULTURAL TRADE

By August Schumacher, Jr., Under Secretary of Agriculture for the Farm and Foreign Agricultural Services, U.S. Department of Agriculture

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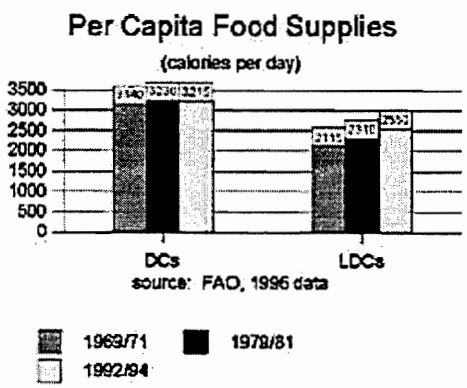
"In the Uruguay Round, countries recognized that the long-term solution for agriculture did not lie in administered prices, trade restrictions, supply controls, and export subsidies but rather in open, nondistorted markets," says Under Secretary of Agriculture August Schumacher. "Now is the time to take bold steps toward bringing agricultural trade into the 21st century by accelerating agricultural trade reform."

Schumacher sees four key areas for accelerating reforms: eliminating export subsidies; increasing market access through substantial tariff cuts and expansion of tariff-rate quotas; cutting further trade-distorting domestic subsidies; and ensuring technical standards are based on sound science.

The world's farmers and ranchers are facing two difficult challenges at the dawn of the 21st century. First, they are being asked to provide more products at lower cost, higher quality, greater variety, and in a safer manner than ever demanded before. Second, they are being asked to produce this abundance on a shrinking natural resource base that is often subject to government regulations. Meeting these global challenges will require unleashing the production potential of world agriculture while practicing proper environmental stewardship. The ingenuity and hard work we usually associate with farmers will be essential to meet these challenges, but they will not be sufficient unless we further reform agricultural trade to create an environment that rewards risk and investment and encourages efficiencies.

Today's Agricultural Challenges

As they should, American farmers have high expectations for the upcoming round of World Trade Organization (WTO) negotiations, scheduled to be launched at a ministerial meeting beginning on November 30, 1999, in Seattle, Washington. These negotiations give us the opportunity to substantially increase the market orientation of world agriculture. A dramatic result is precisely what the world needs to meet the challenges of providing food and fiber, in an environmentally sustainable way, for future generations.



Farmers are responsible for feeding a rapidly growing world population. And despite progress over the years, too many people still are not getting enough food (see figure). Many countries, including the United States, are working vigorously to promote technological innovations to meet the need for food and fiber in the coming years. However, as important as this work is, it is only part of the solution. These technologies and the hard work of the world's farmers need a trading environment that encourages investment and efficient production, and generates economic growth to finance production and consumption needs.

Currently, American farmers are suffering through weather-related disasters and low prices. Even as we work to address these immediate concerns, long-term trends in agriculture pose serious challenges for all farmers. The same technological advances that may increase yields result in lower prices. Increasing social concerns about the effect of agricultural production on the environment and living conditions result in new restrictions on farm activities. As urban dwellers and industry stake competing claims for land, water, and energy, many producers find their ability

to farm made ever more difficult.

Two approaches to organizing the agricultural economy present a stark contrast in dealing with these challenges. One model, popular in Europe and Asia, is to retain an inward-looking agricultural system focused on supply control and government regulation geared to keeping farm prices high and, since guaranteed high prices are a drain on the treasury, to controlling production. Under this approach, bureaucrats try to assess the optimal level of national production -- not so little that imports are needed and not so much that excess production must be bought at high prices and then dumped on world markets. This "command-and-control" structure stifles farmer efficiency and ingenuity and distorts world markets, especially as subsidized surpluses are regularly exported; and it does not address the challenge to farmers to produce food for the next century. It also ignores the interests of domestic consumers (who have to pay high internal prices) and producers in other countries (who have to compete with subsidized products). Of biggest concern is that the anti-market policies of this approach hamstring the agriculture sector from pursuing the technological advances needed to meet its future challenges.

Another approach is to place agriculture on a more market-oriented basis, particularly by removing trade barriers and reducing trade-distorting policies. Greater market orientation was the principle that nations agreed to in the last set of multilateral trade negotiations. In the Uruguay Round, countries recognized that the long-term solution for agriculture did not lie in administered prices, trade restrictions, supply controls, and export subsidies but rather in open, nondistorted markets. Now is the time to take bold steps toward bringing agricultural trade into the 21st century by accelerating agricultural trade reform.

The Gains from Trade

The benefits from free and fair trading of agricultural products have immediate effects on people. Eliminating trade barriers and reducing unfair competition will help ensure that farmers have incentives to produce and consumers have access to the products they desire. Liberalizing agricultural trade will contribute to better resource allocation by farmers, which has conservation benefits, rewards low-cost producers, encourages efficiencies, and removes the drag on economic growth.

Opening trading opportunities also increases the food security of food-importing countries by giving supplier countries the confidence required to put more land into production and to create marketing relationships. Trade provides consumers with year-round access to a greater variety of less expensive products, while rewarding producers who are able to find and meet specific consumer demands for high-value products. In a broader context, by allowing imports that are more efficiently produced elsewhere, trade encourages specialization in efficient agricultural and nonagricultural production.

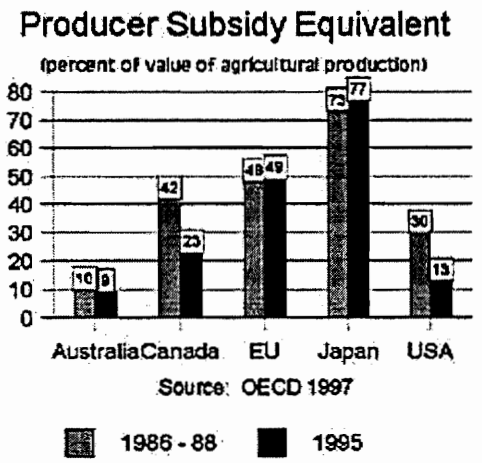
More dramatically, trade literally saves lives. Without the international flow of food products from areas with abundant production to areas where food is scarce, many people in the world would be eating less or not at all.

Trade has dynamic effects, as well, that push long-term productivity growth. For example, access to customers in overseas markets creates an incentive for technological innovation, resulting in exciting developments in improved seed varieties and production techniques. International markets also expand market outlets, raising prices and giving producers increased confidence to produce more than required merely for national needs, allowing productive farmers to not only feed their neighbors but literally feed the world.

Equally important, trade in agricultural products is becoming increasingly critical to farm and ranch incomes. Increased productivity and oftentimes flat domestic demand increases the importance of reliable international markets. Foreign markets are not just a dumping ground for surplus products; overseas consumers value choice and quality, particularly when producers in their own country cannot meet their demands or when they are charged inflated prices.

Consequently, foreign markets are the biggest growth area for most commodity and value-added agricultural producers, raising farm-gate prices and helping support the range of agriculture-related industries.

Political reality also encourages a focus on international markets: policies based on high government guaranteed prices are ultimately politically untenable because they are hugely expensive, unresponsive to the needs of customers and producers, insensitive to environmental and agronomic realities, and a shameful waste of economic assets. Rather than farming government programs, our producers are looking for customers around the world.



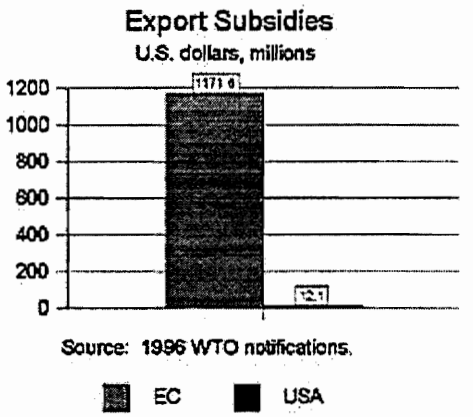
While agricultural trade benefits consumers and producers alike, it is an area in which progressive reform is ardently opposed by entrenched domestic interests. Producers in some countries, cosseted by high guaranteed prices and protective tariffs, oppose any move toward greater market orientation. Intervention in the agricultural economy -- measured by the Organization for Economic Cooperation and Development by summing price support, direct payments, and other support as a percent of total agricultural production (see figure) -- has actually increased in some countries from the levels at the beginning of the Uruguay Round.

In the last set of multilateral trade negotiations, countries began the process of dismantling protection and delinking farm support from production decisions. Consequently, reforms have been undertaken by some countries. For example, in the United States we have retooled most of our farm programs to rely on market forces to determine farm prices; to help our producers transition to this new system, we have supplemented farmer income through direct payments delinked from a farmer's volume or type of production so as not to distort production incentives. We are also working to shore up our farm safety net through risk management, disaster relief, and rural development policies that complement, rather than interfere with, the workings of the market.

The WTO Opportunity

The U.S. objective in the upcoming farm talks is to accelerate the reform process initiated in the Uruguay Round. That means further substantial negotiations on tariffs, subsidies, and other trade-distorting measures so that the level and direction of trade are determined by market forces, not government intervention. Four key areas are outlined below.

Export Competition. Export subsidies are the most distorting trade tool because the level and direction of trade is directly determined by government subsidies. Today, the European Union (EU) is the only substantial export subsidizer -- nearly all other countries agreed not to use, or have only limited recourse to use, export subsidies in the last round of negotiations (see figure). EU farmers, responding to domestic prices frequently twice the world price, produce more products than can be consumed in Europe, but at such high prices that they can be sold abroad only with generous subsidies. These subsidies push other competitive suppliers out of the market (which is expensive and unfair) and discourage production in countries that have a comparative advantage in agricultural production (which is wasteful and is threatening both to the environment and to future farm production needs).



In the Uruguay Round negotiations, countries acknowledged the corrosive nature of export subsidies and agreed to cap and reduce their use. The upcoming negotiations should eliminate them and take a hard look at the rules defining them to ensure that countries do not resort to other policy tools that allow government spending to determine winners in the marketplace. Specifically, WTO members should look closely at curbing distorting state trading agricultural export monopolies that can disguise subsidies and exert distorting market power, along with other policies used to dispose of surplus commodities on a nonmarket basis.

Market Access. Measures applied at the border to stop trade currently are the principal barrier to a freer and more open trading environment for agriculture. Market access barriers deny efficient producers the chance to compete in other markets and limit the variety and quality of products available to consumers. Opening markets and maximizing trade opportunities are fundamental principles of the WTO, and we still have a long way to go in agriculture to open markets to competition.

The Uruguay Round Agreement set agricultural trade on a more predictable basis by requiring that all nontariff measures, such as quotas and import bans, be converted to simple tariffs. While this was a necessary first step to removing trade barriers, many of the tariffs are still prohibitively high. For example, while the average tariff assessed by the United States on agricultural products is less than 5 percent (and nearly zero for industrial products), the average agriculture tariff assessed by WTO members exceeds 40 percent. Moreover, in some cases, market access is limited to a tariff-rate quota (TRQ), where only specific quantities of imports receive low duties. Many other commodities also are subject to high tariffs.

As we start the next century, high tariffs should not stop the flow of imported agricultural products. Where TRQs remain as a transitional step before we achieve more open trade, we expect more specific disciplines on the way in which they are administered. Similarly, we need to take a hard look at agricultural state trading monopoly importers; use of these state traders may have been justifiable when more restrictions were allowed on farm trade, but in the tariff-only regime it is hard to see why a government needs to insert itself between an exporter and an end-user.

Domestic Subsidies. Domestic subsidy programs are often the root cause of other trade-distorting policies. Subsidy policies that increase domestic prices above world price levels can be maintained only if price-competitive imports are restricted. Additionally, overproduction generated by high domestic prices can be sold on world markets only with export subsidies that bring the price down to the world price. While reining in distortive domestic subsidy programs has value in its own right for rationalizing agricultural production, the WTO negotiations will focus on their trade-distorting elements.

In the Uruguay Round negotiations, countries agreed to distinguish trade-distorting subsidies (generally those linked to the production of a specific crop or related to price supports) from non-trade-distorting subsidies (such as research and development, training, and environmental protection). The trade-distorting subsidies were capped, and the process of reducing allowable levels of subsidies began. This distinction is a good one: the nasty sort of subsidy that distorts markets and straitjackets producers should be cut, while programs that will increase a country's ability to produce agricultural products in the next century without distorting production incentives should not be reduced.

Standards. As WTO members make progress on cutting tariffs and subsidies, the temptation increases to disguise trade barriers as health and safety measures or other innocuous-sounding "technical standards." Moreover, when regulations purportedly designed to protect health are instead vehicles for domestic protectionism, the credibility of the entire safety apparatus of a country is put up for questioning. When good science is replaced by politics, the basis for sound health policy is undermined. Therefore, increasing government accountability by putting the emphasis on sound science for health standards should discipline disguised barriers to trade and strengthen health policy.

In the Uruguay Round, countries agreed to a set of sound principles: each has the right to maintain health and safety measures, but these must be based on sound science, backed by scientific evidence and an assessment of the risk, and be no more trade-restrictive than required to meet health goals. In practice, countries have found that these principles work well -- bogus measures adopted without scientific basis have been successfully challenged in the WTO without sacrificing health concerns. Creating a supportive environment for the propagation of yield-enhancing biotech products is critical for meeting the needs of the coming century.

Agriculture Is Different

Agriculture occupies a special place in the national economies of most countries around the world. Farmers are responsible for feeding and clothing people. Farming also holds a powerful claim on our national cultures, that calls for the preservation of rural lifestyles and values. Farm production is subject to the cruel vagaries of weather and the relentless decline in prices and increases in costs. Some people point to these factors as justifying a differential treatment for agriculture in the international economy, including justifying trade-distorting agricultural policies. This is wrong-headed: societies can support farms and preserve rural communities in ways that foster choice, protect natural resources, and expand trade.

Farm production in the next century cannot afford to be trapped in a static system in which prices are determined by government mandate, production decisions are controlled by central planners, and farmers are forced to produce only for local consumers. This myopic system cannot be sustained in any important agriculture producing society. Moreover, this type of system will not meet the needs of the coming century, when we will face unprecedented consumer demand and natural resource constraints.

Instead, I look forward to a dynamic world of agricultural trade in which producers, exporters, and retailers apply the creativity of the human mind to the natural bounty of the earth. In this "new" world, we will produce a greater amount and variety of food than ever before, feed the coming billions, sustain our environment, and unlock economic resources otherwise stifled by moribund protectionism, ultimately raising living standards around the world.

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WTO SERVICES NEGOTIATIONS

As with agriculture, there is a built-in requirement for another round of WTO services negotiations, and these are now underway in Geneva. But what is trade in services?

Services are what most people in most counties do for a living – in many countries, developed and developing, services account for over 60 percent of GDP. This means that there are substantial benefits for many countries in promoting competition in their domestic services markets. Trade in services is important globally, as well. Cross-border services trade accounts for more than 22 percent of world trade, or about $1.3 trillion annually. And, in view of the predominance of services in most economies, many countries may well be competitive services *exporters.*

But services are more than just exports. More often than not, they are important factors in determining the economic and social well-being of those *consuming* the services – both individuals and businesses as consumers. In many, many areas, services are the infrastructure that allows our industrial and agricultural sectors to function productively. The following are a few examples:

- Efficient transport and distribution helps farmers get their products to market without spoilage and ensures that manufacturing components reach the factory in time for production.

- An open and competitive financial services sector provides cheaper capital and allocates it more efficiently in support of economic growth, and can better withstand financial market instability.

- Telecommunications, software, and information dissemination are essential to the functioning of all modern industries.

- Energy services -- for example, energy transmission, distribution, and storage -- promote competitive energy markets; provide affordable energy to more industrial, commercial, and residential consumers; promote economic growth; and improve quality of life.

- And environmental services – such as sewage, refuse disposal, sanitation and exhaust gas reduction services – contribute to quality of life.

These are among the reasons why the countries that participated in the Uruguay Round agreed to establish rules for trade in services.

But how is "trade in services" conducted? The concept of trade in goods is simple. A good is produced in one country and sold in another. The importing country is concerned with things like what the product is, where it was produced, and whether it meets domestic standards. Many of the domestic regulations and multilateral rules that govern trade in goods are there to address these basic concerns.

What about trade in services? As with trade in goods, the producer and the consumer can remain in their respective countries. For example, an American can buy insurance from Lloyds of London, or a U.S. data-processing firm can handle the accounts of a foreign client by transmitting files directly.

But services are also traded in other ways: the consumer can travel to the service provider. Your attendance here -- those of you not from the United States -- generates revenue for hotels and restaurants. These are exports of U.S. services.

Or, the service provider can visit the consumer, such as the Rolling Stones touring the United States, or a U.S. service technician repairing machinery in another country.

Finally, a service provider can establish operations in the "importing" country. Multinational insurance companies, banks, accounting firms, and, of course, franchises offer their services through affiliates around the world.

The WTO's General Agreement on Trade in Services, or GATS, provides an overall framework that promotes competition, openness, and transparency. Nations must not discriminate against foreign providers; they must treat their trade partners equally; they should ensure that regulation of services is transparent and done for valid policy reasons rather than to exclude foreigners; and they should make public lists of any exemptions from basic principles. These are the objectives of the GATS. And the heart of the GATS is its obligations for each WTO Member to provide most-favored-nation treatment, national treatment, and market access commitments to service suppliers of all other WTO Members (For further details see attachment A produced by WTO Secretariat on "Services - Rules for Growth and Trade").

WTO Members have agreed that the way to meet these objectives is through successive rounds of negotiations, with the first such round now underway. Since the Uruguay Round, however, there have been two successful sectoral negotiations, on basic telecommunications and on financial services. They were successful because, in each case, some 70 countries decided to use the GATS as a vehicle to promote greater competition and transparency in their domestic markets.

The Basic Telecom agreement, in effect for less than two years, already is yielding impressive results. Enforcement of the WTO agreement has forced dominant carriers to reduce rates, causing a surge in demand for telecommunications services and electronic commerce. For example, rates with most OECD countries have dropped to around 20 cents per minute, and in some cases (e.g., Canada, U.K.) rates are at 10 cents per minute and lower. Rates have been cut by *one-half* on calls between the United States and countries such as Japan and Mexico in the 18 months since the WTO Telecommunications agreement went into force.

Likewise, the 1997 Financial Services Agreement represents a successful, joint effort by WTO Members to open markets to insurance, banking, securities and financial data services. Growth potential for competitive financial services suppliers is high, including to help emerging markets modernize their financial services systems and improve their infrastructure for trade in goods and services.

In Geneva, much of 1999 was spent in important preparatory work in the WTO Council for Trade in Services, and its subsidiary bodies. We are now in a different phase – a negotiating phase.

The United States believes it will be important to ratchet up the level of work in the four GATS subsidiary bodies. We must all devote additional time and resources to the items under discussion in these bodies, in particular:

- Improved classification of service sectors -- including important sectors like environmental services, express delivery services, energy services, and tourism services. This classification work is needed to ensure clear, commercially-relevant commitments, much like a tariff schedule does for goods.
- Development of new GATS disciplines to promote fairness and transparency in regulation of services. Unlike goods, many services trade restrictions are applied internally. Here, the U.S. is mindful of the need to strike a balance between a role for trade rules and the role of domestic regulators pursing legitimate national objectives.

Second, we must ensure an active and productive role for the GATS negotiating body – the GATS Council meeting in special session. The United States' view is that this body should serve to *monitor progress* in the negotiations and *ensure transparency* in the negotiations. The

Council in special session should be the forum where all aspects of the negotiation come together, and where all WTO Members have an opportunity to exchange views on all activities of subsidiary and other bodies.

Third, the United States wants to reach agreement with other Members on a timetable for this negotiation. These "benchmarks" were included in the draft Seattle text on services. We are encouraged that WTO Members may now be ready to turn to this issue now that the agriculture negotiating body has taken firm steps in this direction.

The preparations in Geneva over the past 1-1/2 years have demonstrated a high degree of interest in the GATS negotiations from countries across the economic development spectrum. Countries are increasingly aware of the benefits that they can derive from the negotiations. Transition and developing countries have identified sectors in which they have export interests, including tourism, private healthcare, computer services, audiovisual services, and professional services. Research by scholars in developing countries offer increasing examples of how liberalization of service sectors through GATS commitments can produce economic benefits for developing countries (See abstract at attachment B).

The U.S. is committed to working with these and other countries to develop joint submissions aimed at ensuring that the services negotiations benefit all participants.

Status of Negotiations

At its second meeting, on April 14, the WTO services negotiating body (the Council for Trade in Services meeting in special session) reached agreement on an ambitious schedule of meetings for the rest of 2000, with each session scheduled to last 10 days. During these periods, there will be meetings of the Council in special session, the Council in regular session, and the four GATS subsidiary bodies. In addition to bringing together the work of all these bodies, this schedule should help bring more capital-based negotiators to each meeting. The meetings will be in May, July, October and December.

NEGOCIATIONS DE L'OMC SUR LES SERVICES

Comme pour l'agriculture, il y a une demande latente pour un autre cycle de négociations de l'OMC sur les services, et celles-ci sont en cours à Genève. Mais qu'est-ce que le commerce des services?

Les services sont ce que la plupart des gens dans la plupart des pays font pour gagner leur vie. Dans beaucoup de pays, développés et en voie de développement, les services représentent plus de 60 pour cent du PIB. Cela signifie qu'il y a des avantages considérables pour beaucoup de pays à promouvoir la concurrence dans leurs marchés intérieurs de services. Le commerce des services est aussi important globalement. Le commerce transfrontières des services représente plus de 22 pour cent du commerce mondial, soit environ 1,3 trillions de dollars par an. Et, au regard de la prédominance des services dans la plupart des économies, beaucoup de pays pourraient bien être des *exportateurs* de services compétitifs.

Mais les services représentent plus que juste des exportations. Le plus souvent, ce sont d'importants facteurs pour déterminer le bien-être économique et social de ceux qui consomment les services, les consommateurs étant des personnes physiques aussi bien que des entreprises. Dans de très nombreux domaines, les services constituent l'infrastructure qui permet à nos secteurs industriels et agricoles de fonctionner de façon productive. En voici quelques exemples:

- Une distribution et un transport efficaces aident les agriculteurs à mettre leurs produits sur le marché sans gaspillage et permettent que les pièces de fabrication arrivent à l'usine à temps pour la production.

- Un secteur des services financiers compétitif et ouvert offre du capital moins cher et le répartit de façon plus efficace pour soutenir la croissance de l'économie, et peut aussi mieux résister à l'instabilité des marchés financiers.

- Les télécommunications, les logiciels et la diffusion de l'information sont des facteurs essentiels au fonctionnement de toutes les industries modernes.

- Les services de l'énergie, par exemple le stockage, la distribution et la transmission de l'énergie, promeuvent des marchés de l'énergie compétitifs; fournissent de l'énergie à un prix abordable à davantage de consommateurs résidentiels, industriels, et commerciaux; favorisent la croissance de l'économie; et améliorent la qualité de la vie.

- Et les services de l'environnement, tels que l'élimination des déchets, des eaux usées, l'hygiène et les services de réduction des gaz d'échappement, contribuent à la qualité de la vie.

Ce sont quelques-unes des raisons pour lesquelles les pays qui ont participé à l'Uruguay Round ont convenu d'établir des règles pour le commerce des services.

Mais comment fonctionne «le commerce des services» ? Le concept du commerce des marchandises est simple. Un bien est produit dans un pays et vendu dans un autre. Le pays importateur se préoccupe de choses telles que la nature du produit, son lieu de production et sa conformité aux standards nationaux. De nombreuses réglementations nationales et règles multilatérales qui régissent le commerce des marchandises sont là pour répondre à ces questions essentielles.

Qu'en est-il du commerce des services? Comme pour le commerce des marchandises, le producteur et le consommateur peuvent rester dans leur pays respectif. Par exemple, un Américain peut contracter une assurance auprès de la Lloyds à Londres, ou bien une société américaine de traitement des données peut tenir les comptes d'un client étranger en transmettant les dossiers électroniquement.

Mais les services sont aussi commercialisés d'autres façons: le consommateur peut se déplacer vers le fournisseur de services. Votre présence ici –pour ceux d'entre vous qui n'êtes pas des Etats-Unis- génère des revenus pour les hôtels et les restaurants. Voilà des exportations de services américains.

Ou bien le fournisseur de services peut se déplacer vers le consommateur, comme les Rolling Stones faisant une tournée aux Etats-Unis, ou un technicien des services quand il va réparer des machines dans un autre pays.

Enfin, un fournisseur de services peut mettre sur pied des opérations dans le pays «importateur». Des sociétés multinationales d'assurance, des banques, des cabinets de comptabilité et, bien sûr, des franchises offrent leurs services dans le monde entier par l'intermédiaire de filiales.

L'Accord Général sur le Commerce des Services de l'OMC, AGCS, fournit un cadre d'ensemble qui favorise la concurrence, l'ouverture, et la transparence. Les Nations ne doivent pas faire de discrimination vis-à-vis des fournisseurs étrangers; elles doivent traiter leurs partenaires commerciaux de façon égale; elles devraient s'assurer que la régulation des services est transparente et faite pour des raisons d'une politique valable plutôt que dans le but d'exclure les étrangers; et elles devraient établir des listes publiques de toutes les exemptions aux principes de base. Tels sont les objectifs de l'AGCS. Et le point crucial de l'AGCS est constitué par l'obligation pour chaque Membre de l'OMC de traiter sur la base de la clause de la nation la plus favorisée, sur le plan national, et sur la base des engagements d'accès aux marchés pour les fournisseurs de services de tous les autres Membres de l'OMC.

Les Membres de l'OMC ont décidé que le moyen d'atteindre ces objectifs était de procéder à des cycles de négociations successifs, le premier de ces cycles étant en cours actuellement. Cependant, depuis l'Uruguay Round, il y a eu deux négociations sectorielles couronnées de succès, l'une sur les télécommunications de base et l'autre sur les services financiers. Elles ont abouti parce que, dans chaque cas, quelques 70 pays ont décidé d'utiliser l'AGCS comme véhicule pour promouvoir une concurrence et une transparence plus grande sur leurs marchés internes.

L'accord sur les Télécommunications de Base, entré en vigueur depuis moins de deux ans, est déjà en train de produire des résultats impressionnants. L'application de l'accord de l'OMC a forcé des fournisseurs dominants à réduire les tarifs, provoquant une augmentation de la demande pour les services de télécommunications et le commerce électronique. Par exemple, les tarifs dans la plupart des pays de l'OCDE ont baissé à environ 20 cents par minute, et dans certains cas (ex. Canada, R.U.) les tarifs sont tombés à 10 cents par minute et même plus bas. Les tarifs ont été diminués de *moitié* pour les appels entre les Etats-Unis et des pays comme le Japon et le Mexique au cours des 18 mois qui ont suivi l'application de l'accord de l'OMC sur les télécommunications.

De même, l'Accord sur les Services Financiers de 1997 représente un effort commun, couronné de succès, des Membres de l'OMC pour ouvrir les marchés aux services de l'assurance, de la banque, des titres et des données financières. Le potentiel de croissance pour les fournisseurs de services financiers compétitifs est élevé, même pour aider des marchés en développement à moderniser leurs systèmes de services financiers et à améliorer leur infrastructure pour le commerce des biens et des services.

A Genève, une grande partie de l'année 1999 a été consacrée à un travail important de préparation au Conseil de l'OMC pour le commerce des services, ainsi que dans ses organes auxiliaires. Nous sommes maintenant dans une phase différente, une phase de négociation.

Les Etats-Unis sont d'avis qu'il va falloir passer la vitesse supérieure dans les quatre organes auxiliaires de l'AGCS. Nous devons tous consacrer davantage de temps et de ressources aux questions à l'ordre du jour dans ces organes, en particulier:

- Une meilleure classification des secteurs de services, incluant d'importants secteurs tels que les services de l'environnement, les services de livraison expresse, les services de l'énergie et les services du tourisme. Ce travail de classification est nécessaire pour assurer des engagements clairs, applicables commercialement, un peu comme fonctionnent les barèmes de tarifs pour les biens.

- Le développement de nouvelles disciplines de l'AGCS pour promouvoir l'équité et la transparence dans la régulation des services. Contrairement aux biens, beaucoup de restrictions au commerce des services sont appliquées de façon interne. A ce propos, les Etats-Unis sont conscients de la nécessité de trouver un équilibre entre une fonction visant à établir des règles sur le commerce et la fonction des régulateurs domestiques poursuivant des objectifs nationaux légitimes.

Deuxièmement, nous devons assurer un rôle actif et productif pour l'organe de négociations de l'AGCS, le Conseil de l'AGCS se réunissant en session spéciale. L'opinion des Etats-Unis est que cet organe devrait servir à *contrôler le progrès* des négociations et à *assurer la transparence* dans les négociations. Le Conseil en session spéciale devrait être le forum où tous les aspects de la négociation sont mis en commun, et où tous les Membres de l'OMC ont l'opportunité d'échanger des vues sur toutes les activités des organes auxiliaires et autres.

Troisièmement, les Etats-Unis veulent parvenir à un accord avec les autres Membres sur un calendrier pour cette négociation. Ces «repères » ont été inclus au projet de texte de Seattle sur les services. Cela nous encourage de constater que les Membres de l'OMC peuvent maintenant être prêts à se tourner vers cette question, maintenant que l'organe de négociation sur l'agriculture a pris des mesures fermes dans cette direction.

Les préparations à Genève au cours de l'année et demi qui vient de s'écouler ont démontré qu'il existait un grand intérêt pour les négociations de l'AGCS de la part de pays appartenant à tout le spectre du développement économique. Les pays se rendent de plus en plus compte des profits qu'ils peuvent tirer des négociations. Les pays en voie de développement et en transition ont identifié les secteurs dans lesquels ils ont intérêt à exporter, incluant le tourisme, les soins privés, les services informatiques, les services audiovisuels et les services professionnels.

Les Etats-Unis se sont engagés à travailler avec ces pays ainsi qu'avec d'autres pour développer des soumissions communes destinées à s'assurer que les négociations sur les services profitent à tous les participants.

Etat des négociations

A sa seconde réunion, le 14 avril, la commission de négociation sur les services de l'OMC (le Conseil pour le Commerce des Services réuni en session spéciale) est parvenue à un accord sur un ambitieux calendrier de réunions allant jusqu'à la fin de l'an 2000, chaque session étant prévue pour durer 10 jours. Pendant ces périodes, il y aura des réunions du Conseil en session spéciale, du Conseil en session ordinaire, et des quatre commissions subsidiaires de l'AGCS. En plus de rassembler le travail de toutes ces commissions, ce programme devrait contribuer à amener davantage de négociateurs à chaque réunion. Les réunions auront lieu en mai, juillet, octobre et décembre.

WTO SERVICES NEGOTIATIONS: ATTACHMENT A

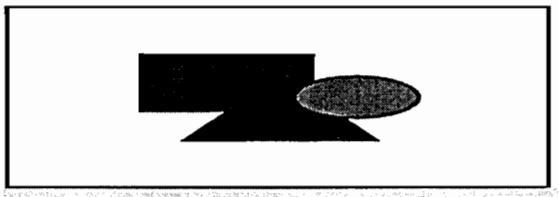
http://www.wto.org/about/agmnts5.htm

Services - rules for growth and investment

The General Agreement on Trade in Services (GATS) is the first ever set of multilateral, legally-enforceable rules covering international trade in services. It was negotiated in the Uruguay Round. Like the agreements on goods, GATS operates on three levels: the main text containing general principles and obligations; annexes dealing with rules for specific sectors; and individual countries' specific commitments to provide access to their markets. Unlike in goods, GATS has a fourth special element: lists showing where countries are temporarily not applying the "most-favoured-nation" principle of non-discrimination. These commitments - like tariff schedules under GATT - are an integral part of the agreement. So are the temporary withdrawals of most-favoured-nation treatment.

A WTO Council for Trade in Services oversees the operation of the agreement. Negotiations on commitments in four topics have taken place after the Uruguay Round. A full new services round will start no later than 2000.

The framework: the GATS articles



Basic principles

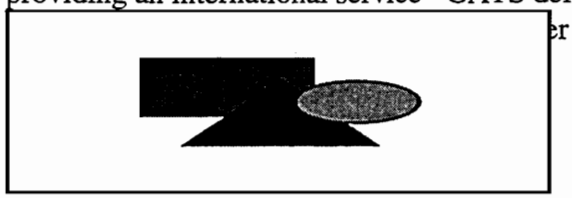
All services are covered by GATS
Most-favoured-nation treatment applies to all services, except the one-off temporary exemptions
National treatment applies in the areas where commitments are made
Transparency in regulations, inquiry points
Regulations have to be objective and reasonable
International payments: normally unrestricted
Individual countries' commitments: negotiated and bound
Progressive liberalization: through further negotiations

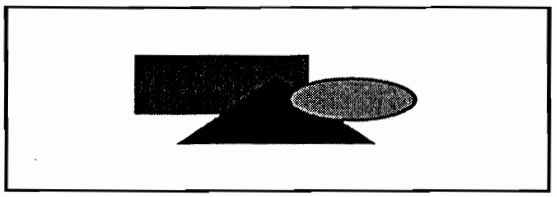
GATS's 29 articles cover all services sectors. They contain the general obligations that all members have to apply. (*See also* Principles of the trading system.):

Total coverage

The agreement covers all internationally-traded services. This includes all the different ways of providing an international service - GATS defines four:

er (e.g. international telephone calls), officially





known as "cross-border supply"
consumers or firms making use of a service in another country (e.g. tourism), officially known as "consumption abroad"
a foreign company setting up subsidiaries or branches to provide services in another country (e.g. foreign banks setting up operations in a country), officially "commercial presence"
individuals travelling from their own country to supply services in another (e.g. fashion models or consultants), officially "presence of natural persons"

Most-favoured-nation (MFN) treatment

Favour one, favour all. MFN means treating one's trading partners equally. Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to provide foreign companies access to its markets under the WTO.) MFN applies to all services, but some special temporary exemptions have been allowed (see below).

What about national treatment?

National treatment - equal treatment for foreigners and one's own nationals - is treated differently for services. For goods (GATT) and intellectual property (TRIPS) it is a general principle. In GATS it only applies where a country has made a specific commitment, and exemptions are allowed. *(See below.)*

Transparency

GATS says governments must publish all relevant laws and regulations. Within two years (by the end of 1997) they have to set up inquiry points within their bureaucracies. Foreign companies and governments can then use these inquiry points to obtain information about regulations in any service sector. And they have to notify the WTO of any changes in regulations that apply to the services that come under specific commitments.

Regulations: objective and reasonable

Since domestic regulations are the most significant means of exercising influence or control over services trade, the agreement says governments should regulate services reasonably, objectively and impartially. When a government makes an administrative decisions that affect a service, it should also provide an impartial means for reviewing the decision (for example a tribunal).

Recognition

When two (or more) governments have agreements recognizing each other's qualifications (for example, the licensing or certification of service suppliers), GATS says other members must also be given a chance to negotiate comparable pacts. The recognition of other countries' qualifications must not be discriminatory, and it must not amount to protectionism in disguise.

These recognition agreements have to be notified to the WTO.

International payments and transfers

Once a government has made a commitment to open a service sector to foreign competition, it must not normally restrict money being transferred out of the country as payment for services supplied ("current transactions") in that sector. The only exception is when there are balance-of-payments difficulties, and even then the restrictions must be temporary and subject to other limits and conditions.

Specific commitments

Individual countries' commitments to open markets in specific sectors - and how open those markets will be - are the outcome of negotiations. The commitments appear in "schedules" that list the sectors being opened, the extent of market access being given in those sectors (e.g. whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies.)

These commitments are "bound": like bound tariffs, they can only be modified or withdrawn after negotiations with affected countries - which would probably lead to compensation. Because "unbinding" is difficult, the commitments are virtually guaranteed conditions for foreign exporters and importers of services and investors in the sector to do business.

Progressive liberalization

The Uruguay Round was only the beginning. GATS requires more negotiations, the first to begin within five years. The goal is to take the liberalization process further by increasing the level of commitments in schedules.

The annexes: services are not all the same

International trade in goods is a relatively simple idea to grasp: a product is transported from one country to another. Trade in services is much more diverse. Telephone companies, banks, airlines and accountancy firms provide their services in quite different ways. The GATS annexes reflect some of the diversity.

Movement of natural persons

This annex deals with negotiations on individuals' rights to stay temporarily in a country for the purpose of providing a service. It specifies that the agreement does not apply to people seeking permanent employment or to conditions for obtaining citizenship, permanent residence or permanent employment.

Financial services

Instability in the banking system affects the whole economy. The financial services annex says governments have the right to take prudential measures, such as those for the protection of investors, depositors and insurance policy holders, and to ensure the integrity and stability of the financial system. It also excludes from the agreement services provided when a government exercising its authority over the financial system, for example central banks' services. Negotiations on specific commitments in financial services continued after the end of the

Uruguay Round and ended in late 1997.

Telecommunications

The telecommunications sector has a dual role: it is a distinct sector of economic activity; and it is an underlying means of supplying other economic activities (for example electronic money transfers). The annex says governments must ensure that foreign service suppliers are given access to the public telecommunications networks without discrimination. Negotiations on specific commitments in telecommunications resumed after the end of the Uruguay Round. This led to a new liberalization package agreed in February 1997.

Air transport services

Under this annex, traffic rights and directly related activities are excluded from GATS's coverage. They are handled by other bilateral agreements. However, the annex establishes that the GATS will apply to aircraft repair and maintenance services, marketing of air transport services and computer-reservation services.

Countries' commitments: on market-opening

Each country lists specific commitments on service sectors and on activities within those sectors. The commitments guarantee access to the country's market in the listed sectors, and they spell out any limitations on market access and national treatment.
As an example; if a government commits itself to allow foreign banks to operate in its domestic market, that is a market access commitment. And if the government limits the number of licences it will issue, then that is a market access limitation. If it also says foreign banks are only allowed one branch while domestic banks are allowed numerous branches, that is an exception to the national treatment principle.

Market access

The lists of market access commitments (along with any limitations and exemptions from national treatment) are negotiated as multilateral packages, although bilateral bargaining sessions are needed to develop the packages. The commitments therefore contain the negotiated and guaranteed conditions for conducting international trade in services. If a recorded condition is to be changed for the worse, then the government has to give at least three months' notice and it has to negotiate compensation with affected countries. But the commitments can be improved at any time. They will be subject to further liberalization through the future negotiations already committed under GATS. The first of these must start no later than 2000.

National treatment

National treatment means treating one's own nationals and foreigners equally. In services, it means that once a foreign company has been allowed to supply a service in one's country there should be no discrimination between the foreign and local companies.
Under GATS, a country only has to apply this principle when it has made a specific commitment to provide foreigners access to its services market. It does not have to apply national treatment in sectors where it has made no commitment. Even in the commitments, GATS does allow some limits on national treatment.
This contrasts with the way the national treatment principle is applied for goods - in that case,

once a product has crossed a border and been cleared by customs it has to be given national treatment even if the importing country has not made any commitment under the WTO to bind the tariff rate.

MFN exemptions: temporary and one-off

WTO members have also made separate lists of exceptions to the MFN principle of non-discrimination. When GATS came into force, a number of countries already had preferential agreements in services that they had signed with trading partners, either bilaterally or in small groups. WTO members felt it was necessary to maintain these preferences temporarily. They gave themselves the right to continue giving more favourable treatment to particular countries in particular service activities by listing "MFN exemptions" alongside their first sets of commitments. In order to protect the general MFN principle, the exemptions could only be made once; nothing can be added to the lists. They will be reviewed after five years (in 2000), and will normally last no more than 10 years. The exemption lists are also part of the GATS agreement.

On-going work: even before the next round

At the end of the Uruguay Round governments agreed to continue negotiations in four areas: basic telecommunications, maritime transport, movement of natural persons, and financial services. Some commitments in some of these sectors had been made in the Uruguay Round agreements. The objective of continuing with the negotiations was to improve the package.

Basic telecommunications

This was an area where governments did not offer commitments during the Uruguay Round _ essentially because the privatization of government monopolies was a complex issues in many countries. Sophisticated value-added telecommunications services, which are more commonly provided on a private basis, were, however, included in many of the original GATS schedules. The negotiations on basic telecommunications ended in February 1997 with new national commitments due to take effect from January 1998.

Maritime transport

Maritime transport negotiations were originally scheduled to end in June 1996, but participants failed to agree on a package of commitments. The talks will resume with the new services round due to start no later than 2000. Some commitments are already included in some countries' schedules covering the three main areas in this sector: access to and use of port facilities; auxiliary services; and ocean transport.

Movement of natural persons

"Movement of natural persons" refers to the entry and temporary stay of persons for the purpose of providing a service. It does not relate to persons seeking permanent employment or permanent residence in a country. Some commitments are already included in the schedules but it was agreed that negotiations to improve commitments would take place in the six months after the WTO came into force. These only achieved modest results.

After the Uruguay Round

GATS talks that resumed after the round. A full new services round will start in 2000 at the latest.
Basic telecommunications completed February 1997
Financial services to end late 1997
Maritime transport suspended
Movement of natural persons completed July 1995
Other issues for future negotiation: subsidies, government procurement, safeguards, qualifications, technical standards, licensing

Financial services

Financial services is another area where further negotiations were scheduled to improve on the commitments included in the initial Uruguay Round schedules. Officially the first set of talks ended in July 1995, but the governments decided that more could be achieved if further talks could be held. These latest negotiations ended in December 1997.

Other issues

GATS identifies several more issues for future negotiation. One set of negotiations would create rules that are not yet included in GATS: rules dealing with subsidies, government procurement and safeguard measures.

Another set of negotiations would seek rules on the requirements foreign service providers have to meet in order to operate in a market. The objective is to prevent these requirements being used as unnecessary barriers to trade. The focus is on: qualification requirements and procedures, technical standards and licensing requirements.

As part of this task, a working party on professional services has been set up. It is tackling the accountancy sector first, a priority set by ministers, but eventually all professional services should be covered. The first result of these discussions emerged in May 1997 when the Services Council adopted new guidelines for countries to use when negotiating agreements to recognize each others' professional qualifications in accountancy. The guidelines are not binding.

WTO SERVICES NEGOTIATIONS: ATTACHMENT B

http://www.cid.harvard.edu/cidtrade/

GATS AND DEVELOPING COUNTRIES: A CASE STUDY OF INDIA

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Revised February 2000

ABSTRACT

The General Agreement on Trade in Services (GATS) is the first multilateral agreement, under the auspices of Uruguay Round, to provide legally enforceable rights to trade in a wide range of services along with their progressive liberalization. Though very little liberalization was actually achieved, the negotiations on trade in services established the institutional structure for negotiating liberalization in the future. Many of the developing countries have not been very receptive to the conception of GATS mainly due to non-existence of such rules in the past and also because many of the service sectors had always enjoyed heavy protection. The present paper argues that GATS provides developing countries with an opportunity to integrate into the global economy through adopting more liberal policies with regard to trade in services. Both the developing as well as the developed countries would gain through liberalization of various service-sectors. In fact, inefficiencies in the service-sectors of a developing economy impact negatively on the export competitiveness of its agriculture and manufacturing sectors, through forward linkages, thus becoming one of the contributory factors leading to unfavorable balance of current account. The present paper employs a multi-country computable general equilibrium model to demonstrate potential gains in welfare for the developing countries from their liberalization of trade in services. The gains get enhanced further when developed countries also undertake similar liberalization. The paper examines salient features of India's commitments under GATS along with a case study of India's brilliant success in software services. Unilateral moves by the Indian government towards liberalizing imports of computer software and hardware along with facilitating inflow of FDI into these sectors during the 1990s have been the major contributory factors in this success story.

** Paper commissioned by the World Bank, Washington, DC.*

NEGOCIATIONS DE L'OMC SUR LES SERVICES: PIECE JOINTE B

http://www.cid.harvard.edu/cidtrade/

L'AGCS ET LES PAYS EN DEVELOPPEMENT: UNE ETUDE DE CAS DE L'INDE

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RESUME

L'Accord Général sur le Commerce des Services (AGCS) est le premier accord multilatéral, sous les auspices de l'Uruguay Round, à offrir au commerce des droits légalement exécutoires pour un large éventail de services en même temps que leur libéralisation progressive. Bien qu'une libéralisation très limitée ait été en fait réalisée, les négociations sur le commerce des services ont établi la structure institutionnelle pour les négociations futures de la libéralisation. Beaucoup des pays en développement ne se sont pas montrés très réceptifs à la conception de l'AGCS principalement à cause de la non existence de telles règles dans le passé et aussi parce que beaucoup des secteurs de services ont toujours bénéficié d'une forte protection. Le présent article avance que l'AGCS offre aux pays en développement l'opportunité de s'intégrer à l'économie globale grâce à l'adoption de politiques plus libérales en ce qui concerne le commerce des services. Aussi bien les pays en développement que les pays développés devraient tirer avantage de la libéralisation de divers secteurs de services. En fait, l'inefficacité dans les secteurs de services d'une économie en développement à un impact négatif sur la compétitivité à l'exportation de ses secteurs agricoles et industriels, par réactions en chaîne, devenant ainsi l'un des facteurs qui contribuent à entraîner un équilibre défavorable de compte courant. Le présent article emploie un modèle d'équilibre général applicable à de multiples pays pour démontrer les gains potentiels en bien-être pour les pays en développement grâce à leur libéralisation du commerce des services. Les gains sont encore renforcés quand les pays développés aussi adoptent une libéralisation similaire. L'article examine les points forts des engagements de l'Inde dans le cadre de l'AGCS en même temps qu'une étude de cas de l'éclatant succès de l'Inde dans les services de logiciels. Les démarches unilatérales du gouvernement indien vers la libéralisation des importations de logiciels et de matériel informatique ainsi que les apports du FDI dans ces secteurs dans les années 90 ont été les principaux facteurs qui ont contribué à cette «success story ».

*Article commissionné par la World Bank, Washington D.C.

MARKET ACCESS

Maintaining and expanding market access is the operating principal upon which the international trading system is founded. In the preamble to the Marrakesh Agreement establishing the World Trade Organization, the founders set forth a number of objectives including raising standards of living, ensuring full employment, allowing optimal use of the world's resources in accordance with the principals of sustainable development, and ensuring developing countries a secure share in the growth in international trade. The founders then said that they would seek to contribute to the achievement of these objectives by:

> Entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations.

Negotiations to improve market access by reducing and binding import duties on goods have been a core element in multilateral trade negotiations since the earliest days of the GATT. Over time the negotiations have increasingly addressed non-tariff barriers, such as quantitative restrictions, licensing, standards, intellectual property rights and other regulatory procedures, rules covering trade in agriculture and market access commitments in the services sector. Nevertheless, the core objective has remained improving market access.

Attachment A discusses how the Uruguay Round improved market access by reducing tariff barriers. The papers on agriculture and service discuss how the Uruguay Round improved market access in those two sectors. Attachment B discusses the fundamental principals the WTO follows in achieving market access. These principals seek to achieve: trade without discrimination, freer trade gradually through negotiations, predictability through binding, the promotion of fair competition and the encouragement of development and economic reform.

Trade liberalization can involve some form of domestic adjustment; however, the WTO provides for mechanisms to address such problems, including longer tariff phase downs for LDCs and safeguard provisions. On the export side, the WTO dispute settlement provisions are available in the event that a country feels it is being denied the market access for its exports to which it is entitled under WTO rules. African WTO members should be able to proceed with liberalization of their trade regimes with more confidence because they have the assurance that the WTO has ways to assist with problems in adjusting to increased imports or with unfair foreign barriers to their own exports.

ACCÈS AU MARCHÉ

L'entretien et l'expansion de l'accès au marché constituent les principes de fonctionnement sur lesquels repose le système commercial international. Dans le préambule de l'Accord de Marrakesh établissant l'Organisation mondiale du commerce, les fondateurs ont établi plusieurs objectifs dont augmenter le niveau de vie, assurer l'emploi, permettre l'utilisation optimale des ressources mondiales conformément aux principes promouvant un développement durable et veiller à ce que les pays en développement bénéficient de la croissance du commerce international. Les fondateurs ont ensuite déclaré qu'ils tenteraient de contribuent à la réalisation de ces objectifs en :

> Établissant des arrangements réciproques et avantageux pour toutes les parties impliquées visant à réduire considérablement les tarifs douaniers et autres entraves au commerce et à éliminer le traitement discriminatoire dans les relations commerciales internationales.

Les négociations pour l'amélioration de l'accès au marché en réduisant et consolidant les droits à l'importation sur les biens ont été un élément clé des négociations commerciales multilatérales depuis la création du GATT. Avec le temps, les négociations ont davantage adresser le problème des entraves non tarifaires telles que les restrictions quantitatives, l'octroi des licences, les normes, les droits de propriété intellectuelle et autres règlements, les règles couvrant le commerce de l'agriculture et les engagements d'accès au marché dans le secteur des services. Néanmoins, l'amélioration de l'accès au marché demeure l'objectif principal.

L'Annexe A décrit comment le cycle d'Uruguay a élargi l'accès au marché en réduisant les entraves tarifaires. Les documents sur l'agriculture et les services analyse en outre comment le cycle d'Uruguay a augmenté l'accès au marché dans ces secteurs. L'Annexe B explique les principes fondamentaux que l'OMC met en application pour assurer l'accès au marché. Ces principes consistent à : atteindre un commerce non discriminatoire, un commerce plus libre par le biais de négociations, la prévisibilité grâce à la consolidation, la promotion d'une concurrence équitable et l'encouragement au développement et à la réforme économique.

La libéralisation du commerce peut nécessiter un certain ajustement national ; l'OMC fournit cependant les mécanismes nécessaires pour résoudre les problèmes tels que la baisse progressive des tarifs douaniers et des mesures de sécurité. Pour ce qu'il en est des exportations, les mesures de règlement des différends de l'OMC sont applicables au cas où un pays estime que l'accès au marché auquel il a droit conformément aux règles de l'OMC lui est interdit. Les membres africains de l'OMC devraient être encouragés à libéraliser leurs régimes commerciaux avec plus d'assurance car l'OMC dispose des moyens

nécessaires pour leur venir en aide en ce qui concerne les problèmes d'ajustements à l'augmentation des importations ou les entraves étrangères déloyales à leurs propres exportations.

'Binding' tariffs

The market access schedules are not simply announcements of tariff rates. They represent commitments not to increase tariffs above the listed rates — the rates are "bound". For developed countries, the bound rates are generally the rates actually charged. Most developing countries have bound the rates somewhat higher than the actual rates charged, so the bound rates serve as ceilings.

Countries can break a commitment (i.e. raise a tariff above the bound rate), but only with difficulty. To do so they have to negotiate with the countries most concerned and that could result in compensation for trading partners' loss of trade.

2. Tariffs: more bindings and closer to zero

The bulkiest result of Uruguay Round are the 22,500 pages listing individual countries' commitments on specific categories of goods and services. These include commitments to cut and "bind" their customs duty rates on imports of goods. In some cases, tariffs are being cut to zero — with zero rates also committed in 1997 on information technology products. There is also a significant increase in the number of "bound" tariffs — duty rates that are committed in the WTO and are difficult to raise.

Tariff cuts

Developed countries' tariff cuts are for the most part being phased in over five years from 1 January 1995. The result will be a 40% cut in their tariffs on industrial products, from an average of 6.3% to 3.8%. The value of imported industrial products that receive duty-free treatment in developed countries will jump from 20% to 44%.

There will also be fewer products charged high duty rates. The proportion of imports into developed countries from all sources facing tariffs rates of more than 15% will decline from 7% to 5%. The proportion of developing country exports facing tariffs above 15% in industrial countries will fall from 9% to 5%.

The Uruguay Round package has now been improved. On 26 March 1997, 40 countries accounting for more than 92% of world trade in information technology products, agreed to eliminate import duties and other charges on these products by 2000 (by 2005 in a handful of cases). As with other tariff commitments, each participating country is applying its commitments equally to exports from all WTO members (i.e. on a most-favoured-nation basis), even from members that did not make commitments.

More bindings

Developed countries increased the number of imports whose tariff rates are "bound" (committed and difficult to increase) from 78% of product lines to 99%. For developing countries, the increase was considerable: from 21% to 73%. Economies in transition from central planning increased their bindings from 73% to 98%. This all means a substantially higher degree of market security for traders and investors.

And agriculture ...

Tariffs on all agricultural products are now bound. Almost all import restrictions that did not take the form of tariffs, such as quotas, have been converted to tariffs — a process known as "tariffication". This has made markets substantially more predictable for agriculture. Previously more than 30% of agricultural produce had faced quotas or import restrictions. At first, they were converted to tariffs that represented about the same level of protection as the previous restrictions, but over six years these tariffs are gradually being reduced. The market access commitments on agriculture will also eliminate previous import bans on certain products.

The lists also include countries' commitments to reduce domestic support and export subsidies for agricultural products.

What is this agreement called? *There is no legally binding agreement that sets out the targets for tariff reductions (e.g. by what percentage they were to be cut as a result of the Uruguay Round).*
At the end of the Uruguay Round, individual countries listed their commitments in schedules annexed to Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994. This is the legally binding agreement for the reduced tariff rates.

2. Droits de douane: plus nombreux à être consolidés et plus proches de zéro

Le résultat le plus substantiel du Cycle d Uruguay est constitué par les 22 500 pages qui reprennent les engagements contractés par les différents pays pour des catégories spécifiques de marchandises et de services, notamment des engagements en vue de réduire et de « consolider » les taux des droits perçus à l Importation de marchandises. Dans certains cas, les taux de droits sont ramenés à zéro — des engagements concernant des taux nuls figurent

aussi dans l'accord de 1997 sur les produits des technologies de l'information. Il y a eu aussi une forte augmentation du nombre des droits « consolidés », c'est-à-dire des droits dont les taux font l'objet d'un engagement à l'OMC et qu'il est difficile d'accroître.

Réductions tarifaires

La plupart des réductions tarifaires consenties par les pays développés sont actuellement échelonnées sur cinq ans à compter du 1er janvier 1995. Il en résultera un abaissement de 40 pour cent des droits perçus par ces pays sur les produits industriels, qui passeront de 6,3 pour cent en moyenne à 3,8 pour cent. La valeur des produits industriels importés admis en franchise dans les pays développés augmentera sensiblement en passant de 20 pour cent à 44 pour cent.

Comment s'appelle cet instrument?

Il n'y a aucun accord juridiquement contraignant qui énonce les objectifs à atteindre en matière de réduction tarifaire (c'est-à-dire le pourcentage de réduction à appliquer à la suite du Cycle d'Uruguay).

A la fin du Cycle d'Uruguay, chaque pays a énuméré ses engagements dans une liste annexée au ***Protocole de Marrakech annexé à l'Accord général sur les tarifs douaniers et le commerce de 1994****. Ce texte constitue l'instrument juridiquement contraignant pour la réduction des taux de droit.*

Il y aura aussi moins de produits assujettis à des taux de droit élevés. Le pourcentage des produits importés par les pays développés en provenance de toutes les sources sur lesquelles les droits exigibles sont supérieurs à 15 pour cent diminuera pour passer de 7 pour cent à 5 pour cent. Le pourcentage des produits exportés par les pays en développement qui sont passibles de droits supérieurs à 15 pour cent dans les pays industrialisés passera de 9 pour cent à 5 pour cent.

Les résultats du Cycle d'Uruguay ont encore été améliorés. Le 26 mars 1997, 40 pays représentant plus de 92 pour cent du commerce mondial des produits des technologies de l'information sont convenus de supprimer d'ici l'an 2000 (2005 dans un petit nombre de cas) les droits d'entrée et autres impositions perçus sur ces produits. Comme dans le cas des autres engagements tarifaires, chaque pays participant applique de la même manière ses engagements aux exportations en provenance de tous les membres de l'OMC (c'est-à-dire conformément à la clause de la nation la plus favorisée), même dans le cas des membres n'ayant pas pris d'engagements.

Davantage de consolidations

Les pays développés ont accru le nombre des produits importés pour lesquels les taux de droit sont « consolidés » (ceux qui font l'objet d'un engagement et qui sont difficiles à relever), pour le porter de 78 à 99 pour cent des catégories de produits. Chez les pays en développement, la progression a été considérable: de 21 pour cent à 73 pour cent. Les pays en transition, c'est-à-dire ceux qui ont renoncé à l'économie planifiée, ont porté le nombre de leurs consolidations de 73 pour cent à 98 pour cent. Le marché est ainsi devenu beaucoup plus sûr pour les négociants et les investisseurs.

« Consolidation » des droits de douane

Les listes relatives à l'accès aux marchés ne sont pas simplement des barèmes de droits de douane. Elles représentent l'engagement de ne pas accroître les droits de douane au-delà des taux indiqués, qui sont « consolidés ». Dans les pays développés, les taux consolidés sont généralement ceux qui sont effectivement appliqués. La plupart des pays en développement ont consolidé leurs taux à des niveaux légèrement supérieurs à ceux des taux appliqués, de sorte que les taux consolidés servent de plafonds.

Un pays peut rompre un engagement (c'est-à-dire relever un droit de douane au-delà du taux consolidé), mais au prix de certaines difficultés. Pour cela, il doit négocier avec les pays principalement concernés, ce qui peut l'amener à compenser la perte de possibilités commerciales subie par ses partenaires commerciaux.

Et l'agriculture ...

Les droits de douane sont aujourd'hui consolidés pour la totalité des produits agricoles. Presque toutes les restrictions à l'importation sous d'autres formes que les droits de douane, telles que les contingents, ont été converties en droits de douane — processus dé-

nommé « tarification », qui a nettement renforcé la prévisibilité des marchés de produits agricoles. Auparavant, plus de 30 pour cent de ces produits étaient assujettis à des contingents ou des restrictions à l'importation. Ces mesures ont d'abord été converties en droits de douane représentant en gros le même niveau de protection, lesquels seront cependant progressivement réduits pendant six ans. Les engagements concernant l'accès aux marchés dans l'agriculture entraîneront aussi la suppression des interdictions à l'importation visant certains produits.

Les listes reprennent aussi les engagements des pays quant à la réduction du soutien interne et aux subventions à l'exportation pour les produits agricoles.

2. Principles of the trading system

The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. They deal with: agriculture, textiles and clothing, banking, telecommunications, government purchases, industrial standards, food sanitation regulations, intellectual property, and much more. But a number of simple, fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system.

A closer look at these principles:

Trade without discrimination

1. Most-favoured-nation (MFN): treating other people equally

Under the WTO Agreements, countries cannot normally discriminate between their trading partners. Grant someone a special favour (such as a lower customs duty rate for one of their products) and you have to do the same for all other WTO members.

This principle is known as most-favoured-nation (MFN) treatment (*see box*). It is so important that it is the first article of the General Agreement on Tariffs and Trade (GATT), which governs trade in goods. MFN is also a priority in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4), although in each agreement the principle is handled slightly differently. Together, those three agreements cover all three main areas of trade handled by the WTO.

Some exceptions are allowed. For example, countries within a region can set up a free trade agreement that does not apply to goods from outside the group. Or a country can raise barriers against products from specific countries that are considered to be traded unfairly. And in services, countries are allowed, in limited circumstances, to discriminate. But the agreements only permit these exceptions under strict conditions. In general, MFN means that every time a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all its trading partners — whether rich or poor, weak or strong.

The principles

The trading system should be ...

- without discrimination — a country should not discriminate between its trading partners (they are all, equally, granted "most-favoured-nation" or MFN status); and it should not discriminate between its own and foreign products, services or nationals (they are given "national treatment");
- freer — with barriers coming down through negotiation;
- predictable — foreign companies, investors and governments should be confident that trade barriers (including tariffs, non-tariff barriers and other measures) should not be raised arbitrarily; more and more tariff rates and market-opening commitments are "bound" in the WTO;
- more competitive — by discouraging "unfair" practices such as export subsidies and dumping products at below cost to gain market share;
- more beneficial for less developed countries — by giving them more time to adjust, greater flexibility, and special privileges.

Why is it called 'most-favoured'?

The name sounds like a contradiction. It suggests some kind of special treatment for one particular country, but in the WTO it actually means non-discrimination — treating virtually everyone equally.

What happens under the WTO is this. Each member treats all the other members equally as "most-favoured" trading partners. If a country improves the benefits that it gives to one trading partner, it has to give the same "best" treatment to all the other WTO members so that they all remain "most-favoured".

Most-favoured nation (MFN) status did not always mean equal treatment. In the 19th Century, when a number of early bilateral MFN treaties were signed, being included among a country's "most-favoured" trading partners was like being in an exclusive club because only a few countries enjoyed the privilege. Now, when most countries are in the WTO, the MFN club is no longer exclusive. The MFN principle ensures that each country treats its over-100 fellow-members equally.

But there are some exceptions ...

2. National treatment: Treating foreigners and locals equally

Imported and locally-produced goods should be treated equally — at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. This principle of "national treatment" (giving others the same treatment as one's own nationals) is also found in all the three main WTO agreements (Article 3 of GATT, Article 17 of GATS and Article 3 of TRIPS), although once again the principle is handled slightly differently in each of these.

National treatment only applies once a product, service or item of intellectual property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment even if locally-produced products are not charged an equivalent tax.

The Uruguay Round increased bindings

Percentage, tariffs bound before and after the 1986-94 talks

	Before	After
Developed countries	78	99
Developing countries	21	73
Transition economies	73	98

(These are tariff lines, so percentages are not weighted according to trade volume or value)

Freer trade: gradually, through negotiation

Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customs duties (or tariffs) and measures such as import bans or quotas that restrict quantities selectively. From time to time other issues such as red tape and exchange rate policies have also been discussed.

Since GATT's creation in 1947-48 there have been eight rounds of trade negotiations. At first these focused on lowering tariffs (customs duties) on imported goods. As a result of the negotiations, by the late 1980s industrial countries' tariff rates on industrial goods had fallen steadily to about 6.3%.

But by the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property.

Opening markets can be beneficial, but it also requires adjustment. The WTO agreements allow countries to introduce changes gradually, through "progressive liberalization". Developing countries are usually given longer to fulfil their obligations.

Predictability: through binding

Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives businesses a clearer view of their future opportunities. With stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition — choice and lower prices. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

In the WTO, when countries agree to open their markets for goods or services, they "bind" their commitments. For goods, these bindings amount to ceilings on customs tariff rates. Sometimes countries tax imports at rates that are lower than the bound rates. Frequently this is the case in developing countries. In developed countries the rates actually charged and the bound rates tend to be the same.

A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. One of the achievements of the Uruguay Round of multilateral trade talks was to increase the amount of trade under binding commitments (*see table*). In agriculture, 100% of products now have bound tariffs. The result of all this: a substantially higher degree of market security for traders and investors.

The system tries to improve predictability and stability in other ways as well. One way is to discourage the use of quotas and other measures used to set limits on quantities of imports — administering quotas can lead to more red-tape and accusations of unfair play. Another is to make countries' trade rules as clear and public ("transparent") as possible. Many WTO agreements require governments to disclose their policies and practices publicly within the country or by notifying the WTO. The regular surveillance of national trade policies through the Trade Policy Review Mechanism provides a further means of encouraging transparency both domestically and at the multilateral level.

Promoting fair competition

The WTO is sometimes described as a "free trade" institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other forms of protection. More accurately, it is a system of rules dedicated to open, fair and undistorted competition.

The rules on non-discrimination — MFN and national treatment — are designed to secure fair conditions of trade. So too are those on dumping (exporting at below cost to gain market share) and subsidies. The issues are complex, and the rules try to establish what is fair or unfair, and how governments can respond, in particular by charging additional import duties calculated to compensate for damage caused by unfair trade.

Many of the other WTO agreements aim to support fair competition: in agriculture, intellectual property, services, for example. The agreement on government procurement (a "plurilateral" agreement because it is signed by only a few WTO members) extends competition rules to purchases by thousands of "government" entities in many countries. And so on.

Encouraging development and economic reform

It is widely recognized by economists and trade experts that the WTO system contributes to development. It is also recognized that the least-developed countries need flexibility in the time they take to implement the agreements. And the agreements themselves inherit the earlier provisions of GATT that allow for special assistance and trade concessions for developing countries.

Over three quarters of WTO members are developing countries and countries in transition to market economies. During the seven and a half years of the Uruguay Round, over 60 of these countries implemented trade liberalization programmes autonomously. At the same time, developing countries and transition economies were much more active and influential in the Uruguay Round negotiations than in any previous round.

This trend effectively killed the notion that the trading system existed only for industrialized countries. It also changed the previous emphasis on exempting developing countries from certain GATT provisions and agreements.

At the end of the Uruguay Round, developing countries were prepared to take on most of the obligations that are required of developed countries. But the agreements did give them transition periods to adjust to the more unfamiliar and, perhaps, difficult WTO provisions — particularly so for the poorest, "least-developed" countries. A ministerial decision adopted at the end of the round gives least developed countries extra flexibility in implementing WTO agreements. It says better-off countries should accelerate implementing market access commitments on goods exported by the least-developed countries, and it seeks increased technical assistance for them.

2. Les principes qui inspirent le système commercial

Les Accords de l OMC sont longs et complexes car ce sont des textes juridiques portant sur un large éventail de domaines d activité: agriculture, textiles et vêtements, activités bancaires, télécommunications, marchés publics, normes industrielles, hygiène alimentaire, réglementations, propriété intellectuelle, et bien plus encore. Cependant, un certain nombre de principes simples et fondamentaux constituent le fil conducteur de tous ces instruments. Ils sont le fondement du système commercial multilatéral.

Voyons ces principes de plus près:

Un commerce sans discrimination

1. Clause de la nation la plus favorisée (NPF): égalité de traitement pour les autres

Aux termes des Accords de l OMC, les pays ne peuvent pas, en principe, établir de discrimination entre leurs partenaires commerciaux. Si vous accordez à quelqu un une faveur spéciale (en abaissant, par exemple, le droit de douane perçu sur un de ses produits), vous devez le faire pour tous les autres Membres de l OMC.

Ce principe est dénommé traitement de la nation la plus favorisée (NPF) (*voir encadré*). Son importance est telle qu'il constitue le premier article de l'Accord général sur les tarifs douaniers et le commerce (GATT), qui régit le commerce des marchandises. Il est aussi une clause prioritaire de l'Accord général sur le commerce des services (AGCS), (article 2) et de l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC) (article 4), même s'il est énoncé en des termes légèrement différents d'un accord à l'autre. Ensemble, ces trois accords visent les trois principaux domaines d'échanges dont s'occupe l'OMC.

Quelques exceptions sont autorisées. Par exemple, les pays d'une région peuvent conclure un accord de libre-échange qui ne s'applique pas aux marchandises provenant de pays tiers. De même, un pays peut élever des obstacles à l'encontre de produits provenant de tel ou tel pays, qui font l'objet, à son avis, d'un commerce inéquitable. Dans le domaine des services, les pays peuvent, dans des circonstances limitées, recourir à la discrimination. Cependant, les exemptions ne sont autorisées dans les accords que sous réserve de conditions rigoureuses. D'une manière générale, la clause NPF signifie que, toutes les fois qu'un pays réduit un obstacle tarifaire ou ouvre un marché, il doit le faire pour les mêmes biens ou services provenant de tous ses partenaires commerciaux, que ceux-ci soient riches ou pauvres, faibles ou puissants.

Les principes

Le système commercial devrait être ...

- **exempt de discrimination** — aucun pays ne devrait établir de discrimination ni entre ses partenaires commerciaux (qui doivent tous obtenir, de manière égale, le statut de la « nation la plus favorisée » ou statut « NPF ») ni entre ses propres produits, services et ressortissants, d'une part, et les produits, services et ressortissants étrangers, d'autre part (qui doivent bénéficier du « traitement national »);
- **plus libre** — les obstacles sont supprimés par voie de négociation;
- **prévisible** — les sociétés, investisseurs et gouvernements étrangers devraient avoir l'assurance que les obstacles au commerce (y compris les droits de douane, les obstacles non tarifaires et d'autres mesures) ne seraient pas appliqués de façon arbitraire; de plus en plus de taux de droit et d'engagements en matière d'ouverture des marchés sont « consolidés » à l'OMC;
- **plus concurrentiel** — il s'agit de décourager des pratiques « déloyales » comme l'octroi de subventions à l'exportation et la vente de produits à des prix de dumping, c'est-à-dire inférieurs aux coûts, en vue d'obtenir des parts de marchés;
- **plus favorable aux pays les moins avancés** — ces pays bénéficient d'un délai d'adaptation plus long, d'une plus grande flexibilité, et de privilèges particuliers.

Pourquoi parle-t-on de « nation la plus favorisée »?

Cette expression semble contradictoire. Elle donne à penser qu'il s'agit d'appliquer un traitement spécial quelconque à un pays en particulier, mais à l'OMC, elle signifie en réalité non-discrimination, c'est-à-dire égalité de traitement pour presque tout le monde.

Voici comment le principe fonctionne à l'OMC. Chaque Membre traite tous les autres Membres de manière égale, comme des partenaires commerciaux « les plus favorisés ». Si un pays accroît les avantages qu'il accorde à un partenaire commercial, il doit appliquer le même « meilleur » traitement à tous les autres Membres de l'OMC pour que tous restent « les plus favorisés ».

Le statut de la nation la plus favorisée (NPF) n'a pas toujours été synonyme d'égalité de traitement. Au XIXe siècle, au moment où plusieurs des premiers traités bilatéraux relatifs à ce statut étaient signés, figurer parmi les partenaires commerciaux « les plus favorisés » d'un pays revenait à faire partie d'un club très fermé car le privilège était réservé à un petit nombre d'élus. Aujourd'hui, après l'accession de la plupart des pays à l'OMC, le club NPF n'est plus fermé. Le principe NPF veut que chaque pays traite de la même façon les autres Membres, qui sont plus d'une centaine.

Mais il y a des exceptions ...

2. Traitement national:
égalité de traitement pour les étrangers et les nationaux

Les produits importés et les produits de fabrication locale doivent être traités de manière égale, du moins une fois que le produit importé a été admis sur le marché. Il doit en aller de même pour les services, les marques de commerce, les droits d'auteur et les brevets étrangers et nationaux. Ce principe du « traitement national » (accorder à d'autres le même traitement que celui qui est appliqué à ses propres nationaux) figure aussi dans tous les trois principaux Accords de l'OMC (article 3 du GATT, article 17 de l'AGCS et article 3 de l'Accord sur les ADPIC), même si, là encore, il est énoncé en des termes légèrement différents d'un accord à l'autre.

Le traitement national s'applique uniquement une fois qu'un produit, service ou élément de propriété intellectuelle a été admis sur le marché. Par conséquent, le prélèvement de droits de douane à l'importation n'est pas contraire à ce principe même lorsqu'aucune taxe équivalente n'est perçue sur les produits de fabrication locale.

Libéralisation du commerce: progressive et par voie de négociation

L'un des moyens les plus évidents d'encourager les échanges est de réduire les obstacles au commerce, par exemple les droits de douane (ou tarifs) et les mesures telles que les interdictions à l'importation ou les contingents qui consistent à appliquer sélectivement des restrictions quantitatives. Périodiquement, d'autres problèmes comme les lourdeurs administratives et les politiques de change ont aussi été examinés.

Il y a eu depuis la création du GATT en 1947-1948 huit séries de négociations commerciales. Dans un premier temps, ces négociations étaient axées sur l'abaissement des taux de droits applicables aux marchandises importées. Elles ont permis de réduire progressivement les taux des droits perçus par les pays industrialisés sur les produits industriels, qui ont été ramenés vers la fin des années 80 à 6,3 pour cent environ.

Dans les années 80 cependant, le champ des négociations a été élargi pour comprendre les obstacles non tarifaires au commerce des marchandises et des domaines nouveaux comme les services et la propriété intellectuelle.

L'ouverture des marchés peut apporter des avantages mais elle exige aussi des ajustements. Les Accords de l'OMC autorisent les pays à introduire pas à pas les changements, par une « libéralisation progressive ». Les pays en développement disposent généralement d'un délai plus long pour s'acquitter de leurs obligations.

Prévisibilité: grâce à la consolidation

Parfois, il est peut-être aussi important de promettre de ne pas renforcer un obstacle au commerce que d'en réduire, car la promesse permet aux entreprises de mieux voir les possibilités qu'elles auront à l'avenir. Lorsqu'il y a stabilité et prévisibilité, l'investissement est encouragé, des emplois sont créés et les consommateurs peuvent profiter pleinement des avantages qui résultent de la concurrence, c'est-à-dire du choix et de la baisse des prix. Le système commercial multilatéral concrétise l'effort que font les gouvernements pour rendre l'environnement commercial stable et prévisible.

Customs Valuation and Trade Facilitation With Site Visit

May 5, 2000

1:00 p.m. – 4:00 p.m.

Baltimore Harbor

Speakers

Michael Lane, Former Deputy Commissioner, U.S. Customs Service
Michael C. Eads, Vice President, JBC International
Matthew Rohde, Director for Custom Affairs, USTR
Mark Vallaster, Andersen Consulting

PAPERS AND ATTACHMENTS

Paper 1:	"WTO Customs Valuation Agreement" (*English/French*)
Attachment A:	"Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, 1994"
Attachment B:	"United Nations Recommendations for Trade Efficiency"
Attachment C:	"ICC Document: International Customs Guidelines"
Attachment D:	"ICC Document: Trade Liberalization, Foreign Direct Investment and Customs Modernization"
Attachment E:	"Customs Valuation in Customs Reforms in Latin America and the Caribbean"

SPEAKER BIOGRAPHIES

Michael C. Eads

Michael Eads is a Vice President with JBC International. He is responsible for developing programs and strategies that allow JBC clients to maximize their benefit from international trade opportunities. He advises clients on international customs and regulatory compliance issues including U.S. and international trade laws, bilateral & multilateral agreements such as the GATT/WTO and NAFTA, intellectual property rights protection, trade automation programs and e-commerce.

Mr. Eads is formerly a Senior International Trade Analyst with Mattel Toys. Preceding his work at Mattel was Mr. Eads' employment with International Business-Government Counsellors, Inc. (IBC). During his five years with IBC, Mr. Eads was an international trade analyst responsible for providing multinational clients with advice on NAFTA, US Customs regulations, standards and non-tariff trade barriers and foreign government trade policies. Mr. Eads received his B.A. Cum Laude in Political Science, International Relations, from Ohio University. He also is completing his MBA in Marketing and International Business at Johns Hopkins University.

Michael H. Lane

Michael Lane served as Deputy Commissioner, U.S. Customs Service from 1987 to 1996. He directed all U.S. Customs enforcement and commercial activities; modernized Customs commercial strategy through use of automation in merchandise processing; initiated program to support national competitiveness priority through improved trade analysis, intellectual property rights and high tech enforcement; directed Customs reengineering and reinventing of operations.

Previous to acting as the Deputy Commissioner, Lane held the positions of Deputy Assistant Secretary Operations, Department of the Treasury, providing oversight of the U.S. Secret Service, Bureau of Alcohol, Tobacco and Firearms (ATF), and U.S. Customs Service. He also served as Assistant Commissioner, Commercial Operations, U.S. Customs Service managing all U.S. Customs Service commercial operations, including classification and value, duty collection, and audit and as Deputy Assistant Commissioner, Inspection & Control, U.S. Customs Service.

WTO CUSTOMS VALUATION AGREEMENT

By:
James B. Clawson & Michael C. Eads
JBC International

I. Introduction

A single, comprehensive, uniform system that governs the movement of internationally traded goods does not exist. From air and sea carriers to banks, insurance companies, customs brokers and national customs authorities; systems, technology and practices differ greatly throughout the world. Although a number of international agreements and conventions cover a *few* key links in the global trade supply chain, the remaining links are administered by a patchwork of public and private services and systems that differ from country-to-country.

This divergence has contributed to a global trade environment characterized by excessive cost, inefficiency and mountains of paperwork. In the mid-1990's the United Nations Conference on trade and Development (UNCTAD conducted a watershed study on the costs associated with trans-border documentation. The results of that study were presented to the UNCTAD Trade Points around the world in an effort to encourage nations to reduce the paper work involved in international transactions. The study estimated that transborder documentation added between 15 and 17 percent to the cost of goods crossing a border. Of that percent about 6 to 8 percent is attributable to customs formalities. While not targeting any specific country, the study did illustrate that the countries of Africa are on the high side of the average.

The World Trade Organization's (WTO) "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, 1994" (known as the Customs Valuation Agreement, hereafter, the Agreement) provides Customs agencies and business with a sophisticated, transparent, harmonized system that reflects commercial practices while striking the proper balance between trade facilitation and customs enforcement. Many African nations have already implemented the Agreement while others are currently engaged in a process that will allow them to adopt the Agreement within the next several years. For example, the nations of Madagascar, Tunisia, Central African Republic, Mauritania, Burundi, Cameroon, Djibouti, and Burkin Faso are expected to implement the Agreement in 2000.

II. History of WTO Valuation Agreement

Prior to the Agreement, customs valuation systems varied throughout the world and were considered to be one of the most problematic non-tariff trade barriers. The systems were complex, disparate, and arbitrarily administered. Because *Ad Valorem* duty rates are determined

by the value of goods, arbitrary valuation practices became a non-tariff trade barrier that continues to plague both business and customs administrations.

Although many countries used the Brussels Definition of Value (BVD), established in the 1950's, to value products, it was clear that a new, uniform system based on standard commercial practices was needed to harmonize the valuation practices of all countries. As a result, in 1979 during the WTO Tokyo Round, the Agreement on Implementation of Article VII of the GATT was created to establish a uniform and transparent methodology for assigning value to imported merchandise. During the WTO Uruguay Round, in the early 1990s, the WTO Agreement on Implementation of Article VII of the GATT replaced the Tokyo Round Code, although no substantive changes were made to the valuation methodology.

III. Overview of WTO Valuation Agreement

Customs valuation is an integral component of the trade process and plays a major role in facilitating or hindering trade. This is because it is the value of imported merchandise, as determined at the border, that gives effect to rates of duty that are assessed on an *ad valorem* basis[1]. The Agreement stipulates that customs value shall be based on the actual price of the goods being valued, which is generally the price shown on the commercial invoice. This price, or "transaction value", constitutes the most important method of valuation within the Agreement. However, for cases in which there is no transaction value, the Agreement establishes five other methods of customs valuation, to be applied in a prescribed hierarchical order. Thus, the Agreement is holistic, providing a transparent valuation methodology for every potential circumstance that might occur at the border.

In addition to the valuation methods, the Agreement also requires Customs authorities to provide the following with respect to their valuation practices and laws:

- ***Transparency*** – Laws, regulations and judicial decisions and administrative rulings of general application giving effect to the Agreement shall be published;

- ***Right to Appeal*** – Each Member shall provide in regard to a determination of value, the right of appeal, without penalty; and,

- ***Cargo Release*** -- If goods are delayed by Customs due to a determination of customs value, importers are able to withdraw goods from Customs by providing a sufficient guarantee in the form of a surety, deposit, etc.

These requirements serve as complements to the valuation methodology and facilitate an environment that allows the system to work most effectively.

1 WTO Committee on Customs Valuation, "Linkages Between the Agreement on Customs Valuation and Trade Facilitation," 99-0985, 3/11/99.

IV. Fundamental Concepts of WTO Valuation

A. Transaction Value and Price Actually Paid or Payable

The primary basis for customs value under the Agreement is transaction value. As the name implies, transaction value is the price that is actually paid by the buyer to the seller for the merchandise when it is sold for export. Although there are certain additions that must be added to the transaction value[2], simply put, transaction value is the value assigned to the goods when the transaction that most directly caused the export of the merchandise was consummated between the parties in the transaction. Certain conditions must be met in order for the transaction value to be used, e.g. there must be evidence of a sale for export, there must be no restrictions on the use or disposition or consideration for which value cannot be determined. The transaction value standard does not allow for the valuation of merchandise based on national origin or on arbitrary or fictitious values or price databases. In the case of world trade, the transaction value is generally the price that is shown on the invoice payable by the buyer.

B. Sale for Export

Customs value is based on the transaction value of the good when it is sold for export to the country of importation. Often goods change hands a number of times before being exported. For customs valuation purposes, the sale that most directly caused the export is used to determine the value. Evidence of a sale for export includes invoices, contract or purchase orders, etc.

C. Related Party Transactions & Arms Length Standard

The importance of the arms length standard has increased dramatically as the number of related party and intra-company transfers of goods across borders has grown exponentially. More and more, companies are selling goods to their wholly-owned affiliates and subsidiaries, and as result, having to realize profits and pay taxes in more than one nation. Not only does the Agreement specifically allow for such transactions, it provides definitions and guidance to customs authorities to ensure that customs value in related party transactions is legitimate[3]. Under the Agreement, transaction value between related parties is valid as long as the relationship between the parties did not influence the price. Nevertheless, the standard requires the importer to demonstrate that the value closely approximates to the transaction value in sales to unrelated buyers of identical or similar goods or the customs value of identical or similar goods under the provisions of Articles V or VI of the Agreement. In business terms, related parties are said to be conducting business at arms length if the price of the goods includes all costs, in addition to a profit.

2 Adjustments for certain elements must be added to the transaction value under Article VIII of the Agreement.
3 WTO Valuation Agreement Articles XV & I.

D. Additions to Transaction Value

Article VIII of the Agreement provides for certain costs to be included in the value for customs purposes. If these costs are not already included in the declared transaction value, customs require that the following costs may be added to the price actually paid or payable: packing costs, selling commissions, assists, royalties or license fees and proceeds from subsequent resale. These additions may be included in the price paid or payable only if they are based on objective and quantifiable data. Any other additions to the Customs value are prohibited by the Agreement.

E. Alternative Valuation Methods Under Article VII

For cases in which transaction value does not exist, or where the transaction value is not acceptable due to certain conditions, the Agreement lays down five other methods of customs valuation, to be applied in the prescribed hierarchical order. These methods are know as[4]:

- **Transaction Value of Identical Goods**
- **Transaction Value of Similar Goods**
- **Deductive Value**
- **Computed Value**
- **Fall Back Method**

V. Business Necessity for Transaction Value

The WTO Valuation Code provides a solid foundation for conducting global trade; it reflects the way business conducts business. Transaction value is the normal, everyday standard used by companies when they conduct business. It is used in virtually every financial aspect of business, including accounting, planning, finance, marketing, and sales. Thus, records kept at all stages of business directly relate to the customs value declared at the border. These records can be used to provide customs authorities with the requisite proof should the transaction be held in question. Businesses desperately need transparency, predictability, and efficiency in all aspects of their business. The Agreement reflects the reality of doing business. It is the cornerstone of sound financial and management practices used by business throughout the world and is the most logical way to determine value at the border. When transaction value is not used, businesses are not afforded the transparency required to make good decisions, goods are often delayed and unnecessary costs are incurred. These costs are ultimately passed on to consumers in the form of higher prices and fewer choices.

[4] Definitions provided in attached text of WTO Valuation Agreement.

VI. The Case for Implementation

A. Benefits of Modernization

Taking into consideration the wide gulf that separates various member nations' cultural traditions, political systems, and environmental, safety, and health standards, a rules-based modernized system will not be adopted without first gaining significant credibility. The benefits of trade are felt beyond simply a rise in economic statistics. More liberalized trade enables a country to specialize in producing more of the goods and services in which it has a comparative advantage. In return, citizens enjoy the high standards, as well as variety of imported goods and services. A rules-based system increases competition which results in higher productivity and innovation in all sectors and an overall higher standard of living for everyone.

The countries of Africa should be especially interested in the benefits of a uniform and transparent system because of the high concentratoin of small and medium sized enterprises (SMEs). Such companies are often deterred from entering into the international trade arena due to the disparities in procedures and laws among different countries. A rules-based system, adopted by the WTO, would set a minimum standard for member countries to adopt. As a result, the threshold for SMEs entering into international trade is lowered and choice, quality, and competition is increased.

Even though the benefits of a rules-based system are numerous, there is a need to appreciate and accommodate the varying social and economic developments of member countries. There is a considerable relationship between the overall level of political stability and economic growth of a country and the country's ability to implement and gain from a rules-based system. However, if adequate time lines are established and countries aim to improve upon their current systems, a rule-based system will not only benefit individual countries, but will be enjoyed by every participating country. While the initial costs of reducing current trade barriers, improving infrastructure and services, and implementing new rules and standards may be high, the long-term gains from such changes can be enormous.

B. Customs Efficiency and Foreign Investment

The importance of modern, transparent customs processes cannot be overstated. With the emergence of information technology, business more than ever is focusing on efficient movement of goods. Modern, "just-in-time" manufacturing relies on seamless supply chains where delays are not acceptable. Efficient customs processing is becoming an important element in the competition to attract foreign direct investment. As tariff and non-tariff barriers decrease around the world, the need to invest behind the barriers in small, inefficient plants is diminishing. Today, businesses are favoring large, regional factories that rely on a reliable, low cost flow of raw materials and components into the facility and an effective system to distribute finished products out of the facility. Neighboring countries within the region will also benefit by supplying components, parts and raw materials provided that the supply chain is efficient. A

modern Customs service, that embraces the core fundamental's of the world's trading system (e.g., the Harmonized System, Trade Automation, and WTO Customs Valuation), creates the right environment to attract such investment. Indeed a modern customs service serves as the prerequisite to a nation's prosperity in this rapidly changing, highly competitive world.

In its paper entitled "Trade Liberalization, Foreign Direct Investment and Customs Modernization: A Virtuous Circle", the International Chamber of Commerce (ICC) identifies the role customs modernization plays in realizing the benefits of trade. This virtuous circle is described in four steps:

1. Increasing levels of trade liberalization become a worldwide reality through WTO and regional negotiations.

2. Trade Liberalization eases the need to invest behind tariff barriers, and investors are freer to seek business-friendly environments, rather than being forced to invest behind high tariff barriers in each nation where they hope to do business.

3. Nations that modernize their customs administrations see increasing flows of FDI, putting pressure on their trading partners to respond in kind.

4. Improving customs administrations enables further trade liberalization by ensuring the trade ministers that their countries will reap the rewards of negotiated trade concessions. Higher levels of trade liberalization increase the competitive benefits of customs modernization, and so on.

This virtuous cycle has a down side, non-participation leads to foregone investment and economic isolation. As global corporations continue to improve their international supply chain management systems, countries that slow down or stop these supply chains will be left out of the process. Usage of non-transparent or arbitrary value methodologies invariable lead to bottlenecks at the border and increased costs for businesses and consumers. Recent trends show that investment is favoring locations that facilitate trade through efficient, transparent and predictable systems, and locations that are perceived as bureaucratic or costly are being overlooked.

VII. Conclusions

The Agreement is just one link in the international supply chain. Efficient trade facilitation requires not only implementation of the WTO Valuation Agreement, but also implementation of other instruments that address customs processes. The World Customs Organization (WCO) has developed a series of instruments and conventions to assist countries in their pursuit to achieve long-term effectiveness and efficiency within their customs administrations.

- The Kyoto Convention on the Simplification and Harmonization of Customs Procedures;

- The Harmonized System on Nomenclature
- Automation and Technology via the UN EDIFACT and ASYCUDA++;

- The Arusha Declaration on Customs Integrity; and
- The Columbus Declaration on Trade Efficiency*.

In addition, the ICC has also developed a series of best customs practices and guidelines in the form of the ICC International Customs Guidelines*. These Guidelines, draw on a range of documents developed by the WCO and can be used by customs authorities both as benchmark and a guide. The guidelines reflect the needs of both global business and customs and are intended to foster cooperation so that both can benefit.

* Attached as an appendix to this document.

ACCORD DE L'OMC SUR L'EVALUATION DES DROITS DE DOUANE

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I. Introduction

Un système uniforme, complet et unique qui gouverne la circulation des marchandises du commerce international n'existe pas. Des transporteurs aériens et maritimes aux banques, en passant par les compagnies d'assurance, les courtiers en douane et les autorités douanières nationales, les systèmes, la technologie et les pratiques diffèrent grandement à travers le monde. Bien qu'un assez grand nombre de conventions et d'accords internationaux couvrent *quelques* maillons clés dans la chaîne de l'offre commerciale globale, les maillons restants sont administrés par un patchwork de systèmes et de services privés et publics qui diffèrent d'un pays à l'autre.

Ces divergences ont contribué à un environnement commercial global caractérisé par des coûts excessifs, l'inefficacité et des montagnes de paperasse. Au milieu des années 90, la Conférence des Nations Unies sur le Commerce et le Développement (CNUCD) mena une étude décisive sur les coûts associés à la documentation transfrontière. Les résultats de cette étude furent présentés aux Points Commerciaux de la CNUCD à travers le monde dans un effort pour encourager les pays à réduire la paperasse induite par les transactions internationales. L'étude estima que la documentation transfrontière ajoutait 15 à 17% au coût des marchandises traversant une frontière. De ce pourcentage, environ 6 à 8% sont imputables aux formalités douanières. Sans viser aucun pays en particulier, l'étude démontra que les pays d'Afrique sont au-dessus de la moyenne.

« L'Accord sur la mise en œuvre de l'Article VII de l'Accord Général sur les Tarifs Douaniers et le Commerce de 1994 » de l'OMC (connu comme l'Accord sur l'Evaluation des Droits de Douane, ci-après dénommé l'Accord) offre aux cabinets et agences douanières un système harmonisé, transparent et sophistiqué qui reflète les pratiques commerciales tout en maintenant un équilibre approprié entre la facilitation du commerce et l'application des droits de douane. Beaucoup de pays africains ont déjà mis en œuvre l'Accord tandis que d'autres sont actuellement engagés dans un processus qui leur permettra d'adopter l'Accord au cours des prochaines années. Par exemple, des pays tels que Madagascar, la Tunisie, la République Centre Africaine, la Mauritanie, le Burundi, le Cameroun, Djibouti et le Burkina Faso devraient mettre en œuvre l'Accord en l'an 2000.

II. Histoire de l'Accord de l'OMC sur l'Evaluation

Avant l'Accord, les systèmes d'évaluation des droits de douane variaient à travers le monde et étaient considérés comme étant les obstacles non tarifaires au commerce les plus problématiques. Les systèmes étaient complexes, disparates et administrés de façon arbitraire. Parce que les montants des taxes *Ad Valorem* sont déterminés par la valeur des marchandises, les pratiques d'évaluation arbitraire étaient devenues un obstacle non tarifaire au commerce qui continue à empoisonner aussi bien les entreprises que les administrations douanières.

Bien que pour évaluer les produits, beaucoup de pays utilisaient la Définition de Valeur de Bruxelles (DVB), instituée dans les années 50, il était clair qu'un système uniforme nouveau basé sur des pratiques commerciales normalisées était nécessaire pour harmoniser les pratiques d'évaluation de tous les pays. En conséquence, en 1979 pendant le Cycle de Tokyo de l'OMC, l'Accord sur la mise en œuvre de l'Article VII du GATT était créé afin d'établir une méthodologie transparente et uniforme pour assigner une valeur à une marchandise importée. Pendant l'Uruguay Round de l'OMC, au début des années 90, l'Accord sur la mise en œuvre de l'Article VII du GATT remplaça le Code du Cycle de Tokyo, bien que des changements substantiels dans la méthodologie de l'évaluation ne furent pas effectués.

III. Vue d'ensemble de l'Accord de l'OMC sur l'Evaluation

L'évaluation des droits de douane fait partie intégrante du processus commercial et joue un rôle majeur pour faciliter ou freiner le commerce. Ceci parce que c'est la valeur de la marchandise importée, telle que déterminée à la frontière, qui donne lieu au montant des droits qui sont calculés sur une base *ad valorem*[1]. L'Accord stipule que la valeur douanière devra être basée sur le prix actuel des marchandises évaluées, c'est-à-dire en général le prix indiqué sur la facture commerciale. Ce prix, ou «valeur transactionnelle », constitue la méthode d'évaluation la plus importante dans le cadre de l'Accord. Cependant, dans des cas où il n'y a pas de valeur transactionnelle, l'Accord établit cinq autres méthodes d'évaluation douanière, qui doivent être appliquées selon un ordre hiérarchique établi. Ainsi, l'Accord a un caractère holistique, offrant une méthodologie d'évaluation transparente pour chaque circonstance potentielle pouvant se produire à la frontière.

En plus des méthodes d'évaluation, l'Accord exige aussi des Autorités Douanières compétentes qu'elles offrent les dispositions suivantes en ce qui concerne leurs lois et leurs pratiques d'évaluation:

- **Transparence** – Les lois, régulations et décisions judiciaires ainsi que les règles administratives d'application générale rendant l'Accord effectif devront être publiées.

[1] Comité d'Evaluation Douanière de l'OMC «liens entre l'Accord sur l'Evaluation des droits de douane et la facilitation du commerce » 99-0985 11/3/99

- **Droit d'Appel** – Chaque membre devra proposer le droit d'appel sans pénalité, en ce qui concerne une détermination de valeur.

- **Libération de la Cargaison** – Si des marchandises sont retenues par les Douanes à cause d'une détermination de la valeur douanière, les importateurs peuvent retirer les marchandises des Douanes en fournissant une garantie suffisante sous forme de caution, acompte, etc.

Ces exigences sont complémentaires à la méthodologie d'évaluation et facilitent un environnement qui permet au système de fonctionner plus efficacement.

IV. Concepts fondamentaux de l'Evaluation de l'OMC

A. Valeur transactionnelle et prix payé ou à payer

La base première pour la valeur douanière dans le cadre de l'Accord est la valeur transactionnelle. Comme le nom l'indique, la valeur transactionnelle c'est le prix qui est payé par l'acheteur au vendeur pour la marchandise quand elle est vendue à l'exportation. Bien qu'il y ait certains additifs qui doivent être ajoutés à la valeur transactionnelle[2], en termes simples, la valeur transactionnelle c'est la valeur attribuée aux marchandises quand la transaction qui a entraîné le plus directement l'exportation de la marchandise a été conclue entre les parties impliquées dans la transaction. Certaines conditions doivent être remplies afin que la valeur transactionnelle soit utilisée, par exemple il doit y avoir preuve de vente à l'exportation, il ne doit pas y avoir de restrictions sur l'utilisation ni de disposition ou de considération faisant que la valeur ne peut pas être déterminée. Le principe de la valeur transactionnelle ne permet pas une évaluation de la marchandise basée sur son origine nationale, ni sur des données de prix ou de valeurs fictives ou arbitraires. Dans le cas du commerce mondial, la valeur transactionnelle est en général le prix indiqué sur la facture payable par l'acheteur.

B. Vente à l'exportation

La valeur douanière est basée sur la valeur transactionnelle de la marchandise quand elle est vendue comme exportation au pays importateur. Souvent les marchandises changent de mains un certain nombre de fois avant d'être exportées. Dans le cas de l'évaluation des droits de douane, la vente qui a le plus directement entraîné l'exportation est utilisée pour déterminer la valeur. Des preuves d'une vente à l'exportation sont constituées par des factures, des commandes ou des contrats d'achat, etc.

C. Transactions entre parties liées et Principe de vente loyale

[2] Des ajustements pour certains éléments doivent être ajoutés à la valeur transactionnelle dans le cadre de l'Article VIII de l'Accord.

L'importance du principe de vente loyale a augmenté considérablement avec la croissance exponentielle du nombre de transferts de marchandises à travers les frontières entre parties liées et à l'intérieur d'une même société. De plus en plus, des sociétés vendent des marchandises à des filiales qu'ils possèdent complètement et à des succursales, avec pour résultat de devoir réaliser des bénéfices et payer des impôts dans plus d'un pays. Non seulement l'Accord permet explicitement de telles transactions, mais il fournit des définitions et une marche à suivre aux autorités douanières pour garantir que la valeur des droits de douane dans les transactions entre parties liées est justifiée[3]. Dans le cadre de l'Accord, la valeur transactionnelle entre parties liées est valable pour autant que la relation entre les parties n'ait pas influencé le prix.

Néanmoins, le principe exige que l'importateur démontre que la valeur se rapproche à peu près de la valeur transactionnelle dans les ventes de marchandises similaires ou identiques aux acheteurs non liés ou de la valeur douanière de marchandises similaires ou identiques selon les clauses des Articles V ou VI de l'Accord. En termes commerciaux, les parties liées sont réputées mener des affaires selon le principe de vente loyale si le prix des marchandises inclut tous les coûts, et aussi un bénéfice.

D. Additions à la Valeur Transactionnelle

L'Article VIII de l'Accord prévoit que certains coûts soient inclus dans la valeur pour des raisons douanières. Si ces coûts ne sont pas déjà compris dans la valeur transactionnelle déclarée, les douanes demandent que puissent être ajoutés au prix payé ou à payer les coûts suivants : coûts de conditionnement, commissions sur ventes, aides, droits de royalties ou de licence, et bénéfices de revente ultérieure. Ces additions peuvent être comprises dans le prix payé ou à payer seulement si elles s'appuient sur des données quantifiables et objectives. Toute autre addition à la valeur des droits de douane est interdite par l'Accord.

E. Méthodes d'évaluation alternative dans le cadre de l'Article VII

Pour les cas où la valeur transactionnelle n'existe pas, ou bien quand cette valeur n'est pas acceptable à cause de certaines conditions, l'Accord prévoit cinq autres méthodes d'évaluation douanière, qui doivent être appliquées dans l'ordre hiérarchique prescrit. Ces méthodes sont connues comme[4] :

- **Valeur transactionnelle de marchandises identiques**
- **Valeur transactionnelle de marchandises similaires**
- **Valeur par déduction**

[3] Articles XV &I de l'Accord sur l'Evaluation de l'OMC.
[4] Définitions dans le texte joint de l'Accord sur l'Evaluation de l'OMC.

- **Valeur estimée**
- **Méthode de repli**

V. Besoins des entreprises en ce qui concerne la Valeur Transactionnelle

Le Code d'Evaluation de l'OMC offre des fondations solides pour mener un commerce global ; il reflète la façon dont le monde des affaires régit les affaires. La valeur transactionnelle est la norme quotidienne et normale utilisée par les entreprises quand elles font des affaires. Elle est utilisée dans pratiquement chaque aspect financier des affaires, y compris la comptabilité, la planification, la finance, le marketing et les ventes. Aussi, les traces conservées à toutes les étapes de l'entreprise sont directement liées à la valeur douanière déclarée à la frontière. Ces traces peuvent être utilisées pour fournir aux autorités douanières les preuves nécessaires dans le cas où la transaction pourrait être mise en question. Les entreprises ont désespérément besoin de transparence, de prévisibilité et d'efficacité dans tous les aspects de leurs affaires. L'Accord reflète la réalité du monde des affaires. Il est la pierre d'angle de pratiques financières et de gestion saines utilisées par les entreprises à travers le monde et c'est la façon la plus logique de déterminer la valeur à la frontière. Quand la valeur transactionnelle n'est pas utilisée, les entreprises ne bénéficient pas de la transparence nécessaire à la prise de bonnes décisions, les marchandises sont souvent retardées et des coûts inécessaires en découlent. Ces coûts sont finalement répercutés sur les consommateurs sous forme de prix plus élevés et de choix plus restreints.

VI. Les arguments pour la mise en œuvre

A. *Avantages de la modernisation*

Si l'on considère le large fossé qui sépare les traditions culturelles de plusieurs pays membres, les systèmes politiques et les normes sanitaires, de sécurité et d'environnement, un système modernisé s'appuyant sur des règles ne sera pas adopté sans avoir d'abord acquis une crédibilité significative. Les avantages du commerce sont ressentis au-delà même d'une simple élévation des statistiques économiques. Un commerce davantage libéralisé permet à un pays de se spécialiser dans la production accrue de biens et de services dans lesquels il a un avantage relatif. En retour, les citoyens jouissent d'un niveau plus élevé ainsi que d'un choix plus grand de biens et de services importés. Un système basé sur des règles accroît la concurrence avec pour résultantes une productivité et une capacité d'innovation meilleures dans tous les secteurs et un niveau de vie général plus élevé pour tout le monde.

Les pays d'Afrique devraient être particulièrement intéressés par les avantages d'un système transparent et uniforme à cause de la forte concentration de petites et moyennes entreprises (PME). Ces entreprises sont souvent dissuadées d'entrer dans l'arène du commerce international par les disparités des procédures et des lois dans différents pays. Un système basé sur des règles,

adopté par l'OMC, mettrait en place un minimum de normes à adopter par les pays membres. En conséquence, pour les PME, le seuil d'entrée dans le commerce international est abaissé et le choix, la qualité et la concurrence sont accrus.

Bien que les avantages d'un système basé sur des règles soient nombreux, il est nécessaire d'apprécier et de concilier les développements économiques et sociaux variables des pays membres. Il y a un lien très important entre le niveau global de stabilité politique et la croissance économique d'un pays d'une part, et la capacité de ce pays à mettre en œuvre et à profiter d'un système basé sur des règles d'autre part. Cependant, si des délais adéquats sont établis et si les pays veulent améliorer leurs systèmes actuels, un système basé sur des règles ne bénéficiera pas seulement à un pays en particulier, mais sera aussi apprécié par chaque pays partie prenante de ce système. Même si les coûts initiaux pour réduire les obstacles au commerce existants, pour améliorer l'infrastructure et les services et pour mettre en œuvre de nouvelles règles et de nouvelles normes peuvent être élevés, les gains à long terme de tels changements peuvent être énormes.

B. Efficacité douanière et investissement étranger

L'importance de processus douaniers transparents et modernes ne peut être sous-estimée. Avec l'émergence de la technologie de l'information, les affaires plus que jamais reposent sur une circulation efficace des marchandises. L'industrie moderne du «juste à temps » repose sur des chaînes d'approvisionnement continu où les retards ne sont pas acceptables. Des processus douaniers efficients deviennent un élément important dans la compétition pour attirer l'investissement direct étranger. Au fur et à mesure que les obstacles tarifaires et non-tarifaires diminuent à travers le monde, la nécessité d'investir sous le couvert des barrières tarifaires dans des usines petites et improductives diminue. Aujourd'hui, les entreprises donnent leur préférence aux grandes usines régionales qui s'appuient sur un flux fiable d'approvisionnements en matériaux et composants bruts et sur un système efficace de distribution de produits finis à partir de l'usine. Les pays voisins de la région peuvent aussi en tirer avantage en fournissant des composants, des pièces et des matériaux bruts à condition que la chaîne d'approvisionnement soit efficiente. Un service douanier moderne, qui adopte les principes fondamentaux du système commercial mondial (par exemple le Système Harmonisé, l'Automatisation du Commerce et l'Evaluation des droits de douane de l'OMC), crée l'environnement adéquat pour attirer l'investissement étranger. En vérité un service douanier moderne constitue la condition préalable à la prospérité d'un pays dans ce monde de changement rapide et de forte concurrence.

Dans son article intitulé «Libéralisation du commerce, investissement étranger direct et modernisation douanière : un Cercle Vertueux », la Chambre de Commerce Internationale (CCI) identifie le rôle joué par la modernisation douanière dans la réalisation des bénéfices du commerce. Ce Cercle vertueux est décrit en quatre étapes :

1. Des niveaux croissants de libéralisation du commerce deviennent une réalité mondiale grâce aux négociations régionales et de l'OMC.

2. La libéralisation du commerce diminue la nécessité d'investir sous le couvert des barrières tarifaires et les investisseurs sont plus libres de rechercher des environnements favorables aux affaires, plutôt que d'être forcés d'investir sous le couvert de barrières tarifaires élevées dans chaque pays où ils espèrent faire des affaires.

3. Les pays qui modernisent leurs administrations douanières voient arriver des flux croissants d'Investissement Direct Etranger (IDE), ce qui fait pression sur leurs partenaires commerciaux pour réagir en retour.

4. L'amélioration des administrations douanières permet une plus grande libéralisation commerciale en garantissant aux ministres de l'économie que leur pays recueillera les fruits des réductions du commerce négocié. Des niveaux supérieurs de libéralisation du commerce augmentent les avantages compétitifs de la modernisation douanière et ainsi de suite.

Le cercle vertueux a un côté négatif, c'est que la non-participation conduit à un investissement prévisible et à l'isolation économique. Au fur et à mesure que les multinationales continuent à améliorer leurs systèmes de gestion de chaîne d'approvisionnement international, les pays qui ralentissent ou stoppent ces chaînes d'approvisionnement seront laissés en dehors du processus. L'utilisation de méthodologies d'évaluation arbitraire ou non transparente conduit invariablement à des goulots d'étranglement à la frontière et à des coûts plus élevés pour les entreprises et pour les consommateurs. Les tendances actuelles montrent que l'investissement favorise les endroits qui facilitent le commerce grâce à des systèmes prévisibles, transparents et efficients, alors que les endroits qui sont perçus comme bureaucratiques ou coûteux sont laissés de côté.

VII. Conclusion

L'Accord est juste un maillon de la chaîne d'approvisionnement international. Pour un commerce plus efficient, il faut non seulement mettre en œuvre l'Accord sur l'Evaluation de l'OMC, mais aussi mettre en place d'autres instruments qui concernent les processus douaniers. L'Organisation Mondiale Douanière (OMD) a développé une série d'instruments et de conventions pour aider les pays dans leur démarche pour atteindre une efficience à long terme et obtenir une efficacité de leurs administrations douanières.

- La Convention de Kyoto sur la simplification et l'harmonisation des procédures douanières
- Le Système harmonisé de nomenclature
- Technologie et Automatisation via l'EDIFACT et l'ASYCUDA++ des Nations Unies
- La Déclaration d'Arusha sur l'Intégrité douanière
- La Déclaration de Columbus sur l'Efficience commerciale*.

En outre, le CID a aussi développé une série de recommandations et directives sous la forme des Directives Douanières Internationales du CID*. Ces Directives s'appuient sur un éventail de documents développés par l'OMD et peuvent être utilisées par les autorités douanières tant comme référence que comme guide. Les directives illustrent les besoins des entreprises aussi bien que ceux des douanes et sont conçus pour stimuler la coopération de façon que les unes comme les autres puissent en tirer avantage.

*Joint en annexe à ce document.

CUSTOMS VALUATION: ATTACHMENT A

ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

Valuation for Customs Purposes

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another contracting party review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The CONTRACTING PARTIES may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.

2. *(a)* The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

(b) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favourable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

(c) When the actual value is not ascertainable in accordance with sub-paragraph *(b)* of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

4. *(a)* Except as otherwise provided for in this paragraph, where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based, for each currency involved, on the par value as established pursuant to the Articles of Agreement of the International Monetary Fund or on the rate of exchange recognized by the Fund, or on the par value established in accordance with a special exchange agreement entered into pursuant to Article XV of this Agreement.

(b) Where no such established par value and no such recognized rate of exchange exist, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The CONTRACTING PARTIES, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by contracting parties of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any contacting party may apply such rules in respect of such foreign currencies for the purposes of paragraph 2 of this Article as an alternative to the use of par values. Until such rules are adopted by the Contracting Parties, any contracting party may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 2 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(d) Nothing in this paragraph shall be construed to require any contracting party to alter the method of converting currencies for customs purposes which is applicable in it territory on the date of this Agreement, if such alteration would have the effect of increasing generally the amounts of duty payable.

5. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Note to Article VII

Paragraph 1

The expression "or other charges" is not to be regarded as including internal taxes or equivalent charges imposed on or in connection with imported products.

Paragraph 2

1. It would be in conformity with Article VII to presume that "actual value" may be represented by the invoice price, plus any non-included charges for legitimate costs which are proper elements of "actual value" and plus any abnormal discount or other reduction from the ordinary competitive price.

2. It would be in conformity with Article VII, paragraph 2 *(b)*, for a contracting party to construe the phrase "in the ordinary course of trade ... under fully competitive conditions", as excluding any transaction wherein the buyer and seller are not independent of each other and price is not the sole consideration.

3. The standard of "fully competitive conditions" permits a contracting party to exclude from consideration prices involving special discounts limited to exclusive agents.

4. The wording of sub-paragraphs *(a)* and *(b)* permits a contracting party to determine the value for customs purposes uniformly either (1) on the basis of a particular exporter's prices of the imported merchandise, or (2) on the basis of the general price level of like merchandise.

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AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

General Introductory Commentary

1. The primary basis for customs value under this Agreement is "transaction value" as defined in Article 1. Article 1 is to be read together with Article 8 which provides, *inter alia*, for adjustments to the price actually paid or payable in cases where certain specific elements which are considered to form a part of the value for customs purposes are incurred by the buyer but are not included in the price actually paid or payable for the imported goods. Article 8 also provides for the inclusion in the transaction value of certain considerations which may pass from the buyer to the seller in the form of specified goods or services rather than in the form of money. Articles 2 through 7 provide methods of determining the customs value whenever it cannot be determined under the provisions of Article 1.

2. Where the customs value cannot be determined under the provisions of Article 1 there should normally be a process of consultation between the customs administration and importer with a view to arriving at a basis of value under the provisions of Article 2 or 3. It may occur, for example, that the importer has information about the customs value of identical or similar imported goods which is not immediately available to the customs administration in the port of importation. On the other hand, the customs administration may have information about the customs value of identical or similar imported goods which is not readily available to the importer. A process of consultation between the two parties will enable information to be exchanged, subject to the requirements of commercial confidentiality, with a view to determining a proper basis of value for customs purposes.

3. Articles 5 and 6 provide two bases for determining the customs value where it cannot be determined on the basis of the transaction value of the imported goods or of identical or similar imported goods. Under paragraph 1 of Article 5 the customs value is determined on the basis of the price at which the goods are sold in the condition as imported to an unrelated buyer in the country of importation. The importer also has the right to have goods which are further processed after importation valued under the provisions of Article 5 if the importer so requests. Under Article 6 the customs value is determined on the basis of the computed value. Both these methods present certain difficulties and because of this the importer is given the right, under the provisions of Article 4, to choose the order of application of the two methods.
4. Article 7 sets out how to determine the customs value in cases where it cannot be determined under the provisions of any of the preceding Articles.

Members,

Having regard to the Multilateral Trade Negotiations;

Desiring to further the objectives of GATT 1994 and to secure additional benefits for the international trade of developing countries;

Recognizing the importance of the provisions of Article VII of GATT 1994 and desiring to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation;

Recognizing the need for a fair, uniform and neutral system for the valuation of goods for customs purposes that precludes the use of arbitrary or fictitious customs values;

Recognizing that the basis for valuation of goods for customs purposes should, to the greatest extent possible, be the transaction value of the goods being valued;

Recognizing that customs value should be based on simple and equitable criteria consistent with commercial practices and that valuation procedures should be of general application without distinction between sources of supply;

Recognizing that valuation procedures should not be used to combat dumping;

Hereby *agree* as follows :

General Note

Sequential Application of Valuation Methods

1. Articles 1 through 7 define how the customs value of imported goods is to be determined under the provisions of this Agreement. The methods of valuation are set out in a sequential order of application. The primary method for customs valuation is defined in Article 1 and imported goods are to be valued in accordance with the provisions of this Article whenever the conditions prescribed therein are fulfilled.
2. Where the customs value cannot be determined under the provisions of Article 1, it is to be determined by proceeding sequentially through the succeeding Articles to the first such Article under which the customs value can be determined. Except as provided in Article 4, it is only when the customs value cannot be determined under the provisions of a particular Article that the provisions of the next Article in the sequence can be used.
3. If the importer does not request that the order of Articles 5 and 6 be reversed, the normal order of the sequence is to be followed. If the importer does so request but it then proves impossible to determine the customs value under the provisions of Article 6, the customs value is to be determined under the provisions of Article 5, if it can be so determined.
4. Where the customs value cannot be determined under the provisions of Articles 1 through 6 it is to be determined under the provisions of Article 7.

Use of Generally Accepted Accounting Principles

1. "Generally accepted accounting principles" refers to the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.

2. For the purposes of this Agreement, the customs administration of each Member shall utilize information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the Article in question. For example, the determination of usual profit and general expenses under the provisions of Article 5 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of importation. On the other hand, the determination of usual profit and general expenses under the provisions of Article 6 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in paragraph 1 (b) (ii) of Article 8 undertaken in the country of importation would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of that country.

PART I

RULES ON CUSTOMS VALUATION

Article 1

1. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8, provided :

   (a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which :

      (i) are imposed or required by law or by the public authorities in the country of importation;

      (ii) limit the geographical area in which the goods may be resold; or

      (iii) do not substantially affect the value of the goods;

   (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

   (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 8; and

   (d) that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related within the meaning of Article 15 shall not in itself be grounds for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time :

(i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;

(ii) the customs value of identical or similar goods as determined under the provisions of Article 5;

(iii) the customs value of identical or similar goods as determined under the provisions of Article 6;

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8 and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

(c) The tests set forth in paragraph 2 (b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2 (b).

Note to Article 1

Price Actually Paid or Payable

1. The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

2. Activities undertaken by the buyer on the buyer's own account, other than those for which an adjustment is provided in Article 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

3. The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods :

   (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

   (b) the cost of transport after importation;

   (c) duties and taxes of the country of importation.

4. The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

Paragraph 1 (a) (iii)

Among restrictions which would not render a price actually paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

Paragraph 1 (b)

1. If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include :

   (a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;

   (b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;

   (c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that the seller will receive a specified quantity of the finished goods.

2. However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not result in rejection of the transaction value for the purposes of Article 1. Likewise, if the buyer undertakes on the buyer's own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

Paragraph 2

1. Paragraphs 2 (a) and 2 (b) provide different means of establishing the acceptability of a transaction value.

2. Paragraph 2 (a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration have no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.

3. Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 15, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to the seller, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

4. Paragraph 2 (b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the customs administration and is therefore acceptable under the provisions of Article 1. Where a test under paragraph 2 (b) is met, it is not necessary to examine the question of influence under paragraph 2 (a). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2 (b) has been met, there is no reason for it to require the importer to demonstrate that the test can be met. In paragraph 2 (b) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

Paragraph 2 (b)

A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in paragraph 2 (b) of Article 1.

Article 2

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Article 1, the customs value shall be the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.

   (b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in paragraph 2 of Article 8 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Note to Article 2

1. In applying Article 2, the customs administration shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used :

   (a) a sale at the same commercial level but in different quantities;

   (b) a sale at a different commercial level but in substantially the same quantities; or

   (c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for :

   (a) quantity factors only;

   (b) commercial level factors only; or

   (c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purposes of Article 2, the transaction value of identical imported goods means a customs value,

adjusted as provided for in paragraphs 1 (b) and 2, which has already been accepted under Article 1.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustments, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of
10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 2 is not appropriate.

Article 3

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Articles 1 and 2, the customs value shall be the transaction value of similar goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.

   (b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in paragraph 2 of Article 8 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Note to Article 3

1. In applying Article 3, the customs administration shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used :

   (a) a sale at the same commercial level but in different quantities;

   (b) a sale at a different commercial level but in substantially the same quantities; or

   (c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for :

   (a) quantity factors only;

   (b) commercial level factors only; or

   (c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purpose of Article 3, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 1 (b) and 2, which has already been accepted under Article 1.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 3 is not appropriate.

Article 4

If the customs value of the imported goods cannot be determined under the provisions of Articles 1, 2 and 3, the customs value shall be determined under the provisions of Article 5 or, when the customs value cannot be determined under that Article, under the provisions of
Article 6 except that, at the request of the importer, the order of application of Articles 5 and 6 shall be reversed.

Article 5

1. (a) If the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following :

   (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;

   (ii) the usual costs of transport and insurance and associated costs incurred within the country of importation;

   (iii) where appropriate, the costs and charges referred to in paragraph 2 of Article 8; and

   (iv) the customs duties and other national taxes payable in the country of importation by reason of the importation or sale of the goods.

   (b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1 (a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.

2. If neither the imported goods nor identical nor similar imported goods are sold in the country of importation in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1 (a).

Note to Article 5

1. The term "unit price at which ... goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	*Unit price*	*Number of sales*	*Total quantity sold at each price*
1-10 units	100	10 sales of 5 units 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

3. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

4. A third example would be the following situation where various quantities are sold at various prices.

(a) Sales *Sale quantity*	*Unit price*
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) Totals *Total quantity sold*	*Unit price*
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in the importing country, as described in paragraph 1 above, to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in paragraph 1 (b) of Article 8, should not be taken into account

in establishing the unit price for the purposes of Article 5.

6. It should be noted that "profit and general expenses" referred to in paragraph 1 of Article 5 should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless the importer's figures are inconsistent with those obtained in sales in the country of importation of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.

7. The "general expenses" include the direct and indirect costs of marketing the goods in question.

8. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of paragraph 1 (a) (iv) of Article 5 shall be deducted under the provisions of paragraph 1 (a) (i) of Article 5.

9. In determining either the commissions or the usual profits and general expenses under the provisions of paragraph 1 of Article 5, the question whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the country of importation of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 5, "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

10. For the purposes of paragraph 1 (b) of Article 5, the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

11. Where the method in paragraph 2 of Article 5 is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

12. It is recognized that the method of valuation provided for in paragraph 2 of Article 5 would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

Article 6

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of :

   (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

   (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation;

   (c) the cost or value of all other expenses necessary to reflect the valuation option chosen by the Member under paragraph 2 of Article 8.

2. No Member may require or compel any person not resident in its own territory to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this Article may be verified in another country by the authorities of the country of importation with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

Note to Article 6

1. As a general rule, customs value is determined under this Agreement on the basis of information readily available in the country of importation. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the country of importation. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the country of importation. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.

2. The "cost or value" referred to in paragraph 1 (a) of Article 6 is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

3. The "cost or value" shall include the cost of elements specified in paragraphs 1 (a) (ii) and (iii) of Article 8. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to Article 8, of any element specified in paragraph 1 (b) of Article 8 which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in paragraph 1 (b) (iv) of Article 8 which are undertaken in the country of importation shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

4. The "amount for profit and general expenses" referred to in paragraph 1 (b) of Article 6 is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation.

5. It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and the producer's general expenses are high, the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the country of importation and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on sales of the imported goods because of particular commercial circumstances, the producer's actual profit figures should be taken into account provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitivity. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

6. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities of the importing country shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Article 10.

7. The "general expenses" referred to in paragraph 1 (b) of Article 6 covers the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1 (a) of Article 6.

8. Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 6, sales for export to the country of importation of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 6, "goods of the same class or kind" must be from the same country as the goods being valued.

Article 7

1. If the customs value of the imported goods cannot be determined under the provisions of Articles 1 through 6, inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Agreement and of Article VII of GATT 1994 and on the basis of data available in the country of importation.
2. No customs value shall be determined under the provisions of this Article on the basis of :
   (a) the selling price in the country of importation of goods produced in such country;
   (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
   (c) the price of goods on the domestic market of the country of exportation;
   (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6;
   (e) the price of the goods for export to a country other than the country of importation;
   (f) minimum customs values; or
   (g) arbitrary or fictitious values.
3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

Note to Article 7

1. Customs values determined under the provisions of Article 7 should, to the greatest extent possible, be based on previously determined customs values.
2. The methods of valuation to be employed under Article 7 should be those laid down in Articles 1 through 6 but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 7.
3. Some examples of reasonable flexibility are as follows :
   (a) *Identical goods* - the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 5 and 6 could be used.
   (b) *Similar goods* - the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 5 and 6 could be used.
   (c) *Deductive method* - the requirement that the goods shall have been sold in the "condition as imported" in paragraph 1 (a) of Article 5 could be flexibly interpreted; the "90 days" requirement could be administered flexibly.

Article 8

1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually

paid or payable for the imported goods :

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods :

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question;

(iii) the cost of packing whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable :

(i) materials, components, parts and similar items incorporated in the imported goods;

(ii) tools, dies, moulds and similar items used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods;

(iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;

(c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

2. In framing its legislation, each Member shall provide for the inclusion in or the exclusion from the customs value, in whole or in part, of the following :

(a) the cost of transport of the imported goods to the port or place of importation;

(b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and

(c) the cost of insurance.

3. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

4. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Note to Article 8

Paragraph 1 (a) (i)

The term "buying commissions" means fees paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the goods being valued.

Paragraph 1 (b) (ii)

1. There are two factors involved in the apportionment of the elements specified in paragraph 1 (b) (ii) of Article 8 to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

2. Concerning the value of the element, if the importer acquires the element from a seller not related to the importer at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to the importer, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.

3. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, the importer may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.

4. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with the producer to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request the customs administration to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

Paragraph 1 (b) (iv)

1. Additions for the elements specified in paragraph 1 (b) (iv) of Article 8 should be based on objective and quantifiable data. In order to minimize the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.

2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.

3. The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 8.

5. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 8 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.

7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the country of importation.

Paragraph 1 (c)

1. The royalties and licence fees referred to in paragraph 1 (c) of Article 8 may include, among other things, payments in respect to patents, trade marks and copyrights. However, the charges for the right to reproduce

the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

2. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

Paragraph 3

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 8, the transaction value cannot be determined under the provisions of Article 1. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

Article 9

1. Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that duly published by the competent authorities of the country of importation concerned and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transactions in terms of the currency of the country of importation.

2. The conversion rate to be used shall be that in effect at the time of exportation or the time of importation, as provided by each Member.

Note to Article 9

For the purposes of Article 9, "time of importation" may include the time of entry for customs purposes.

Article 10

All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

Article 11

1. The legislation of each Member shall provide in regard to a determination of customs value for the right of appeal, without penalty, by the importer or any other person liable for the payment of the duty.

2. An initial right of appeal without penalty may be to an authority within the customs administration or to an independent body, but the legislation of each Member shall provide for the right of appeal without penalty to a judicial authority.

3. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of any rights of further appeal.

Note to Article 11

1. Article 11 provides the importer with the right to appeal against a valuation determination made by the customs administration for the goods being valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.

2. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.

3. However, nothing in Article 11 shall prevent a Member from requiring full payment of assessed customs duties prior to an appeal.

Article 12

Laws, regulations, judicial decisions and administrative rulings of general application giving effect to this Agreement shall be published in conformity with Article X of GATT 1994 by the country of importation concerned.

Article 13

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the importer of the goods shall nevertheless be able to withdraw them from customs if, where so required, the importer provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable. The legislation of each Member shall make provisions for such circumstances.

Article 14

The notes at Annex I to this Agreement form an integral part of this Agreement and the Articles of this Agreement are to be read and applied in conjunction with their respective notes. Annexes II and III also form an integral part of this Agreement.

Article 15

1. In this Agreement :

   (a) "customs value of imported goods" means the value of goods for the purposes of levying ad valorem duties of customs on imported goods;

   (b) "country of importation" means country or customs territory of importation; and

   (c) "produced" includes grown, manufactured and mined.

2. In this Agreement :

   (a) "identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;

   (b) "similar goods" means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

   (c) the terms "identical goods" and "similar goods" do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 1 (b) (iv) of Article 8 because such elements were undertaken in the country of importation;

   (d) goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued;

   (e) goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued.

3. In this Agreement "goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

4. For the purposes of this Agreement, persons shall be deemed to be related only if :

   (a) they are officers or directors of one another's businesses;

   (b) they are legally recognized partners in business;

   (c) they are employer and employee;

   (d) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;

   (e) one of them directly or indirectly controls the other;

   (f) both of them are directly or indirectly controlled by a third person;

   (g) together they directly or indirectly control a third person; or

   (h) they are members of the same family.

5. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Agreement if they fall within the criteria of paragraph 4.

Note to Article 15

Paragraph 4

For the purposes of Article 15, the term "persons" includes a legal person, where appropriate.

Paragraph 4 (e)

For the purposes of this Agreement, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

Article 16

Upon written request, the importer shall have the right to an explanation in writing from the customs administration of the country of importation as to how the customs value of the importer's goods was determined.

Article 17

Nothing in this Agreement shall be construed as restricting or calling into question the rights of customs administrations to satisfy themselves as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

PART II

ADMINISTRATION, CONSULTATIONS AND DISPUTE SETTLEMENT

Article 18

Institutions

1. There is hereby established a Committee on Customs Valuation (referred to in this Agreement as "the Committee") composed of representatives from each of the Members. The Committee shall elect its own Chairman and shall normally meet once a year, or as is otherwise envisaged by the relevant provisions of this Agreement, for the purpose of affording Members the opportunity to consult on matters relating to the administration of the customs valuation system by any Member as it might affect the operation of this Agreement or the furtherance of its objectives and carrying out such other responsibilities as may be assigned to it by the Members. The WTO Secretariat shall act as the secretariat to the Committee.
2. There shall be established a Technical Committee on Customs Valuation (referred to in this Agreement as "the Technical Committee") under the auspices of the Customs Co-operation Council (referred to in this Agreement as "the CCC"), which shall carry out the responsibilities described in Annex II to this Agreement and shall operate in accordance with the rules of procedure contained therein.

Article 19

Consultations and Dispute Settlement

1. Except as otherwise provided herein, the Dispute Settlement Understanding is applicable to consultations and the settlement of disputes under this Agreement.
2. If any Member considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, as a result of the actions of another Member or of other Members, it may, with a view to reaching a mutually satisfactory solution of this matter, request consultations with the Member or Members in question. Each Member shall afford sympathetic consideration to any request from another Member for consultations.
3. The Technical Committee shall provide, upon request, advice and assistance to Members engaged in consultations.
4. At the request of a party to the dispute, or on its own initiative, a panel established to examine a dispute relating to the provisions of this Agreement may request the Technical Committee to carry out an examination of any questions requiring technical consideration. The panel shall determine the terms of reference of the Technical Committee for the particular dispute and set a time period for receipt of the report of the Technical Committee. The panel shall take into consideration the report of the Technical Committee. In the event that the Technical Committee is unable to reach consensus on a matter referred to it pursuant to this paragraph, the

panel should afford the parties to the dispute an opportunity to present their views on the matter to the panel.

5. Confidential information provided to the panel shall not be disclosed without formal authorization from the person, body or authority providing such information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of this information, authorized by the person, body or authority providing the information, shall be provided.

PART III

SPECIAL AND DIFFERENTIAL TREATMENT

Article 20

1. Developing country Members not party to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade done on 12 April 1979 may delay application of the provisions of this Agreement for a period not exceeding five years from the date of entry into force of the WTO Agreement for such Members. Developing country Members who choose to delay application of this Agreement shall notify the Director-General of the WTO accordingly.

2. In addition to paragraph 1, developing country Members not party to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade done on 12 April 1979 may delay application of paragraph 2 (b) (iii) of Article 1 and Article 6 for a period not exceeding three years following their application of all other provisions of this Agreement. Developing country Members that choose to delay application of the provisions specified in this paragraph shall notify the Director-General of the WTO accordingly.

3. Developed country Members shall furnish, on mutually agreed terms, technical assistance to developing country Members that so request. On this basis developed country Members shall draw up programmes of technical assistance which may include, *inter alia*, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.

PART IV

FINAL PROVISIONS

Article 21

Reservations

Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.

Article 22

National Legislation

1. Each Member shall ensure, not later than the date of application of the provisions of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

2. Each Member shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

Article 23

Review

The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the Council for Trade in Goods of developments during the period covered by such reviews.

Article 24

Secretariat

This Agreement shall be serviced by the WTO Secretariat except in regard to those responsibilities specifically assigned to the Technical Committee, which will be serviced by the CCC Secretariat.

ANNEX I

INTERPRETATIVE NOTES
(All interpretative notes are arranged after each relevant articles)

ANNEX II

TECHNICAL COMMITTEE ON CUSTOMS VALUATION

1. In accordance with Article 18 of this Agreement, the Technical Committee shall be established under the auspices of the CCC with a view to ensuring, at the technical level, uniformity in interpretation and application of this Agreement.

2. The responsibilities of the Technical Committee shall include the following :

   (a) to examine specific technical problems arising in the day-to-day administration of the customs valuation system of Members and to give advisory opinions on appropriate solutions based upon the facts presented;

   (b) to study, as requested, valuation laws, procedures and practices as they relate to this Agreement and to prepare reports on the results of such studies;

   (c) to prepare and circulate annual reports on the technical aspects of the operation and status of this Agreement;

   (d) to furnish such information and advice on any matters concerning the valuation of imported goods for customs purposes as may be requested by any Member or the Committee. Such information and advice may take the form of advisory opinions, commentaries or explanatory notes;

   (e) to facilitate, as requested, technical assistance to Members with a view to furthering the international acceptance of this Agreement;

   (f) to carry out an examination of a matter referred to it by a panel under Article 19 of this Agreement; and

   (g) to exercise such other responsibilities as the Committee may assign to it.

General

3. The Technical Committee shall attempt to conclude its work on specific matters, especially those referred to it by Members, the Committee or a panel, in a reasonably short period of time. As provided in paragraph 4 of Article 19, a panel shall set a specific time period for receipt of a report of the Technical Committee and the

Technical Committee shall provide its report within that period.

4. The Technical Committee shall be assisted as appropriate in its activities by the CCC Secretariat.

Representation

5. Each Member shall have the right to be represented on the Technical Committee. Each Member may nominate one delegate and one or more alternates to be its representatives on the Technical Committee. Such a Member so represented on the Technical Committee is referred to in this Annex as a "member of the Technical Committee". Representatives of members of the Technical Committee may be assisted by advisers. The WTO Secretariat may also attend such meetings with observer status.

6. Members of the CCC which are not Members of the WTO may be represented at meetings of the Technical Committee by one delegate and one or more alternates. Such representatives shall attend meetings of the Technical Committee as observers.

7. Subject to the approval of the Chairman of the Technical Committee, the Secretary General of the CCC (referred to in this Annex as "the Secretary General") may invite representatives of governments which are neither Members of the WTO nor members of the CCC and representatives of international governmental and trade organizations to attend meetings of the Technical Committee as observers.

8. Nominations of delegates, alternates and advisers to meetings of the Technical Committee shall be made to the Secretary General.

Technical Committee Meetings

9. The Technical Committee shall meet as necessary but at least two times a year. The date of each meeting shall be fixed by the Technical Committee at its preceding session. The date of the meeting may be varied either at the request of any member of the Technical Committee concurred in by a simple majority of the members of the Technical Committee or, in cases requiring urgent attention, at the request of the Chairman. Notwithstanding the provisions in sentence 1 of this paragraph, the Technical Committee shall meet as necessary to consider matters referred to it by a panel under the provisions of Article 19 of this Agreement.

10. The meetings of the Technical Committee shall be held at the headquarters of the CCC unless otherwise decided.

11. The Secretary General shall inform all members of the Technical Committee and those included under paragraphs 6 and 7 at least 30 days in advance, except in urgent cases, of the opening date of each session of the Technical Committee.

Agenda

12. A provisional agenda for each session shall be drawn up by the Secretary General and circulated to the members of the Technical Committee and to those included under paragraphs 6 and 7 at least 30 days in advance of the session, except in urgent cases. This agenda shall comprise all items whose inclusion has been approved by the Technical Committee during its preceding session, all items included by the Chairman on the Chairman's own initiative, and all items whose inclusion has been requested by the Secretary General, by the Committee or by any member of the Technical Committee.

13. The Technical Committee shall determine its agenda at the opening of each session. During the session the agenda may be altered at any time by the Technical Committee.

Officers and Conduct of Business

14. The Technical Committee shall elect from among the delegates of its members a Chairman and one or more Vice-Chairmen. The Chairman and Vice-Chairmen shall each hold office for a period of one year. The retiring Chairman and Vice-Chairmen are eligible for re-election. The mandate of a Chairman or Vice-Chairman who no longer represents a member of the Technical Committee shall terminate automatically.

15. If the Chairman is absent from any meeting or part thereof, a Vice-Chairman shall preside. In that event, the latter shall have the same powers and duties as the Chairman.

16. The Chairman of the meeting shall participate in the proceedings of the Technical Committee as such and not as the representative of a member of the Technical Committee.

17. In addition to exercising the other powers conferred upon the Chairman by these rules, the Chairman shall declare the opening and closing of each meeting, direct the discussion, accord the right to speak, and, pursuant to these rules, have control of the proceedings. The Chairman may also call a speaker to order if the speaker's remarks are not relevant.

18. During discussion of any matter a delegation may raise a point of order. In this event, the Chairman shall immediately state a ruling. If this ruling is challenged, the Chairman shall submit it to the meeting for decision and it shall stand unless overruled.

19. The Secretary General, or officers of the CCC Secretariat designated by the Secretary General, shall perform the secretarial work of meetings of the Technical Committee.

Quorum and Voting

20. Representatives of a simple majority of the members of the Technical Committee shall constitute a quorum.

21. Each member of the Technical Committee shall have one vote. A decision of the Technical Committee shall be taken by a majority comprising at least two thirds of the members present. Regardless of the outcome of the vote on a particular matter, the Technical Committee shall be free to make a full report to the Committee and to the CCC on that matter indicating the different views expressed in the relevant discussions. Notwithstanding the above provisions of this paragraph, on matters referred to it by a panel, the Technical Committee shall take decisions by consensus. Where no agreement is reached in the Technical Committee on the question referred to it by a panel, the Technical Committee shall provide a report detailing the facts of the matter and indicating the views of the members.

Languages and Records

22. The official languages of the Technical Committee shall be English, French and Spanish. Speeches or statements made in any of these three languages shall be immediately translated into the other official languages unless all delegations agree to dispense with translation. Speeches or statements made in any other language shall be translated into English, French and Spanish, subject to the same conditions, but in that event the delegation concerned shall provide the translation into English, French or Spanish. Only English, French and Spanish shall be used for the official documents of the Technical Committee. Memoranda and correspondence for the consideration of the Technical Committee must be presented in one of the official languages.

23. The Technical Committee shall draw up a report of all its sessions and, if the Chairman considers it necessary, minutes or summary records of its meetings. The Chairman or a designee of the Chairman shall report on the work of the Technical Committee at each meeting of the Committee and at each meeting of the CCC.

ANNEX III

1. The five-year delay in the application of the provisions of the Agreement by developing country Members provided for in paragraph 1 of Article 20 may, in practice, be insufficient for certain developing country Members. In such cases a developing country Member may request before the end of the period referred to in paragraph 1 of Article 20 an extension of such period, it being understood that the Members will give sympathetic consideration to such a request in cases where the developing country Member in question can show good cause.

2. Developing countries which currently value goods on the basis of officially established minimum values may wish to make a reservation to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Members.

3. Developing countries which consider that the reversal of the sequential order at the request of the importer provided for in Article 4 of the Agreement may give rise to real difficulties for them may wish to make a reservation to Article 4 in the following terms :

   "The Government of ... reserves the right to provide that the relevant provision of Article 4 of the Agreement shall apply only when the customs authorities agree to the request to reverse the order of Articles 5 and 6."

   If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement

4. Developing countries may wish to make a reservation with respect to paragraph 2 of Article 5 of the Agreement in the following terms :

   "The Government of ... reserves the right to provide that paragraph 2 of Article 5 of the Agreement shall be applied in accordance with the provisions of the relevant note thereto whether or not the importer so requests."

   If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.

5. Certain developing countries may have problems in the implementation of Article 1 of the Agreement insofar as it relates to importations into their countries by sole agents, sole distributors and sole concessionaires. If such problems arise in practice in developing country Members applying the Agreement, a study of this question shall be made, at the request of such Members, with a view to finding appropriate solutions.

6. Article 17 recognizes that in applying the Agreement, customs administrations may need to make enquiries concerning the truth or accuracy of any statement, document or declaration presented to them for customs valuation purposes. The Article thus acknowledges that enquiries may be made which are, for example, aimed at verifying that the elements of value declared or presented to customs in connection with a determination of customs value are complete and correct. Members, subject to their national laws and procedures, have the right to expect the full co-operation of importers in these enquiries.

7. The price actually paid or payable includes all payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT
Geneva

UNITED NATIONS
INTERNATIONAL SYMPOSIUM ON TRADE EFFICIENCY

Recommendations and Guidelines for Trade Efficiency

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UNITED NATIONS INTERNATIONAL SYMPOSIUM
ON TRADE EFFICIENCY

RECOMMENDATIONS AND GUIDELINES FOR TRADE EFFICIENCY

Background document
prepared by the UNCTAD secretariat

The recommendations and guidelines for trade efficiency included in the present background document were prepared by the UNCTAD secretariat with the assistance (*a*) of other organizations, namely the Customs Cooperation Council, which prepared the chapter on Customs, and the International Trade Centre UNCTAD/GATT, which prepared the chapter on business information for trade, and (*b*) of consultants.

The recommendations and guidelines were initially issued as documents TD/B/WG.2/11/Add.1 and Corr.1 (Customs), Add.2 (transport), Add.3 (banking and insurance), Add.4 (business information for trade), Add.5 (telecommunications) and TD/B/WG.2/6 Add.1/parts I and II and Corr.1 (business practices). These documents served as a basis for the work of the Ad Hoc Working Group on Trade Efficiency and of the Preparatory Committee for the United Nations International Symposium on Trade Efficiency, in particular for preparing draft recommendations to Governments and to Trade Points and guidelines for participants in international trade.

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CHAPTER I

CUSTOMS

A. INTRODUCTION

1. Customs plays a key role in international trade. Every international trade transaction involves at least two Customs interventions, one at export and one at import. It is clear, therefore, that the manner in which Customs conducts its business has a substantial impact on the movement of goods across international borders.

2. Customs, as an agency of government, has as its primary function the execution of government policy. Accordingly, although the responsibilities of Customs are basically the same in every country, it would be wrong to assume that there is uniformity or consistency in the emphasis which is placed on the discharge of these responsibilities. Different Governments expect different things from their Customs authorities. For some Governments, especially those in developing countries, Customs are the principal revenue collectors. For others, Customs form the front line in the fight against drugs or are key implementors of trade policy. The emphasis placed by Governments on the various tasks which Customs perform is a critical determining factor with regard to the approach which Customs adopts to its responsibilities.

3. The environment in which Customs operates is changing rapidly. Successive GATT rounds of tariff cuts have reduced the importance of Customs duties as contributors to national budgets. New challenges, however, have been presented to Customs. Many of these challenges come from external sources over which Customs administrations have little or no control. The volume of goods being traded has increased dramatically. More rapid means of transport have emerged which address the speed of delivery required by many industries. The scope of Customs activities has been broadened into areas as diverse as intellectual property rights, toxic wastes and endangered species. The demands by government economic planners for faster and more accurate statistics and projections have put many Customs authorities into the data processing business. These factors, coupled with calls for greater facilitation from traders and demands for greater community protection from ordinary citizens, have ensured that the typical Customs administration of today is faced with a very complex task. This task is not made any easier by the fact that, as a general rule, most administrations have been impacted by the worldwide trend for "smaller government" which has limited the manpower resources available to Customs.

4. The interventionist nature of Customs functions inevitably places Customs services at odds with commercial operators, whose primary goal is rapid delivery of their merchandise. Perhaps the greatest challenge facing Customs today is to reconcile the apparently contradictory objectives of enforcing government regulations while at the same time posing the minimum obstacle to legitimate trade. This is, in a very real sense, the dilemma which faces each and every Customs authority worldwide. The response of Customs has, in many cases, been very innovative and forward-looking. Greater use of information technology has helped. More emphasis on professional training for Customs staff has also contributed. The implementation of risk management techniques has focused attention on more productive targets for intervention.

B. RECOMMENDATIONS

1. Strategic planning

5. In spite of the very significant advances being made in many countries, there still remains considerable scope for further improvement. Modernization of Customs to fulfil its new and demanding role must start, however, with an enlightened management approach.

6. Today's Customs management needs to have a clear appreciation of Customs' role in its broadest sense. There must be an understanding of who Customs' clients are and how best they can be served. Consultation rather than autocracy should be the preferred approach. There are many examples of successful consultation structures involving Customs, other governmental agencies and the trading community such as national trade consultative bodies. Where such structures do not exist, measures should be taken to develop them. Customs should actively participate in the setting-up and functioning of such consultative machinery.

7. Most large organizations today develop a Business Plan which incorporates a Mission Statement, a clear set

of Corporate Objectives and a Strategic Plan for achieving them. Customs should be no different from any other large organization in this respect.

8. *Recommendation 1*

Customs management should, in consultation with other interested parties (both governmental and non-governmental), clearly define its Corporate Objectives and develop and publish an overall Strategic Plan which sets out the manner in which it intends to achieve these objectives.

2. Customs formalities

9. Onerous Customs formalities are a frequent cause for complaint by the trading community. In many parts of the world, these formalities have gradually evolved and expanded over the decades, and all too often, no serious attempt has been made at simplification or rationalization. Very often, these formalities do not contribute anything to the effective implementation of Customs controls. This situation has been recognized for some time in the Customs Cooperation Council (CCC) where an International Convention on the Simplification and Harmonization of Customs Procedures was adopted in 1974. This Convention (known as the Kyoto Convention) has 55 signatories. With an overall membership of 135, the CCC clearly has ample scope for expanding the implementation of the Kyoto Convention. There are currently plans to update the Convention to take account of recent developments such as the use of simplified Customs procedures and the more widespread use of information technology (IT).

10. In reforming existing Customs practices further to facilitate the movement of goods, Customs should adopt modern business process re-engineering (transformation) techniques to identify inefficient and/or redundant activities for streamlining or elimination.

11. *Recommendation 2*

Customs authorities should urgently examine their existing practices and institute a programme of reform for those procedures that are identified as inefficient or redundant. Reference should be made to existing international conventions on Customs process simplification and harmonization (the Kyoto Convention of the CCC). This should be undertaken with national trade and transport interests to ensure full coordination of carrier, port and Customs controls.

3. Information technology (IT)

12. Perhaps the biggest contribution to facilitative Customs procedures can be made through the proper application of information technology (IT). Indeed, not only can IT permit Customs formalities to be completed much more quickly, it can also act as a catalyst for the reform of existing inefficient procedures, since an essential part of the task of automation involves a fresh look at current working methods. The importance of IT to Customs has long been recognized by the CCC, which has been promoting its use amongst its members.

13. Many Customs authorities now use computers to some extent in their work, although not all have automated facilities for the release of cargo. This situation is improving quite rapidly, however, with many Customs authorities having developed their own application systems or implementing a generic Customs system such as UNCTAD's ASYCUDA system.

14. With the use of automation in Customs now firmly under way, attention has begun to be focused on another aspect of IT which is having a major impact in all areas of international trade. The merging of computer technology with communications technology provides an opportunity to speed up the international trade transaction and to eliminate some of the paperwork that accompanies the movement of goods. Electronic data interchange (EDI) usage is spreading quite rapidly, and Customs authorities have been quick to grasp its importance. A growing number of administrations now offer traders the option of submitting their Customs documentation in electronic format rather than on paper.

15. As with many aspects of IT, the use of internationally accepted technical standards in EDI are critical to its future success and more widespread use. The CCC has recommended to its members that they should use the UN/EDIFACT standard for EDI messaging. Legislative changes may be required in some countries to permit the use of hard-copy Customs Declarations, etc.

16. *Recommendation 3*

Customs authorities should make maximum use of information technology to assist them in the efficient performance of their duties. Computer applications for the Customs processing of commercial transactions should be developed. Computer interfaces (using UN/EDIFACT data interchange standards) which allow for the electronic submission of manifests, goods declarations, etc. should be developed and made available to traders.

4. Segregation of clearance processes

17. A feature of the Customs clearance process in many countries is the practice of completing all Customs formalities while the goods are still under Customs control. It is argued that Customs control over the goods is a means of guaranteeing payment of any duties or taxes for which the importer may be liable. It is also argued that while Customs still retains control over the goods, any difficulties or questions that may arise with respect to the consignment can be easily verified by inspection of the merchandise.

18. Mechanisms currently exist for securing payment of any duty liabilities without detention of the goods. It is therefore possible to envisage a process whereby the goods could be released on presentation of a very simplified declaration, while the full detailed declaration could

be submitted at a later date. The simplified declaration would contain sufficient information to enable Customs to identify the goods and to make an informed decision with regard to the physical inspection of the merchandise. In practice, this would mean the need for no more than six or seven critical items of data about the consignment.

19. The implementation of a process such as this would greatly speed up the release of consignments and would be a major facilitation measure. Appropriate safeguards to protect revenue and other Customs interests, as well as those of other agencies, would need to be built into the procedures.

20. *Recommendation 4*

Customs authorities should examine closely the possibility of separating the process of goods release from the processes of revenue collection, accounting and statistical reporting.

5. Risk management

21. All Customs authorities carry out intensive physical examination of import, export and transit consignments. The difference between individual authorities is in the proportion of consignments that are subjected to such scrutiny. It may be as low as 4 or 5 per cent or it may be as high as 100 per cent.

22. It is generally recognized today that carrying out a physical examination of all consignments not only causes major congestion at points of entry and delays to cargo clearance, it is also an inefficient and unproductive use of scarce manpower resources. In general, a high proportion of physical examinations is simply not a practical proposition. Many administrations have resorted to risk management techniques in order to speed up the flow of goods while at the same time maintaining an effective deterrent against fraud.

23. Selectivity is the key to identifying high-risk cargo, the examination of which is more likely to yield positive results. It is a technique that can be used in a manual Customs processing environment, but it is particularly suited to an automated environment where the computer can be used to assess the risk of a particular consignment and advise the Customs officer on the most appropriate course of action.

24. *Recommendation 5*

To ensure the effective use of scarce manpower resources, Customs should use risk assessment, profiling and selectivity techniques to identify high-risk consignments for physical examination. The proportion of consignments to be physically examined by Customs should be kept to a minimum consistent with accomplishment of control objectives.

6. Pre-arrival processing

25. A major step forward in trade facilitation could be achieved if Customs formalities could be largely accomplished before the arrival of the goods at the point of import or export. In many cases the information required to complete such formalities is available to traders, shipping agents and Customs clearing agents prior to arrival. If Customs afforded a facility to traders which enabled the submission of pre-arrival declaration data, then cargo not requiring closer scrutiny could be moved very rapidly out of Customs control upon arrival.

26. *Recommendation 6*

Pre-arrival processing of transactions is a measure that can deliver significant trade facilitation benefits, and, with appropriate safeguards, does not compromise in any way the control objectives of Customs. Authorities should take steps to make such facilities available to their clients. The electronic submission of pre-arrival cargo data further facilitates this process.

7. Coordination of official interventions

27. Interventions by governmental agencies other than Customs are a common feature of the release/clearance process for certain products. Apart from physical intervention, it is also quite commonplace for additional supporting documents (e.g. licences, authorizations, etc.) issued by other government agencies to be required by Customs before a cargo may be released. Clearly the multiplicity of interventions at the point of import/export and the extra documentary requirements pose an additional burden on traders. The GATT Agreement contains provisions in relation to such technical barriers to trade aimed at reducing their negative impact.

28. In some countries, Customs (in cooperation with other agencies) are attempting to facilitate trade by ensuring that they need only have contact with one agency, i.e. Customs, for certain procedures. Where such coordination and cooperation is possible, the benefit for trade will be significant. At the very least, where the delegation of all import/export clearance responsibilities to Customs is not feasible, all government agencies should make every attempt to coordinate their interventions in such a way as to cause minimum disruption to trade.

29. *Recommendation 7*

Clearance of cargo frequently requires the intervention of several government agencies in addition to Customs. Governments should rationalize this process by investing responsibility for all cargo clearance activities in one single authority, i.e. Customs, or through coordinated interventions by the agencies concerned.

8. Customs valuation

30. Perhaps the most significant cause for delay and complaint with respect to the import clearance process, and also the greatest risk of fraud and corruption, lies in the method of determining Customs value used in many countries which do not apply the GATT Valuation Agreement. A number of countries, especially in the developing world, have been very reluctant to apply the GATT Valuation Agreement because of the perceived risk to their Customs revenue.

31. The Decision on Customs Valuation agreed under the Uruguay Round makes the GATT Valuation Agreement more acceptable to such countries, as it provides certain safeguards concerning proof of the accuracy of the declared value of imported goods. If a Customs administration has a reasonable doubt in respect of a declared value and this doubt is maintained in spite of the provision of any additional information, Customs has the right to establish the value for duty purposes, taking into account the provisions of the Agreement.

32. In addition to the new Decision on Valuation, it is also envisaged that the Committee on Customs Valuation in GATT will take up a number of issues bearing on the difficulties faced by developing countries in acceding to the Agreement.

33. *Recommendation 8*

Customs valuation procedures can cause significant delays in the clearance of import consignments. Governments should use the Customs valuation method prescribed in the GATT Agreement which is administratively less complex than other methods currently in use in some countries.

34. *Recommendation 9*

Excessively high Customs tariffs encourage evasion through undervaluation and make enforcement more difficult. Where possible, Governments should endeavour to broaden their tax base so that Customs tariffs may be moderated.

9. Cooperation with traders

35. If traders expect greater facilitation of import and export procedures by Customs, then they themselves must be willing to contribute to the building of an environment of trust and cooperation which will enable that facilitation to become reality. Law-breakers make life more difficult for the law-abiding trader. Controls have been devised and implemented which have an impact on all commercial operators, including those that are operating legitimately.

36. There is a perception, that is all too widespread in the trading community, that Customs is a barrier that must be circumvented by whatever means possible (legal or illegal). Customs controls have therefore been devised on the basic hypothesis that all people are dishonest. The application of this assumption has inevitably led to the imposition of controls that are interventionist and incompatible with general facilitation.

37. To overcome this apparent impasse, it is clear that there must be movement by all concerned towards an atmosphere of greater cooperation and trust. Customs, for operational reasons and as a facilitation measure, have had to move away from widespread physical inspection of cargo. Even with the use of risk management techniques, this change in operational philosophy exposes Customs legislation to abuse. What is needed is a reciprocal movement on the part of the legitimate trading community towards enhanced cooperation with Customs which could help Customs uncover illegal practices by criminals involved in international trade. It serves nobody's purpose, least of all that of the legitimate trader, to permit the continuation of illegal practices in relation to trade. It is therefore incumbent upon such traders to cooperate fully with their national Customs authority in uncovering crime in relation to Customs matters.

38. One method of giving tangible expression to this is to conclude Memoranda of Understanding (MOU) between the Customs Authority and various trade operators. Through the medium of such MOUs, Customs and traders can join forces to fight against illegal operators. By participating in such programmes, Customs can gain valuable enforcement intelligence, traders can gain access to greater simplification and facilitation of Customs formalities, and both sides can more fully appreciate each other's problems.

39. *Recommendation 10*

Governments should take steps to foster a cooperative rather than a confrontational approach to Customs operations. The Memorandum of Understanding (MOU) programme of the CCC should be used as a vehicle for greater cooperation between Customs authorities and commercial operators.

10. Customs integrity

40. Although not perceived as a serious problem in every country, the issue of lack of integrity within Customs services is a very worrying development. Until quite recently this was a taboo subject, even in international meetings of senior Customs officials. In 1993, however, the CCC adopted a Declaration on the topic which is known as the Arusha Declaration. This Declaration acknowledges that corruption within Customs is a growing problem and that it is a very destructive factor within any society. Corruption diminishes the ability of Customs to accomplish its mission properly. The Declaration goes on to recommend the establishment of a national Customs integrity programme which must take into account a set of 12 measures (including inducements and sanctions) which are also listed in the Declaration. If implemented, this programme would go a long way towards restoring a high standard of ethical behaviour to Customs authorities which are afflicted with this malaise.

41. Corruption in the conduct of international trade is not confined to Customs authorities. Effective measures need also to be taken against unscrupulous traders who offer illegal inducements to Customs officials in return for special treatment.

42. Integrity problems within Customs are frequently cited as one of the principal reasons underlying government decisions to engage the services of pre-shipment inspection (PSI) agencies to carry out Customs functions. These private companies, it is argued, remove much of the discretionary power from Customs officials and thus eliminate the opportunities for irregular payments.

43. While such inspection companies may have a role to play in the short term, it is the view of the CCC that only by investing in and reforming the national Customs service will it be possible to provide an economic, long-term solution to the problem. Long-term use of PSI is expensive, is of questionable efficiency and results in the erosion of governmental structures, which compromises national sovereignty.

44. *Recommendation 11*

Governments should take steps to ensure the highest level of integrity and professional standards within their Customs service. The measures identified by the CCC in the Arusha Declaration on Integrity in Customs should be implemented. Effective penalties are also required to discourage low standards of integrity in the trading community.

45. *Recommendation 12*

While recourse to the services of pre-shipment inspection agencies to carry out Customs-related activities might be a necessity in certain circumstances, this should be regarded as an interim measure, and Governments should avoid long-term use of such services. Where appropriate, Governments should institute Customs reform programmes aimed at enhancing the efficiency and effectiveness of their Customs services, thereby avoiding the need to use the services of PSI agencies.

11. Performance of Customs clearing agents/brokers, etc.

46. The process of importing or exporting goods is a complex operation involving many players. While Customs has an important role to play, it is by no means the only participant which introduces delays into the process. Much of Customs work in relation to the clearance of goods involves the processing of information. This information is usually received from a number of sources. These include shipping agents, freight forwarders and, most importantly, Customs clearing agents/brokers acting on behalf of importers or exporters. Clearly if the information received from these operators is incomplete or is not of a high quality, then processing delays will occur, giving rise to the rejection of Customs Declarations and delays in Customs clearance. The CCC has developed a methodology for carrying out studies on the delays involved in the Customs clearance process with a view to identifying the causes of these delays in specific locations. Traders should cooperate with Customs in carrying out such studies and in instituting reforms to overcome these delays.

47. *Recommendation 13*

Delays in the release of goods are caused by a number of factors including inefficiency and lack of professionalism on the part of some shipping agents, freight forwarders and Customs clearing agents/brokers. To overcome this problem, Governments should set minimum standards for these professions and closely regulate performance.

48. *Recommendation 14*

To ensure maximum transparency of Customs operations, Customs authorities should provide the trading community with information on Customs formalities and requirements. Such information should be kept up to date and should be easily accessible.

12. Intergovernmental data exchange

49. One of the measures that could have a significant impact on facilitation of imports while enhancing enforcement performance is greater information exchange between Customs authorities on commercial consignments. If the importing Customs authority had access to the data submitted to the Customs authority in the country of export and could accept such data as a basis for the import declaration, this would substantially enhance controls and, if received in advance of the cargo, also facilitate rapid clearance.

50. The practical application of such an arrangement is fraught with difficulty from a political as well as a data privacy viewpoint. It is likely that Governments would only agree to the exchange of such data on a bilateral basis. It is also likely that the data would not be available for all products being traded. Technically speaking, however, there are few obstacles to this process, and the legitimate trader would have nothing to fear from its implementation.

51. Another mechanism for making export data available to the importing country is through the use of multifunctional document sets which can be used as an export declaration and subsequently form the basis of the import declaration.

52. *Recommendation 15*

To enhance Customs controls and to facilitate import clearance, Governments should, on a bilateral (or multilateral) basis, consider the routine electronic transmission of export data from the country of export to the Customs authority of the importing country.

53. Foreign trade statistics are an important source of information for both the business sector and government

institutions. In the vast majority of countries, foreign trade statistics are based on Customs export and import declarations. Trade data derived from Customs sources tend to be more reliable and comprehensive than those using other sources. Although Customs authorities in most countries are not responsible for the actual preparation of foreign trade statistics, they have an important contribution to make by ensuring that raw data are reliable with respect to products, partner countries, values and quantities.

54. *Recommendation 16*

In countries where foreign trade statistics are based on Customs data, Customs authorities should ensure reliability of the raw data as well as the timely transfer to the institution charged with compilation of the trade statistics.

13. Resources

55. Customs authorities have a key role to play in both developed and developing economies. To perform properly the many tasks that are required of today's Customs administrations, it is clear that adequate human and material resources must be placed at their disposal. Governments must recognize that it is counterproductive to deny Customs the resources it requires to function properly. Money wisely invested in Customs will pay handsome dividends, not only to the Government in terms of increased revenues, improved controls and future cost avoidance, but also to the trading community in terms of facilitated trade.

56. *Recommendation 17*

To ensure that it performs its designated role efficiently, effectively and to a high standard of professional ethics, Customs needs to be properly resourced. A Customs service starved of resources will certainly be an obstacle to trade. Governments should ensure that Customs are adequately resourced to carry out their functions.

14. The Customs Cooperation Council

57. The Customs Cooperation Council was founded in 1952. Today it has over 130 member Customs administrations throughout the developed and developing world. Its task is to promote the simplification and harmonization of Customs formalities in its member administrations and also to encourage cooperation in the field of enforcement. The CCC has developed numerous international conventions, recommendations and other instruments aimed at achieving these objectives. Practical implementation of these instruments varies a great deal. Some, such as the Harmonized System, are widely used. Others have a lesser level of acceptance. The CCC has developed the basic ground rules for more efficient Customs. It has access, through its members, to a large body of expertise in Customs matters. This asset should be used to the maximum extent possible in the implementation of many of the recommendations identified in this paper. Resources will of course be required to enable this to happen. However, given the emphasis now being placed on greater liberalization of trade and the necessity for the simplification of the associated formalities, there is an urgent need for Customs reform in many countries. The CCC stands ready to contribute fully to this effort.

58. *Recommendation 18*

The Customs Cooperation Council, as the international organization for Customs matters, has a key role to play with regard to the implementation of many of the above recommendations by its member administrations. Governments should ensure, through their representatives on the Council's ruling body, that the CCC is adequately resourced to carry out the urgent technical assistance tasks which it is called upon to do.

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ICC International Customs Guidelines

Commission on International Trade and Investment Policy, 10 July 1997

Introduction

These Guidelines, an initial business contribution to the implementation of the ICC Cooperation Agreement (1996) with the World Customs organization (WCO), present a comprehensive set of practices which the ICC considers are of particular value and importance for those engaged in international trade and transport and should characterise all modern customs administrations.

The Guidelines draw on a range of documents established by the WCO, including the Kyoto Convention and the Columbus Declaration. Many of their recommended practices — for example, the use of risk-assessment techniques with pre-entry and post-audit procedures — are as favourable to more effective customs control as to improved trade facilitation. The Guidelines make specific reference to the value of systematic customs/trade cooperation through Memorandum of Under-standing programmes.

The Guidelines will have many uses. They set out, in a convenient and well-defined form, a summary list of key procedures which can be readily expanded into a comprehensive Code of Best Customs Practices, which would be of considerable value to customs and trade in many emerging and transition economies. They should prove most useful as a means of rapid analysis of customs quality by such lending agencies as the World Bank or the IMF, for which international trade performance, greatly influenced by customs efficiency, is a key factor in financing and loan assessments.

They can serve as the basis for a regular review and classification of customs services and as a reliable index of their progress. They look ahead to certain potential extensions of current practice, and so provide signposts to customs innovations.

They will, of course, be adapted over a period to reflect new trading, transport and administrative techniques, particularly in respect of information and communication technologies. The ICC expects to gain much from experience of their use, in their present form, in European transition economies and in the focal customs activities now under way in APEC and NAFTA.

They are a powerful tool to help bring practical freedom for the individual international transaction into line with the policy objective of global trade liberalisation.

Certain procedures may not be feasible at the moment, in some countries, by reason of legal constraints. It is no part of the ICC intention to ask customs to question national legislation, but all the points set out in the Guidelines have satisfactory practical application by some leading customs administrations and the ICC advances such proposals in the expectation that any remaining legal obstacles, elsewhere, will be progressively removed.

The Guidelines in no way imply any reduction in the responsibilities of traders to comply fully with customs laws and regulations. Indeed, they are intended to encourage cooperation between customs and commerce so that both can fulfil their obligations without conflict.

The Guidelines

A modern, efficient and effective customs administration:

A. Strategic Plan

1. associates its business community with the development of a strategic plan

BEST AVAILABLE

1. associates its business community with the development of a strategic plan, looking forward three to five years, which describes its overall strategy and key priorities, supported by an annual management plan containing more detailed targets, objectives and performance measures;
2. publishes an annual review, up-dating strategy and reporting progress;

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B. Workforce and Structure

3. employs a highly professional workforce, which is recruited competitively, well trained, adequately paid and screened for enforcement risks, with written, standardised job descriptions and objectives, supporting transparent career development and promotion policies;
4. establishes an internal security unit, or is subject to an equivalent external body, to deal with issues of employee integrity. These arrangements should be known to the trade community, which should be given information enabling them to contact the appropriate security agency as and when necessary;
5. ensures that all employees having contact with the public carry proper identification, which should be shown on request;
6. employs, trains and identifies, as appropriate, tariff classification, valuation and rules of origin experts, to assist the trade community in these areas;
7. trains officers to investigate complex frauds, and recommend appropriate action;

C. Cargo Processing (General)

8. applies the WCO Kyoto Convention and actively supports current WCO work on its review and revision;

D. Cargo Processing (Inwards)

9. relates physical control procedures to documentary control procedures, in such a way that essential control data are processed in advance of the arrival of the goods, while other, administrative data are handled by post-clearance controls;
10. gives the declarant the option to secure immediate or rapid release by filing entry data in advance of the arrival of the goods;
11. gives the declarant the option to enter data, either manually or electronically, and comply with essential control requirements, at a place different from the location of the goods;
12. establishes control and release systems that enable the importer or agent to obtain the goods prior to the completion of administrative requirements and payment of duties, taxes and fees;
13. applies the WCO Express Guidelines for consignments for which immediate or expedited release or clearance is requested, regardless of weight, value, size, type of operator or carrier, or mode of transport;
14. applies a *de-minimis* regime whereby certain goods, including documents, private gift packages and trade samples, not exceeding a certain value or weight, are exempted from import duties and taxes and from formal declaration procedures;
15. reviews *de-minimis* levels regularly to take account of such factors as inflation;
16. gives the importer the option to file entries himself or to use an authorized agent;
17. releases goods at carrier's point of arrival, without requiring their interim transfer to a government-operated or -designated warehouse;
18. uses selectivity, based on automated compliance measurement and risk-assessment and profiling systems, to target suspect consignments and so minimise the incidence of physical examinations;
19. operates a corporate surety bonding system, or other appropriate means, such as a duty- and tax-deferral system, to protect the revenue and ensure compliance with customs laws without unnecessarily delaying the release of goods;
20. fixes, in the absence of any evidence of fraud, a reasonable limit on the time during which it can demand additional duties and/or the re-delivery of the goods;
21. develops the use of non-intrusive examination techniques, such as X-ray;

22. develops and applies performance standards to check that its processing and release of goods are timely and meet reasonable business needs;
23. allows authorized importers to file single entries covering all their importations in a given period, e.g., monthly;
24. replaces transaction-by-transaction treatment by account-based, post-entry procedures for importers with proven compliance histories and consistent import patterns (e.g., types of goods and origins);
25. has government authority to perform certain control functions, at the time of import, for other official agencies and links these agencies to customs automated systems and databases for targeting and risk-assessment purposes;
26. adapts its working hours to ascertained commercial needs and operational requirements, and operates any necessary overtime or other exceptional service systems on transparent cost bases negotiated with business clients;

E. Cargo Processing (Outwards)
27. ensures that the statistical requirements for recording purposes are not applied in ways, or at times or places, that could significantly affect the efficiency of the export operation;
28. accepts, as far as possible, a commercial document, e.g., invoice, containing the necessary particulars, as the export declaration, in place of an official form;

F. Cargo Processing (Transit)
29. applies appropriate international transit conventions, for example, those noted in Annex E.1 of the Kyoto Convention;
30. cooperates closely with other neighbouring customs administrations to assist effective control and facilitation of common transit traffic;
31. operates computerised systems providing early, reliable notice of discharge of declarants', carriers' and guarantors' transit obligations and effective means of identifying and preventing fraud;
32. accepts that guarantees or deposits for the transit operation remove any need for supplementary undertakings or payments at point of entry;

G. Transparency of Regulation and Administration
33. publishes its strategic plan and all customs regulations and makes them available to the public through the most modern and practical media, while ensuring that existing and new regulations and legislation are simple in form, content and presentation;
34. consults the trade community, systematically, to obtain views on proposed new regulations and procedures, or amendments to existing requirements, and gives them timely notice of any eventual changes;
35. adopts a Memoranda of Understanding programme, based upon that sponsored by the WCO, by which improved cooperation with the trade community is established in the areas of information exchange, security and training, with a view to more effective interdiction of customs fraud, in particular drug trafficking, infringements of intellectual property rights and threats to endangered species;
36. provides the means for the trade community to question or appeal decisions, by local officials, to a higher level, within customs, and, eventually, to a court of law, settling minor violations, normally, at the local level;
37. establishes an ombudsman, specialised in customs matters, as a medium for approaching the administration and a general information office or section to deal with queries from the trading community;

H. Automation
38. operates a nationwide automated system to provide electronic filing facilities for the trade community in respect of declaration data to be submitted at both import and export and for banks and corporate sureties in respect of duty and tax guarantees and surety bonds;
39. is able to transmit and receive data, nationally and internationally, using appropriate international EDI standards;
40. provides automated systems for the payment of duties, taxes and other fees by electronic fund transfer;

41. makes tariff and related information/data available to the trading community from an automated system;
42. establishes and operates an automated enforcement information system, using risk assessment and other modern control techniques;
43. requires, as a matter of routine, in automated systems, only those data items which can be clearly linked to significant gains in customs operational efficiency;

I. Tariff Classification and Valuation
44. applies the WCO Harmonised System Convention;
45. applies the WTO Valuation Agreement;
46. issues binding pre-entry classification and valuation rulings, on request, which will be honoured by officers, throughout the customs territory;
47. identifies and makes available customs experts to advise the trade community on tariff classification and valuation matters;
48. provides a sound, scientific basis for classification decisions through the use of laboratory analysis, equipment and technology;
49. publishes tariff classification and valuation rulings, either in printed form or on electronic media, and makes them available to traders and other customs administrations;

J. Origin
50. publishes current origin rules and rulings;
51. applies, in due course, the WTO Rules of Origin;

K. Disputes and Sanctions
52. accepts and applies the penalty regimes in Annex H.2 of the Kyoto Convention;
53. favours the resolution of disputes with traders through conciliation and financial adjustment rather than recourse to courts;

L. International
54. is a WCO member and participates in WCO and regional customs activities;
55. shares information with, and provides technical assistance to, other customs administrations for enforcement and facilitation purposes;
56. consults with major traders/carriers to develop customs/customs/business electronic information systems that would, initially, link and, eventually, replace traditionally separate export and import formalities;

M. Passenger Processing
57. relies on passenger observation techniques and behaviour profiles rather than routine questioning of all passengers;
58. establishes benchmark standards for passenger processing times and checks performances with corresponding benchmarks in other customs administrations;
59. uses automation techniques, including EDI, to improve the efficiency and security of passenger processing, including, where appropriate, the capture of Advance Passenger Information (API) from machine-readable travel documents, leading to expedited passenger clearance;
60. uses a passenger processing system that is integrated with immigration and other control authorities, in order to avoid procedural duplication.

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Policy Statement

Trade liberalization, foreign direct investment and customs modernization: a virtuous circle

Introduction

The International Chamber of Commerce, the world business organization, urges governments, and in particular trade and finance ministers, to recognize that modernization of customs administrations - both of their own countries and of their trading partners - is an important catalyst to economic development. Modernization of a country's internal customs administration benefits growth and investment, while modernization of the customs administrations of trading partners is necessary to ensure the full realization of negotiated trade benefits.

As tariff and other trade barriers are reduced or eliminated through global and regional trade negotiations, customs modernization becomes more and more important to each country's interest in attracting foreign direct investment. As tariff barriers fall, multinational and other companies look increasingly to the existence of business friendly policies in deciding where to invest. Countries that fail to keep pace with world class standards for customs administration will find that investors simply cannot afford the high logistics costs imposed by customs inefficiencies. Finance ministers in these countries will find foreign direct investment (FDI) migrating to nations with more sophisticated customs administrations. Moreover, customs inefficiency imposes a significant tax, hidden but very real, on consumers and traders - taxes whose "revenues" are not realized by the government, but rather comprise a dead waste to the economy.

Because customs administration can be an important barrier to trade, countries with inefficient customs administrations are breaking faith with their partners who have made tariff concessions. Absent a uniformly high standard of customs efficiency, the benefits of market opening are unfairly denied to those countries that have efficient customs administrations and trade with neighbours whose inefficient customs administrations act as non-tariff barriers. Trade ministers in countries with forward looking customs administrations must insist on the modernization of the customs administrations of their trading partners if they are to realize the benefit of the bargains they strike with their neighbours.

Understanding the competitive costs associated with tolerance of inefficient customs administration, trade and finance ministers should be strong internal advocates for customs improvement. Much can be done unilaterally and voluntarily to improve prospects for attracting foreign investment and increasing trade. Additional gains are available from the synergies engendered by an across-the-board improvement in customs efficiency. Consequently, trade and finance ministers should support multilateral and regional initiatives to modernize customs administrations as well. These include World Trade Organization (WTO) initiatives to simplify and improve trade procedures; the work of the World Customs Organization (WCO) on revision of the Kyoto Convention on the Simplification and Harmonization of Customs Procedures; and regional efforts to simplify and harmonize customs procedures.

The virtuous circle

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The accelerating trend toward trade liberalization, both globally and regionally, puts customs modernization at the heart of a mutually beneficial "race to the top" in a form of virtuous circle in four steps:

- Increasing levels of trade liberalization become a worldwide reality through WTO and regional negotiations.
- Trade liberalization eases the need to invest behind tariff barriers, and investors are freer to seek business-friendly environments, rather than being forced to invest behind high tariff barriers in each country where they hope to do business.
- Countries that modernize their customs administrations see increasing flows of FDI, putting pressure on their trading partners to respond in kind.
- Improving customs administrations enables further trade liberalization by ensuring that countries will reap the rewards of negotiated trade concessions. Higher levels of trade liberalization increase the competitive benefits of customs modernization, and so on.

While this virtuous circle encompassing trade liberalization, FDI, and customs modernization benefits all who participate in it, the costs of non-participation will become increasingly burdensome in terms of lost investment and increasing economic isolation.

Trend toward trade liberalization

The initial condition for realization of the virtuous circle is a trend toward trade liberalization, and it is clear that that condition holds in today's world. Trade liberalization at the multilateral and regional levels is progressing at an accelerated pace. The Uruguay round and creation of the WTO have resulted in substantial, continuing tariff reductions, and ongoing work in the WTO will further market liberalization on many fronts. Regional arrangements, such as the North American Free Trade Agreement (NAFTA), the Association of South East Asian Nations Free Trade Area (AFTA), the Asia Pacific Economic Cooperation (APEC), the European Union (EU) and its association agreements, numerous Latin American trade arrangements, and the negotiation of the Free Trade Area of the Americas also contribute to the downward pressure on trade barriers. And the spirit of liberalization has taken firm root; in the face of the Asian financial crisis, members of the Association of South East Asian Nations did not abandon, but rather accelerated duty reduction schedules under AFTA.

At the same time, economic turbulence has the potential to arouse protectionist sentiments that are self-defeating and lead to a vicious circle that can trigger worldwide trade wars and economic depression. Customs frequently is a favored tool of protectionists. Countries must guard against employing their customs administrations as barriers to trade.

FDI and the business environment

Traditionally, FDI has been driven in substantial part by the need to invest behind tariff barriers. High trade barriers in a country create an incentive for investment to serve consumers of that country that does not depend on efficiency of the workforce, availability of world-class material suppliers, access to other markets, or the maintenance of an effective system of commercial law. Even the advantages to be gained from economies of scale are overwhelmed, often requiring the construction of small, inefficient plants in each of several markets that could be served collectively by a single, scale-efficient factory. Markets

traditionally protected by trade barriers often fall behind world standards because the goods and services they provide are not tested by international competition.

When tariff and non-tariff barriers to trade are removed, investment decisions increasingly are made on the basis of the ability of the market to provide an environment that is conducive to the establishment and maintenance of a world-class manufacturing operation to serve the regional market and often to produce for worldwide export. Workforce availability, a stable economic system, and an effective legal system all assume greater importance in making investment decisions. Equally important is logistics - the ability to maintain a reliable, low-cost flow of raw materials and components into a manufacturing facility, and an effective system to distribute finished products flowing out of the facility.

Customs modernization as national competitive advantage

Logistics - the efficient movement of goods to and from a manufacturing facility - is critically important. Any world-class manufacturing facility must have access to world-class sources of raw materials and components. Certainly, many inputs will be available locally in quantities and quality needed to support such manufacturing. However, no single market either developed or emerging, can produce all of the world-class inputs needed for a complex manufacturing operation. Aided by rapid improvements in the speed of information exchange, global corporations are creating sophisticated international supply chain management systems to move goods quickly and economically around the world. Countries that stop or slow down these supply chains will be left out of the process.

Consequently, access to imported raw materials and components is an important consideration in plant siting. And customs administration is critically important to this access in many ways:

- Clearance time - In order to support world-class manufacturing, customs clearance time must be measured not in weeks, or even days, but in hours. Any customs administration that can provide reliable, timely customs clearance, or immediate release based on pre-clearance, creates an enormous competitive advantage in attracting manufacturing.
- Predictability - Delayed delivery of a key input can shut down an entire manufacturing line, at enormous cost. Unpredictable delivery due to customs administration can require the maintenance of excessively large "safety stock", with unacceptable inventory carrying costs. Arbitrary or unpredictable customs clearance delays are incompatible with efficient manufacturing.
- Transparency - Arbitrary or unexplained changes in classification or valuation of goods can disrupt logistical flows and marketing plans, thereby seriously detracting from efficient operation.

The importance of customs administration to FDI decisions is not hypothetical. Case studies of real-world decisions are attached to illustrate the importance of customs in making plant-siting decisions.

Reaping the benefits

Countries that are early in recognizing the competitive advantage of customs modernization will reap the lion's share of the rewards. Experience in the developed world includes several examples of smaller countries that have taken advantage of such factors as favourable location, modern transportation, trade culture and services industries to rank among the largest trading economies. These successes would not have been possible without modern customs

services. In the developing world, there are some more recent examples that are following this pattern. The experience in these countries already demonstrates that customs modernization and trade facilitation are compatible with revenue collection and enforcement. It is noteworthy that customs revenues have increased with modernization efforts because greater volumes of trade are processed more efficiently.

Conclusion

Governments have an important stake in the modernization of their customs administrations and those of their trading partners. As the world moves increasingly toward trade liberalization, the cost of tolerating an inefficient customs administration will become too great to bear. The International Chamber of Commerce urges governments, and in particular trade and finance ministers, to become ardent advocates of internal customs reform and vocal demandeurs of regional and worldwide rules to ensure multilateral movement toward a uniformly high standard of customs administration.

Three case studies are attached to illustrate the importance of customs modernization for trade and investment

Case study A

Potential investment
Up to 1 billion US dollars greenfield manufacturing plant.

Countries considered
Asian countries, including ASEAN, India, Japan, Australia, Taiwan, Korea, China.

Selection criteria

Investment cost	Investment climate
Operating cost	Market access
Raw material accessibility	Ownership restrictions
Legal structure	Incentives
Site suitability	Political risk
Logistics	Economic risk
Human resources	

Impact of customs administration
Customs administration significantly affects several of the selection criteria used by company A in considering investment destinations:

Raw material accessibility: Duty effects of importing raw materials not available in country were roughly equivalent for most of the countries under consideration, but only on the assumption that duty drawback would be fully realized for all exports of finished goods. Absent smooth operation of a duty drawback program, the company would be at risk for annual duties of up to $20 million/year. The company therefore carefully considered the likelihood that a duty drawback program would be impeded or unavailable due to inefficiency or corruption.

Logistics: Customs clearance ease and reliability were carefully considered in evaluating logistics costs of competing locations.

Operating cost: The cost of customs clearance is directly related to the

efficiency of customs administration.

Legal structure: Customs administration transparency was considered as an element in evaluation of countries' legal structure.

Case study B

Potential investment
Up to 200 million US dollars distribution facility. Creation of approximately 3000 jobs both directly and indirectly.

Countries considered
All European countries with emphasis on central Europe.

Selection criteria

Customs process	Economic risk
Investment cost	Human resources
Legal structure	Site suitability
Logistics	Incentives
Market access	Ownership restrictions
Political risk	Constructive relationships with government/customs
Operating cost	

Impact of customs administration

Customs administration was an important component of the analysis, as it affects several of the selection criteria and directly influences the viability of any particular location. Reliable and cost efficient customs clearance is an essential element for any successful site. A distribution facility's value is greatly diminished if goods cannot be quickly moved into and out of the facility on a highly predictable basis with reasonably clear and simple requirements.

Customs process: customs documentation (including record-keeping requirements) and the sophistication of automation systems were carefully considered. The process must be straightforward and administratively as simple as possible. Application of risk assessment and risk management techniques are essential to maximize the efficiency of the import process, reduce the administrative burden, and ensure adequate enforcement of all necessary and applicable regulatory requirements.

Customs/government relations: Willingness to engage in a programme of modernization of existing customs clearance infrastructure was an important consideration. New and improved methods for clearing high volumes of individual importations while ensuring adequate safeguards require constructive relationships. No matter how efficient an administration considers their current operations, they must be willing to take an approach of continuous improvement to ensure that they remain competitive in the global marketplace.

Case study C

Potential investment
A brand new port on a greenfield site for a developing country.

Background
The existing modern port with good goods handling facilities was full to capacity and a bottleneck for imports and exports. Consideration was given to building a

new port at considerable cost. A consultancy was asked to make recommendations on the information systems and port procedures for the new port. As part of the process of evaluation and development of recommendations for the new port a study was made of the old port information systems and procedures.

Findings
Analysis of the old port procedures revealed that there were excessive delays in the movement of goods through the port and the bulk of these delays were not caused by handling problems but rather by procedural and documentary problems.

Containerized imports were found to take on average up to 20 days to move through all the necessary procedures in the port. The delays were:

- late incoming documents 50%
- customs clearance 25%
- other factors before and after customs clearance 25%

This meant that goods stayed in the port on average for 10 days before customs clearance could commence.

Clearance times in the European Union were typically around 4 hours whereas in this developing country port these took up to 3 days.

The severe congestion was clearly caused by inadequate information handling and poor port procedures resulting in high costs together with a lack of predictability and transparency. The high cost of imports was a price penalty for consumers and the high cost and unpredictability of exports created an unnecessary competitive disadvantage.

Conclusions
The port congestion was caused by inadequate procedures for handling and controlling the movement of goods and for coping with modern trade practices.

The huge cost of a new port was unnecessary.

Committee on Customs and Trade Regulations

Statements

Overview
African Growth and Opportunity Act/
Trade and Development Act of 2000

The African Growth and Opportunity Act/Trade and Development Act of 2000 authorizes a new U.S. trade and investment policy toward Africa. It promotes increased trade and economic cooperation between the United States and eligible sub-Saharan African countries. This legislation represents a solid, meaningful and significant opportunity, which could result in billions of dollars in new trade and investment flows between the U.S. and Africa.

Key Elements of the Act and Benefits for Africa:

General Trade Benefits

- Extends duty free and quota free access to the U.S. market for essentially all products from sub-Saharan African countries. This includes preferential access for some products that were heretofore considered import sensitive.

- Provides additional security for investors and traders in African countries by ensuring GSP benefits for eight years. Countries outside of Africa are guaranteed GSP benefits for two-years.

- Eliminates the GSP competitive needs limitation for African countries.

- The bill provides sub-Saharan African countries with the freest access to the U.S. market of any country/region not part of a free trade agreement.

- Establishes a U.S.-sub-Saharan Africa Trae and Economic Cooperation Forum to faciliate regular trade and investment policy discussions.

- Authorizes $5.9 million in additional funding for U.S.Customs transshipment efforts to ensure that Customs has the resources for its increased enforcement efforts against transshipment and to provide technical assistance to beneficiary sub-Saharan African countries.

- Provides technical assistance to promote economic reforms and development, including assistance to promote relationships between U.S. firms and firms in sub-Saharan Africa.

Textile and Apparel Benefits

- Lifts all existing quotas on textiles and apparel products from sub-Saharan Africa.

- Extends duty/quota free U.S. market access for sub-Saharan African apparel made from yarns and fabrics not available in the U.S. or Africa.

- Extends duty/quota free treatment for apparel made in Africa from U.S. yarn and fabric.

- Extends duty/quota free treatment for knit-to-shape sweaters made in Africa from cashmere, silk, velvet, linen, and other fabric not available in the United States.

- Extends duty free and quota free U.S. market access for apparel made in Africa with African/regional fabric and yarn. Such imports, however, are subject to a cap (limit) ranging from 1.5 to 3.5% of the multibillion dollar U.S. apparel import market over an 8 year period. African apparel imports made with African fabric/yarns currently total about $250 million. Under the cap, these imports could increase to $ 4.2 billion over a period of eight years. Normal MFN duties would be levied on apparel (regional fabric) imports over the cap.

- Promote investment in Africa's poorest countries through a special provision in the cap which allows African countries with an annual GNP of $1,500 and below to use third country fabric inputs for four years. This special investment incentive for the poorest African countries is aimed at providing a market stimulus to economic development for areas with little existing industry.

- Provides an average 17.5% duty advantage on apparel imports in the U.S. market. This would provide African countries with a competitive advantage over many other major suppliers. It provides nearly a billion dollars in duty-savings.

JOINT STATEMENT BY AFRICAN TRADE MINISTERS ON THE AFRICAN GROWTH AND OPPORTUNITY ACT (H.R. 434, S. 666) ISSUED ON MAY 5TH, 2000.

1. On the occasion of the WTO Consultative and Technical Assistance Forum for African Trade Ministers from Gabon, Ghana, Kenya, Lesotho, Mali, Nigeria, Senegal Tanzania and Uganda we collectively wish to express our special appreciation to the bipartisan effort by the US Congress for the progress relating to its work on the African Growth and Opportunity Act (AGOA). We welcome the result of the voting in the House on May 4, 2000 as a breakthrough for trade expansion arrangement with Africa since the launching of the bipartisan initiative several years ago. We also wish to highly commend President CLINTON for his unprecedented US Trade Initiative towards Africa. We are confident that this initiative will serve both US and African business and economic interests.

2. We would also like to pay special tribute to those many persons and organizations for their consistent support to Africa's economic development. We recognize the hard work put into the bill by the US and African private sector, the various American Civic Groups, the Non-Governmental Organizations, the African Governments and the African Diplomatic Corps based in Washington, DC. We have a deep

appreciation to those many men and women, congressmen and congresswomen particularly the initiators of the bill, whose contributions to the cause of the bill have finally been acknowledged by the passage of the act.

3. The African Trade Ministers are appealing to the Senate to pass the bill as well, to give African countries a chance to develop their economic potential in partnership with the United States.

4. We believe the act would lead to significant expansion of trade and investment in Sub-Saharan Africa. It will create a trade and investment policy framework that will benefit both African countries and the United States. It will move Africa from a donor and recipient relationship and buyer and seller relationship with the US towards a meaningful partnership in socio-economic development. It will further create economic incentives for US investors to invest in African countries.

5. Finally, we wish to emphasize the provision for wider and frequent consultations with African countries as well as to ensure balanced private and public sector developments with a focus on social sector, agriculture and food security investments. We hope that the US-Africa Consultative Forum will in future work for improvement of the act with the main objective of expanding the trade and investment ties between Africa and the United States for the mutual benefit of our two peoples.

Reforming Africa: The economic revival of nations on the continent will be short-lived if it is not linked to political modernization. BY TIDJANE THIAM

Why Democracy Is Vital to Growth

URING THE 1990S MANY AFRICAN COUNTRIES have embarked on ambitious programs of economic modernization. Still, private investment remains lower than in other developing regions. And Africa continues to be plagued by armed conflicts. Why?

Africa has paid too little attention to political modernization. Too many African governments pay only lip service to democracy, which is often limited to simply holding regular elections (the main yardstick used by the outside world to assess progress in Africa). Attempts at economic modernization in Africa will fail as long as they are not accompanied by political modernization, too.

Most African nations remain deeply influenced by the colonial era. They are highly centralized states. Yet most African societies are very fragmented. Time and again, the collision between centralized decision-making processes and heterogeneous societies has led to major inequities in the distribution of wealth, which have in turn led to violence. Compounding all this is the weakness of civil society in most of Africa. As individuals, Africans demand transparency and accountability. Yet this demand is not translated into a politically effective force, because there are so few entities able to organize it. The African private sector, for its part, often consists of cozy oligopolies and cartels. The small size of our economies means that African governments have little bargaining power with which to confront the private sector. Many necessary reforms are often successfully opposed by powerful players.

THEMBA HADEBE—AP

EMPOWERMENT: South Africans line up to cast their ballots last June during the country's second democratic elections

WORLD ECONOMIC FORUM

African leaders face real dilemmas. How should they protect the rights of minorities, when modern democracy is based on the concept of majority rule? How should they promote reforms when potential beneficiaries are poorly organized at best, while potential losers have access to the media and are financially strong?

First, leaders must communicate relentlessly. There can be no economic development without freedom of information and freedom of speech. That means explaining to the rural girl (and her parents) that she is denied the access to primary education because scarce public resources are being spent, instead, on university students and on their teachers in the cities. All over Africa, governments have tried to shift resources to primary education; they have had only limited success. The winners of such a policy would be the millions of voiceless children who do not have access to education. The losers would be some of the highly unionized university teachers and students—opinion leaders who fight for their own interests.

The media have a crucial role in making potential winners understand the game. In nations with high levels of illiteracy, television is more effective than newspapers, and radio more effective than TV. The development of locally run radios has thus become a priority of our government. We have also recently used theater to promote our population policies, an effective way of showing women the vital importance of taking control of their own fertility. And African countries need to adopt and implement comprehensive strategies to alleviate poverty, with explicit targets for access to health, education, safe water, roads, energy and—especially—telecommunications. More and more villages ask us for telephones before anything else; they understand that in the next century it will be vital to be plugged into the world. By the same token, an educated population is the surest way to guarantee democracy. In Côte d'Ivoire, we target our school-building program to areas where girls' enrollment rate is the lowest, thus fighting social exclusion. Only education will help Africans enlarge their definition of human rights beyond their village or ethnic group.

The decentralization of decision making is likewise key. And we need to build civil society so that demands for transparency and accountability are given real weight. Economic democracy has a role to play, too; African governments must relentlessly promote competition. Too many times, inefficient state enterprises have been replaced by private monopolies, in a context where there is little capability to effectively regulate them. And last but not least, African nations need to appreciate that they will have neither democracy nor development without the rule of law.

Africans can make the 21st century the African century. If we embrace democracy and empower the African citizen, we will be able to turn Africa's tremendous reserves of diversity and creativity into a positive force for the world, as we have already done with music and the arts. In so doing, we will provide not just growth and economic development for our people—but peace and stability, too.

THIAM *is minister of Planning and Development of Côte d'Ivoire.*

Electronic Commerce in Africa: Small Businesses Thrive

Presented by:
Barbara Keating
Computer Frontiers, Inc.
May 5, 2000

Electronic Commerce: Small Business Case in Africa

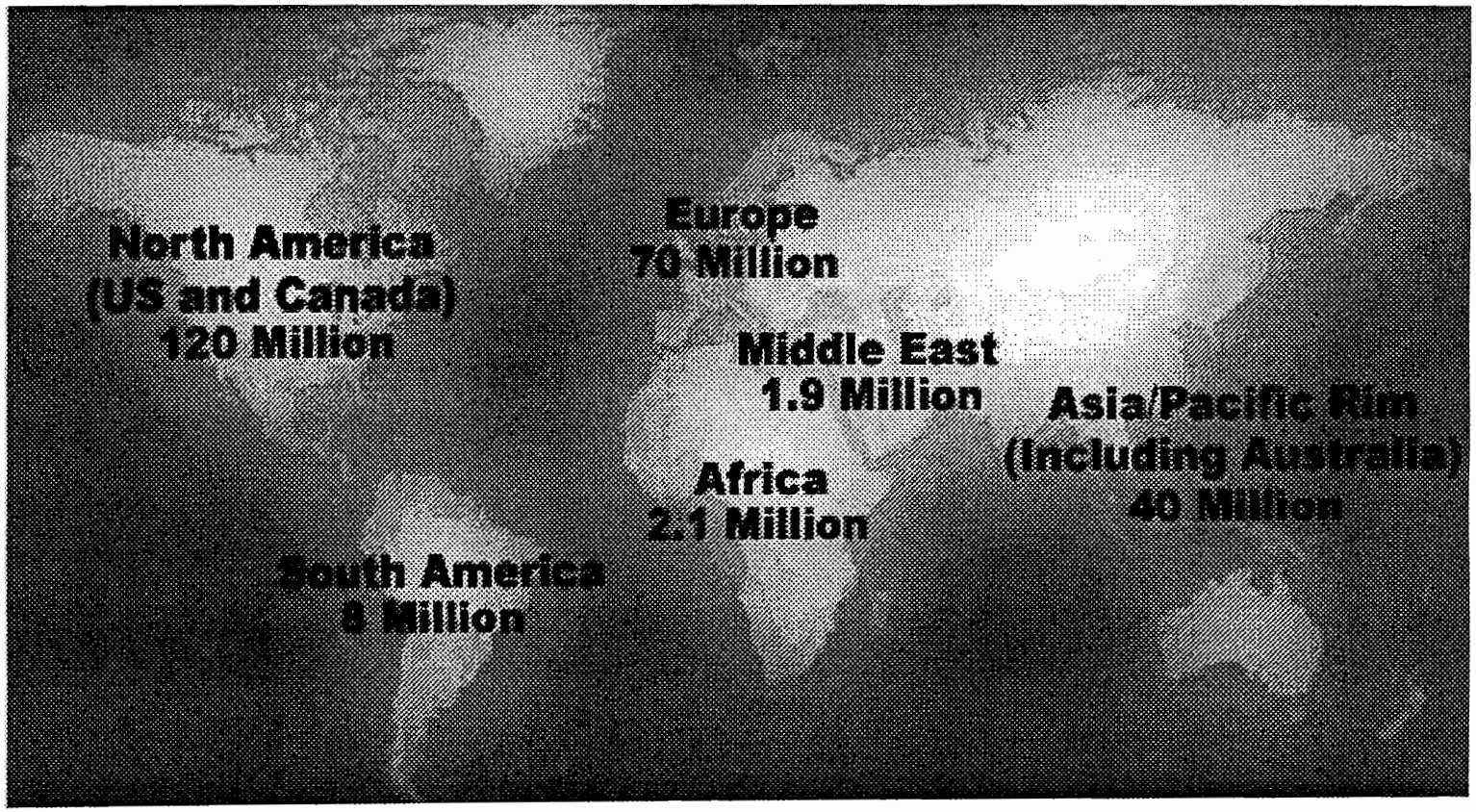
- Introduction & Overview of Internet in Africa

-Uganda Small E-commerce Examples Today

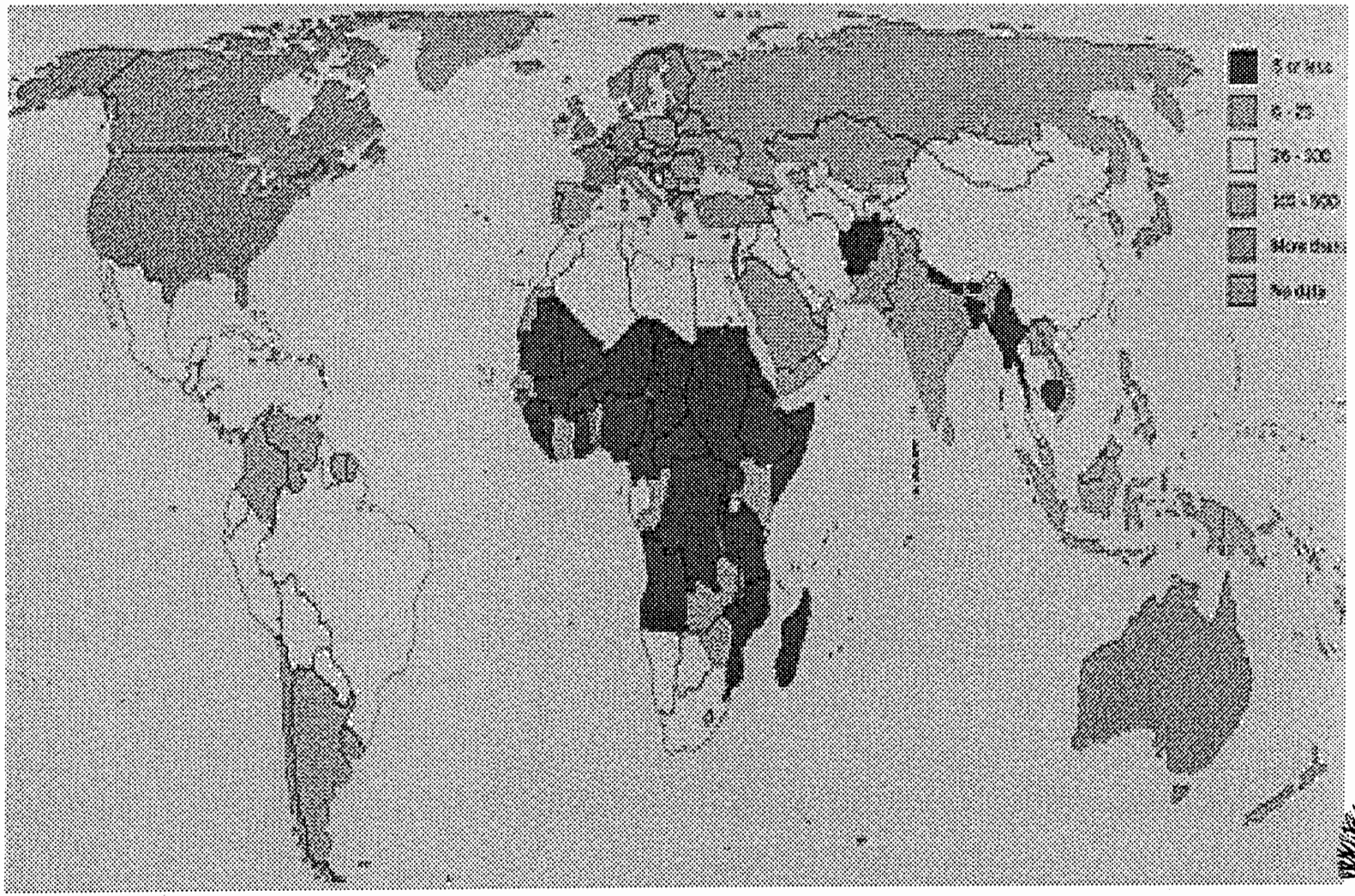
-What African Businesses want you to know

Who Am I?

Internet Users Worldwide



Telephone Density Worldwide



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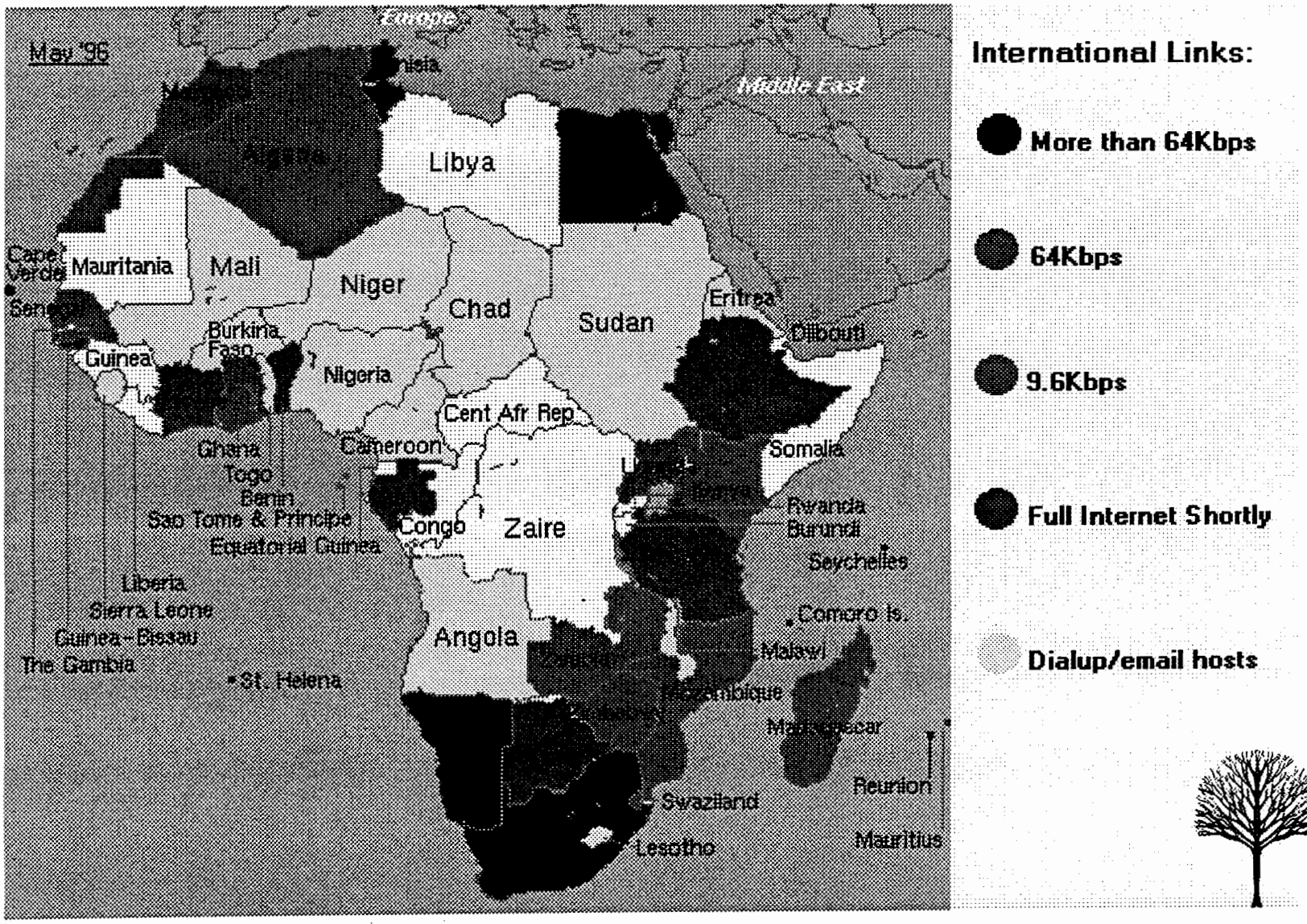
Internet Access in Africa 3 Years ago



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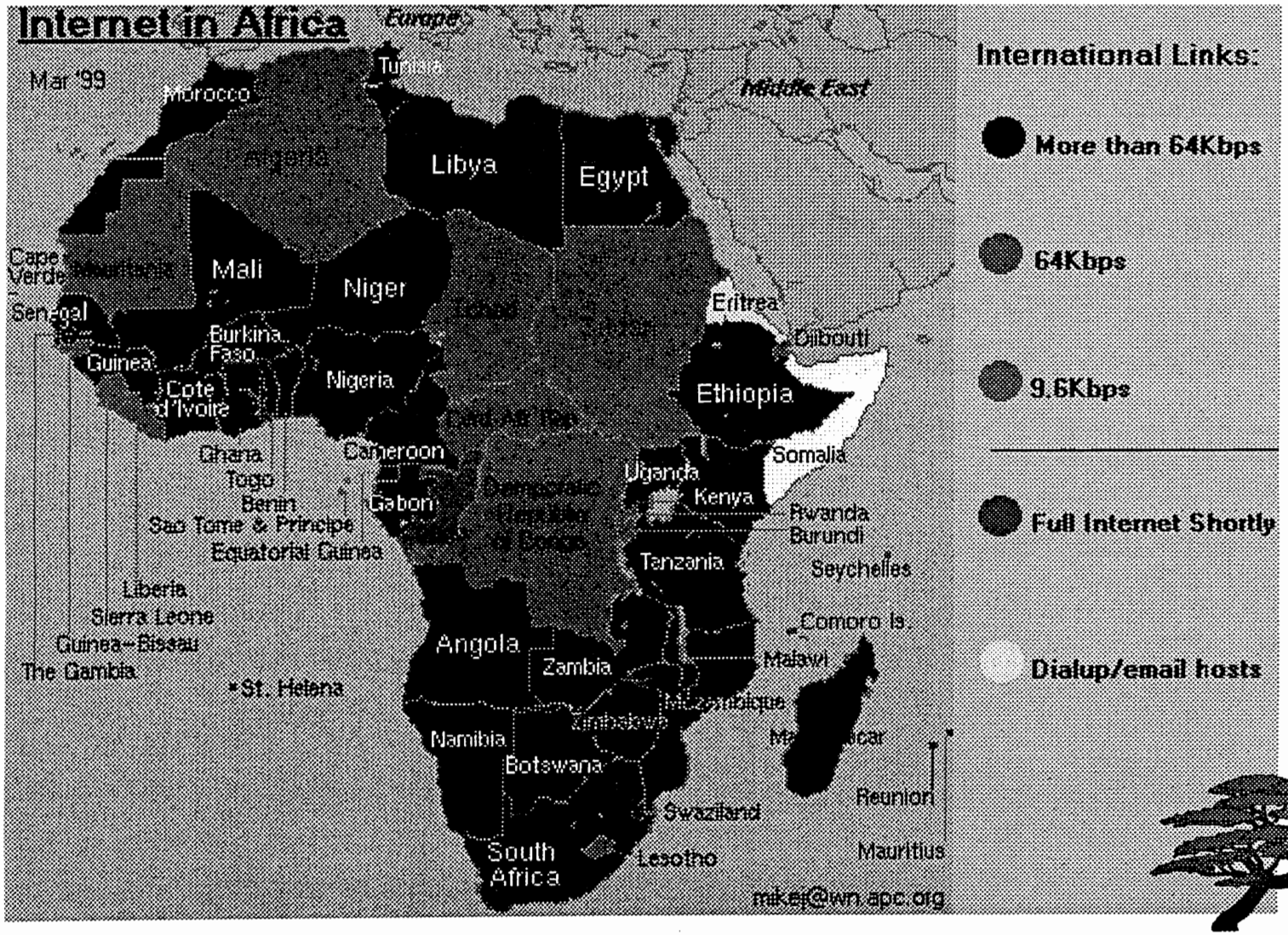
Internet Access Today in Africa



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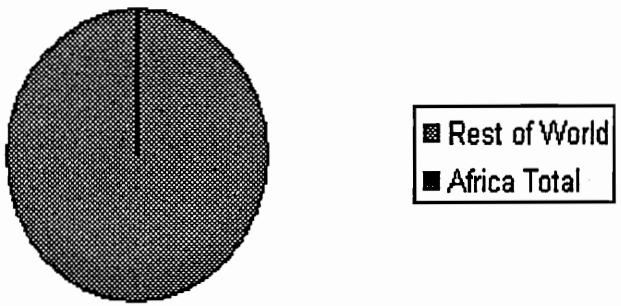
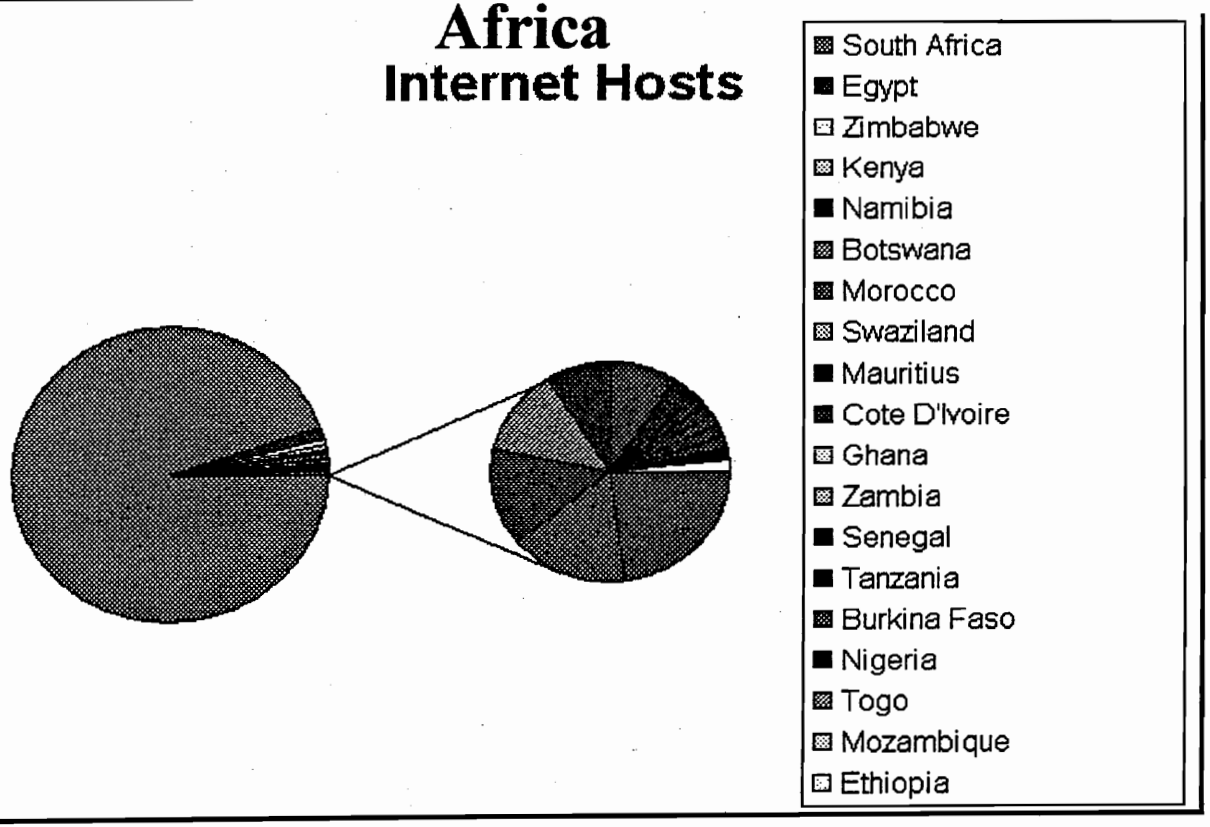
Internet Hosts





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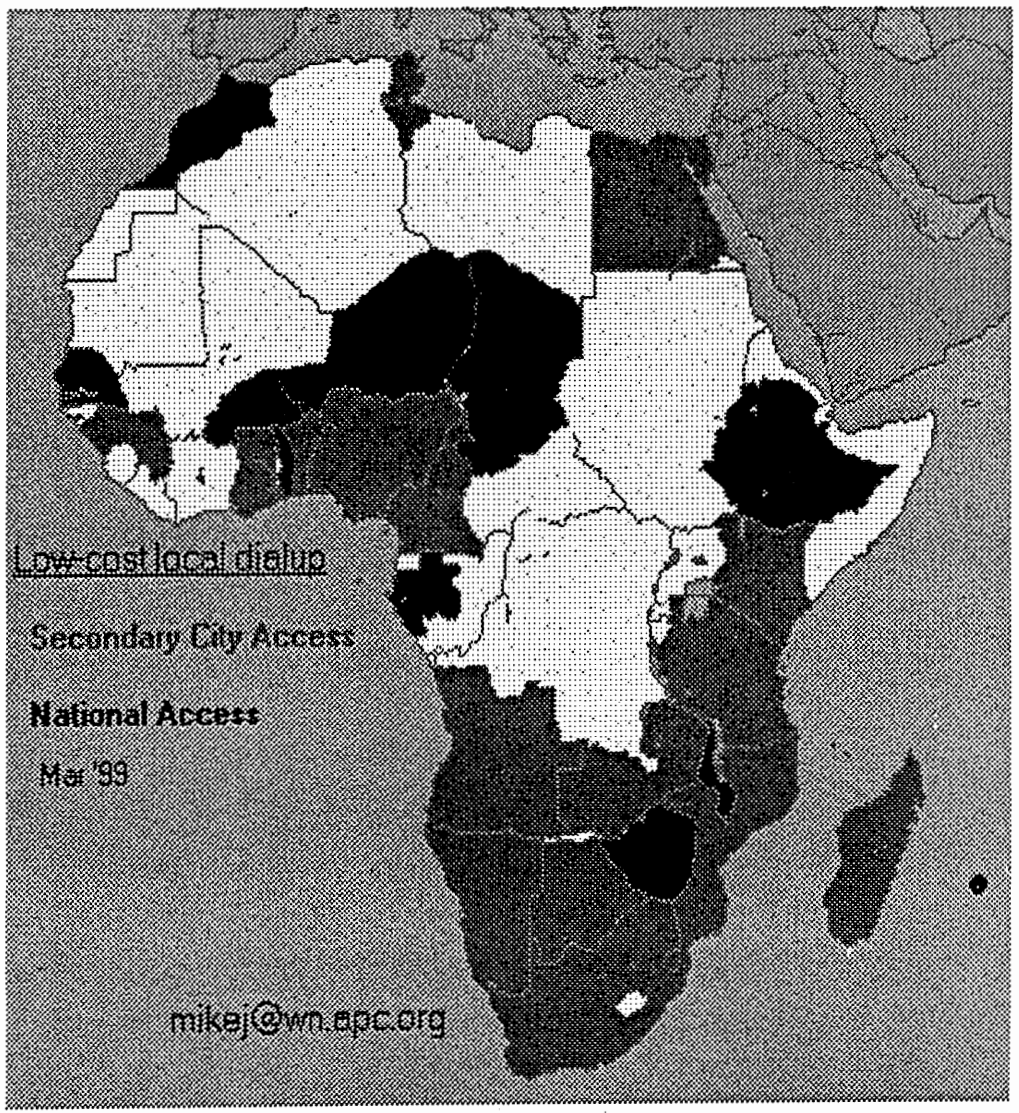
National & Secondary City Access



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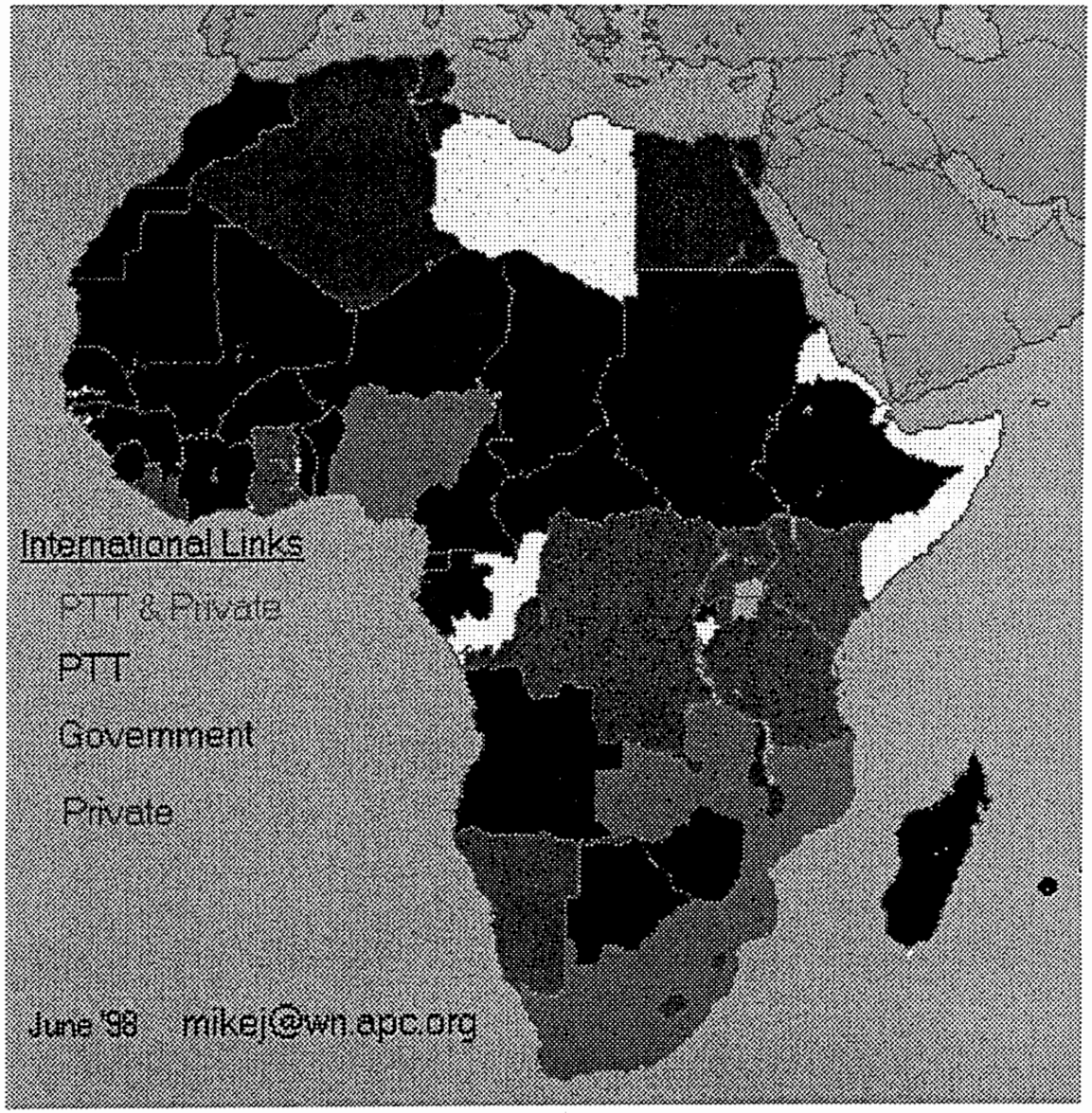
International Links to the Internet



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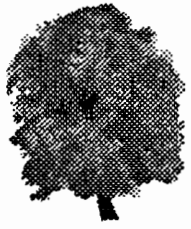
Current Facts about E-Commerce

- **Digital Economy Contributed 1/3 of Economic Growth in the US between 1995 and 1998.**

- **Half of all Internet users in the U.S. purchased something over the Internet in 1999. (53% of American Adults access the Net)**

- **Business-to-Business Transactions reached $39 billion on the Net in 1999 according to Forrester Research.**

- **Small Business can compete as effectively as large businesses using the Internet.**

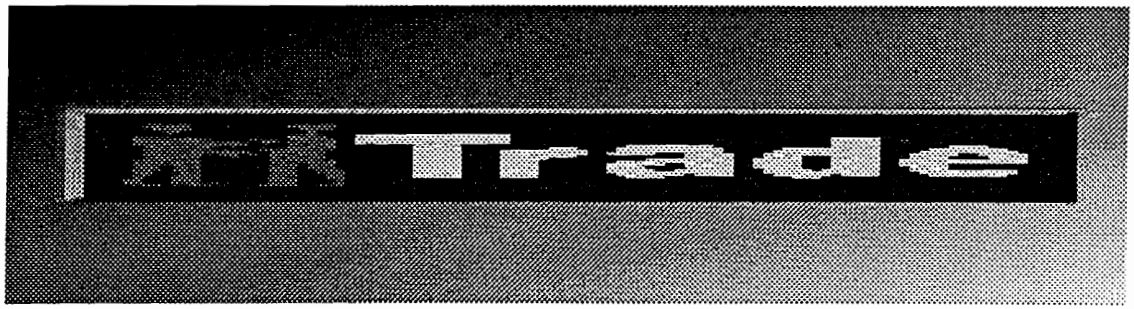


E-Commerce Example in Small Business : IT-BIG

(Information Technology –Business Improvement Grants)

- **Concept: To use Information Technology (IT) to improve competitiveness and trade by small Ugandan Businesses.**

Funded by the USAID/ATRIP, USAID/Leland Initiative, & USAID/Uganda



Ugandan Examples

Back to HTTP 404 Not Found

IT BIG

Information Technology Business Improvement Grant

An IT Project in Uganda

Executive Summary
Scope of Work
Description of Activity
- Contest & Selection
- Business Assessment
- IT Needs Assessment
- One Year Assessment

Assessment Summary
Results
Conclusions
Recommendations

Home | Full Text

As part of the African Trade and Investment Project (ATRIP) funded through USAID, Computer Frontiers, Incorporated (CFI) is helping to foster trade and investment linkages between members of the U.S. business community and selected business groups in Uganda. The concept is to use Information Technology (IT) to improve competitiveness and trade.

In Uganda, six small and medium-sized companies were selected through a contest conducted by the Private Sector Foundation (PSF) in Uganda. The contest winners were selected on the basis of their basic business aptitude, and their vision for information technology's role in their business. The selected companies were given a technology assessment and grants of up to $10,000 for equipment, training, and services. The goal was for the companies to develop the use of information technology in their businesses which could enable them to trade internationally -- especially with the United States.

Acha Graphics

Kampala-based Acha Graphics, targets NGOs for high-quality printing and design needs. Shown is a calendar they created with their new Macintosh G3 system -- a computer that has enabled to create more sophisticated designs with greater efficiency.

Midland Financial

James Sebunya with marketing materials from his new partner, Swedish firm Cap Gemini. Mr. Sebunya will be co-administering finances for a 2-year World Bank project with his new partners. He was able to find and form this alliance over the Internet.

Sakura Agro-Supplies

"Seed is the key." Indeed, much of Sakura Agro-Supplies business is driven by consumer education, such as information pamphlets for farmers. Their main revenue is now from fertilizer. Over the Internet they were able to locate a South African supplier.

Ugandan Examples (cont.)

Results

Conclusions

Recommendations

Home | Full Text

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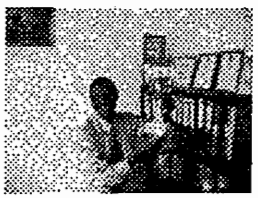

Sameg Chemicals

Sam Rugambwa displays an award he received for being named Kampala's chemical company of the year. Sameg's new computer systems have brought order to a manual accounting system allowing his company to grow.

Solaire Fashions

Joyce Rwakasisi, owner of Solaire Fashions displays a new creation. With new pattern-making software, Ms. Rwakasasi is able to generate more accurate and a higher volume of patterns for her products.

Reachout Safaris

Robson Olwe, Supervisor at Reachout Safaris, saw the tourism market in Uganda plunge last year. He hopes it will pick back up soon, but in the meanwhile is offering business services, including Internet access, with his new computers.

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Results after 6 Months of having Equipment & Training: GENERAL

- **All but one of the companies had been successful in establishing contact and business relationships with foreign companies.**

- **Adopted technology into their CORE business functions. Improved business processes and efficiency, especially in respect to accounting and management control.**

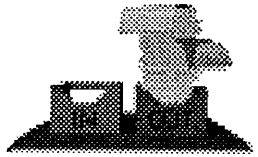
- **IT had improved their communications — email had become a critical communications tool.**

Commercial Results

Trade

- Purchasing packaging materials from Egypt – arrange by e-mail.
- Negotiated purchase of fertilizer from South Africa.
- Established contact and subsequent partnership with a Scandinavian firm solely via email.
- Located a vendor in Tanzania that will begin selling their products and is in discussion with another vendor in Kenya to provide packaging products.
- Acting as broker for importers with the South African market. Currently twenty clients.
- Located a vendor in Shanghai and ordered materials.

Business Improvements



Quality Control

- Sameg reported bringing expensive graphic design process in house enabling them to have more control over quality.

- Acha Graphics are Producing higher quality content enabling us to compete in international markets (and reach them).

Pricing

- Solaire Fashions was able to effectively price their products after computer analysis revealed they were pricing too high.

Business Improvements

Communications Email more economical and effective means of communication.

- Sameg Chemical saving $300.00 a month on phone calls to Kenya seed supplier.

Expansion

- Sameg Chemicals, more aware of their business position, was able to move to a bigger location, develop a new product.
- Acha Graphics hired a new employee.

Small African Businesses "Wish List" for the Ministers

- **Telecommunications infrastructure** – Improve it.
  - Open it up – don't control progress
  - Eg. Voice over IP, Internet, wireless licensing

- **Electronic Financial Systems**
  - Credit cards, Smart Cards – to accept and use them on the Web.
- **Computer Equipment** – tax holiday to get equipment into the countries

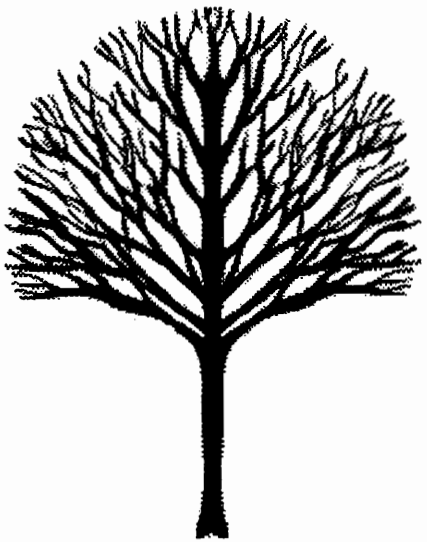
Policy Issues to be Taken Up

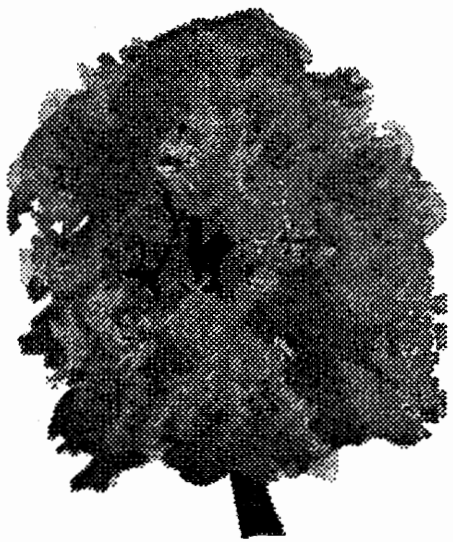
- Customs & Taxes
- electronic payments
- legal issues
  - security
  - privacy
  - intellecutal property
- Market Access
- content
- telecommunications
- technical standards

The Future…

IS TODAY! E-commerce is in your countries now.

Which will it be?





WORLD TRADE

ORGANIZATION

WT/GC/W/276/Rev.1
14 October 1999
(99-4397)

General Council

Original: English

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Proposal on Technical Assistance/Capacity Building

Communication from Bangladesh, Lesotho, Nigeria, Senegal, the United States and Zambia

Revision

The following communication, dated 11 October 1999, has been received from the Permanent Mission of the United States.

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1. After the U.S. proposal on technical assistance and capacity building (WT/GC/W/276) was tabled, a number of delegations provided endorsement and helpful comments. This revision is intended to reflect such input and includes the endorsement of additional countries, without prejudice to their earlier support of the proposals found in WT/GC/W/299, WT/GC/W/259 and Add.1.

Text Proposal

2. Ministers agree to establish an action agenda to give a new direction and priority to the technical assistance and support for capacity building provided to WTO Members, particularly the least-developed, to ensure their integration into the trading system. They request that the Director-General, in cooperation with the Chairpersons of the Committee on Trade and Development and the General Council, launch a new action agenda to strengthen and enhance the WTO's ability to work with other international institutions in delivering such assistance to Members, particularly the least-developed. The new action agenda shall also improve the Integrated Framework for the Least-Developed Countries (IF) by promoting greater coherence among institutions and emphasize efficiencies among donor countries in the conduct of their programmes; ensure that such programmes are "demand driven" and responsive to the needs and interests of recipients; and explore establishment of a designated development partner programme to assist least-developed countries to coordinate follow-up activities. Drawing upon this experience, Members will eventually pursue the concepts embodied in the IF in a new, separate framework for the delivery of capacity building technical assistance to a broader range of WTO Members who are less advanced or are economies in transition.

Action agenda

3. Not later than July 2000, Members shall complete an evaluation of current capacity building technical assistance delivery mechanisms and develop proposals for General Council consideration by:

- examining implementation of the IF for the least-developed and propose improvements to the programme;

- assessing the viability of a development partner programme for the least-developed to assist these countries in making full use of the IF;

- improving cooperation among international intergovernmental organizations (IGOs) in the identification and delivery of technical assistance, with the objective of maximizing the number of participating IGOs in the new action agenda, particularly those participating in the IF;

- ensuring that capacity-building assistance to address "supply-side" and/or regulatory and other infrastructure needs are appropriately examined for further action;

- incorporating bilateral donors and technical assistance providers into activities under the new action agenda, including the IF, and explore ways to improve coherence in the interaction among bilateral donors, IGOs, including relevant regional IGOs and the non-governmental organization (NGO) community;

- working to establish a comprehensive framework for the funding of technical assistance, based on an evaluation of priority requirements, current funding mechanisms (including expenditures) and other potential funding sources to ensure effective use of resources and ensure their sustainability over the long term, including the Special Adviser's ability to coordinate the IF with adequate human and other resources;

- establishing a mechanism for the regular review and evaluation of capacity building and technical assistance activities which may include regular progress reports and follow-up to the General Council by the Director-General, a Deputy Director-General or Special Adviser; and

- taking into account progress on implementation of the IF for least-developed countries, to consider creation of a separate and distinct integrated technical assistance coordination and delivery mechanism for other less advanced countries and economies in transition, employing concepts used in the IF, where possible.

Rationale

4. During the General Council debate, many Members have commented on the need for a new approach to technical cooperation and capacity building and their interest in participating in the design and evaluation of technical assistance programmes. It is also clear that the improvements in the implementation of the IF for the least-developed are necessary. The experience of the first five years of the WTO leads us to the conclusion that broadening, enhancing and more effectively coordinating technical assistance is desirable and that Ministers meeting in Seattle need to give specific directions to the WTO, under the leadership of the Director-General, to make important and immediate improvements in this area, building on the experience of the IF.

5. In 1997, as part of the High-Level Meeting on Integrated Initiatives for the Least-Developed Countries' Trade Development, the IF was developed to foster an integrated approach to trade-related technical assistance activities for the least-developed Members, aimed at improving their overall capacity to respond to the challenges and opportunities offered by the trading system. The process began with the identification of needs by each country, followed by a joint response to those needs by participating IGOs. Ultimately, each least-developed country received an integrated technical assistance plan from the IGOs.

6. The IF was a sound approach, but, in practice, has some shortcomings in terms of implementation, particularly with respect to lack of follow-up and poorer-than-expected coordination among IGOs. Nevertheless, with appropriate attention to the problems identified, we believe that some of the concepts of the IF could eventually be employed in developing a programme to plan and deliver technical assistance to non-least-developed countries in the WTO system. Such a programme would be separate from the IF itself, which was designed to respond specifically to the substantial needs of least-developed countries. The WTO can facilitate efforts to improve both the IF and assistance to other WTO Members by playing a more active coordinating role.

7. There are many actors in the capacity building/technical assistance field from IGOs to WTO Member donor countries to WTO Member recipient countries, although not all are yet granted observer status in the WTO. Numerous IGOs are involved. Assistance also is provided at the bilateral level and via the extensive network of NGOs and other organizations. At the same time, recipient countries have called for a better means of working within the framework of assistance to select and make the best use of programmes that will meet their particular needs. There has been considerable emphasis on the importance of ensuring a demand-driven component to programmes and that they include identification of priority projects based on recipient country needs assessments and their relationship to trade-related capacity building. In the context of World Bank country programmes, reflecting government priorities, the World Bank can incorporate trade-related projects that facilitate WTO capacity building.

8. A new approach should be adopted by Ministers at Seattle with the aim of revitalizing the success of the initial work done under the and strengthening existing forms of cooperation. Many governments found that the needs assessments were an invaluable tool for considering the viability and efficiency of new programmes. The WTO need not compete with other international institutions or development institutions, but it must strengthen its ability to assist Members in maximizing the opportunities for assistance and ensuring that they enhance prospects for fuller integration of Members into the trading system. WTO Members have a special responsibility in this regard with respect to the least-developed Members of the WTO. In an effort to assist the least-developed, through the administrative and coordination process, the WTO should consider establishing a programme of development partners that might take the responsibility for ensuring that there is appropriate follow up in organizing roundtables and other coordinating activities, including possible involvement of members of the NGO community in the effort.

9. Some of the issues raised by all developing countries include inadequate or ineffective technical assistance, resource problems and implementation problems. Developing countries, in particular least-developed, have stressed that the IF and other technical assistance is just part of the picture. Assistance in building the capacity to trade is an important part of efforts to fully integrate countries into the multilateral trading system. Regular reporting to the General Council by the Director-General, a Deputy Director-General or Special Adviser would re-enforce the importance of follow through on overall development issues, as well as maintain an elevated approach to these issues in the context of integrating countries into the multilateral trading system. Work on a comprehensive, sustainable and long-term approach to funding technical assistance and capacity building is also an important factor.

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African Trade Ministers Forum
Washington, D.C.
May 2000

POTENTIAL BENEFITS OF GLOBALIZATION FOR SUB-SAHARAN AFRICA

Tidjane Thiam

POTENTIAL BENEFITS OF GLOBALIZATION FOR SUB-SAHARAN AFRICA

The context

In the mid-1950s, sub-Saharan Africa (SSA) accounted for 3.1% of global exports. By 1990, this share had fallen to 1.2% (*Ng & Yeats, 1996*). After a long period of stagnation, real growth in SSA has accelerated to 4.5% per annum in 1995-1998. The resumption of growth has been accompanied by progress in macroeconomic stability as well as structural reforms and trade liberalization.

After years of regression, the new African growth creates a better context to analyze and discuss trade issues.

This paper will try and identify the potential benefits of globalization and WTO for SSA. It will then identify some the items which could be on an agenda of action for SSA countries, before drawing some conclusions.

The potential benefits

The potential benefits of trade are significant and well known. The **potential costs** associated with mismanaging trade issue **are also very high**. Thus, if African nations had maintained their 1962-1964 OECD market shares, their exports now would be 75% percent higher (USD 12 billion). In 1998, the total net disbursements of Official Development Assistance (ODA) to Africa was USD 13.85 billion. The magnitude of these numbers can help us understand that **few issues are more important for SSA's future than trade.**

So **what are the potential benefits of trade for SSA**? Trade can be beneficial in many different ways. Countries with open trade and investment can:

(i) provide their citizens and companies with the widest choice possible;
(ii) specialize in what they are best at;
(iii) create competitive industries;
(iv) stimulate domestic and foreign investment;
(v) benefit from transfers of knowledge, technology and organizational capacities

It is interesting to elaborate on some of those benefits, since trade liberalization always raises concerns, many of them being the result of insufficient access to and availability of adequate data and information. The case for trade rests on a few core foundations:

1. People everywhere, and Africans are no exception, want more rather than less freedom of choice. Trade and investment liberalization allow citizens to exercise a very basic human right, **the right to choose**, whether it is what to buy and to sell, at what price; where to obtain inputs; where and how to invest;

2. A second important foundation is based on the idea of **comparative advantage**: countries, like individuals, prosper when they use their resources – natural, human, industrial, financial, intellectual – to focus on what they do well relative to others. Companies and individuals must be free to engage in specialization and exchange. Specialization allows an optimal use of individuals' and firms' strengths and abilities. Exchange broadens the

range of goods and services available to firms and individuals and therefore lowers prices, allows investors to diversify risks, put resources where returns are highest and access capital at the lowest possible cost. So, **open markets allow efficient and productive use of scarce resources;**

3. Open trade and investment allows firms to get their inputs on the world market but also to increase their potential revenues beyond their own domestic market. Thus they can realize **economies of scale**. In short, **open trade allows companies to be more competitive**. This increases profits, which in turn feed investment and employment.

   All consumers – firms or individuals - benefit. Firms get access to the most competitive sources of materials, components and services. Individuals get lower prices, greater product diversity and therefore higher purchasing power. Imports can also help dampen inflation by disciplining domestic producers. Low inflation is good, especially for the poor.

   The case of the garment industry is particularly interesting. Garment assembly has shifted to poorer countries because of its labor-intensity. Consumers in developed countries benefit from this because they can buy garments for themselves and their families more cheaply. Workers in developing countries benefit and have enjoyed income growth and skills development. Firms in developed countries also benefit because developing countries moving up the income ladder typically spend their export proceeds on more sophisticated products such as chemicals, computers and machinery from developed countries;

4. Trade and foreign investment also provide a strong incentive to domestic producers to improve their performance by reducing waste and modifying their production techniques. By encouraging the adoption of best-practice processes, trade and investment accelerate **the transfer of ideas and technology across borders**.

Why Protectionism is not the answer

Liberalization of course **can be disruptive and can appear costly, especially politically**, in the short term. Countries, firms, workers can be hurt by their competitors' levels of efficiency. Although open trade and investment produce very significant overall gains for any given country, some segments of society experience adjustment difficulties and income losses when markets are opened.

So regular calls are heard to protect industries and workers against imports by using quotas and various non-tariff barriers. **Implementing that type of policies would cost dearly to SSA countries.**

The costs of protectionism are well documented and worth mentioning. **Barriers** to trade or investment (i) **raise the prices** of both imports an domestic products, (ii) **restrict consumer choice** and (iii) **lower quality** by removing competitive pressure.

By raising prices, higher trade and investment barriers act as a tax hike. Conversely, trade liberalization is in effect a tax cut. The Uruguay Round outcome can be viewed as a global tax cut of over USD 200 billion per annum. On another issue, the WTO's Information Technology Agreement (ITA) reached in December 1996, calls for the complete removal of tariffs on over 90% of world trade in IT products over 1998-2001. The direct and indirect gains from the ITA are estimated at USD 50 billion, a *de facto* tax break. This type of measures is even more critical for SSA countries which, in spite of their low levels of income and purchasing power, desperately need access to information technology.

In most OECD countries, protection is highest in the case of food, clothing and footwear. This is damaging for **SSA countries whose comparative advantage lies in agriculture and labor-intensive activities.**

Similarly, imposing trade or capital restrictions to protect jobs will only shrink the domestic economic pie, lowering welfare for all workers in the long-run. Trade restrictions protect the domestic market but at a high cost for consumers. Examples abound:

- Protection against imports of textiles and clothing costs an annual USD 310 to every household in the United States and USD 220 to every Canadian household;

- "Voluntary" export restraints by Japan on automobiles shipped to the European Union (EU) raised the price of Japanese cars to EU consumers by 33%.

Numerous studies have assessed the costs of protectionism, especially for developing countries and Africa. Some findings are worth reporting:

- The Common Agricultural Policy (CAP) of the EU costs USD 1,500 a year to an average European family as consumers; they are then charged a further USD 100 per head as taxpayers to subsidize farmers directly (*Spicer M., 1997*);

- Japanese farmers received income assistance and protection equivalent to 77% of the value of their production in 1995. Total cost is USD 49.3 billion. 51% of the price consumers paid in 1995 represented a tax over and above world prices (*OECD, 1996*);

- According to the Government of New Zealand, consumers and taxpayers in the OECD transferred USD 350 billion to agriculture in 1993 – enough to pay for each of the OECD's 41 million dairy cows to fly first class around the world one and a half times (*New Zealand Ministry of Foreign Affairs and Trade, 1994*);

- Cargo preference laws were estimated to add over USD 100 million to the cost of providing food donations to foreign countries in 1985 (*General Accounting Office, 1985*);

- Eliminating quotas and tariffs that developed countries impose on **textile** and **clothing** imports could generate **an annual global welfare gain of USD 23 billion**. The gain could be USD 12.3 billion for the USA, USD 0.8 billion for Canada and USD 2.2 billion for the EU. **In total, developing countries would gain USD 8 billion in additional income** (*OECD, 1999*);

- Liberalization of trade in **services** has been associated with large price cuts. Price of phone calls has fallen 4% per annum in developing countries and 2% per annum in developed countries. The World Bank predicts that the cost of a one hour transatlantic phone call could be as low as 3 cents in 2010 (*IHT, 1997*);

- The WTO Agreement on Basic Telecommunications Services is expected to yield savings of 80% for international phone calls over the next several years – which could go from USD 1 per minute to 20 cents per minute (*Institute for International Economics in the WSJ, 1997*);

- Allowing competitors to enter Ghana's domestic cellular market led Mobitel, previously a monopoly, to cut its connection charges by 50% (*Petrazzini B., 1996*);

- Since 1993, exports have accounted for one third of US economic growth. Today 12 million Americans owe their jobs to exports and 2 million of these jobs were created since 1995 (*Daley W., 1998*);

- In the last ten years, US exports to developing countries grew by 240% - faster than exports to high-wage countries. Export to low-wage countries now account for 42% of total US exports (*Daley W., 1998*);

The list of examples and illustrations is endless. **The point here is that protectionism imposes costs on the wider economy that far outweigh the gains to those it is meant to help. This holds for both developed and developing countries**, where the infant industry or the de-industrialization argument is too often used to justify regressive policies.

It is clear that trade reform can appear costly in the short term. Governments need to implement measures for those hurt by change so that trade liberalization remains politically acceptable. Public policies that encourage private initiative, the upgrading of skills through education and training, develop labor market flexibility are a better option than those that seek to postpone the day of reckoning.

Trade brings clear benefits. **Not implementing trade liberalization has high costs, which can the least be borne by SSA countries. Therefore, SSA countries must liberalize with determination trade and investment and give themselves a clear agenda for action in that respect.**

An agenda for action

Trade and investment, supported by the new information and communication technologies, are the most effective tools for spreading human capacities, which are the only foundations of true and lasting development. The new global economy is making knowledge, goods, services, technology available at a cheaper cost than ever before. The potential advances in such a world are limitless.

African countries are very aware of that potential. Today, most of the world's stock of knowledge is within the OECD countries. It is vital that African nations be open to trade and investment if they are to take advantage of that, internalize it and in turn be able to innovate and contribute more actively to the development of that global stock of knowledge.

Reaping the full benefits of open trade and investment involves several major challenges for governments. They have to implement **coherent policies and reforms** based on a few principles:

- The quality of **governance and institutions** is fundamental;

- **Political leadership** is key, throughout;

- The need for open trade and investment must be communicated relentlessly in an effective and inclusive manner;

- Coherent and sustained reforms work better than piecemeal measures; take a global approach;

- Whatever you do, **own it**: **local ownership** is key for any reform to have a chance to succeed;

There is **a very important link between on one hand domestic infrastructures of governance, institutional and human capacities and on the other hand trade and investment liberalization.** One cannot go without the other. Both official and private actors promoting open trade and investment must devote sufficient time and resources to the vital connection between trade liberalization and domestic capacities.

Some specific policy issues must also receive adequate attention:

- **Social policies** during structural reforms: as the modern sector expands, appropriate social safety-nets are an essential part of a politically sustainable economic development strategy;

- **Financial systems**: financial liberalization must be accompanied by capacity-building in the financial sector. Legal frameworks and corporate and public governance system must be supported by the adequate level of human and institutional capacities;

- **Public sector reform**: in most African countries, customs generate a sizeable portion of government revenues. Trade liberalization can in the short term lead to a decrease in customs revenues. Therefore, for trade liberalization to happen, it is important that the government conducts a thorough fiscal reform so that it becomes less dependent on customs. The entire public sector must also be deeply reformed and public expenditures reduced to make room for such reforms. **Too often, in Africa, high tariffs become a means to support an oversized public sector, locking up the economy in a vicious circle of lower growth, lower government revenues and continuously higher tariffs.**

Conclusion

The case for open trade and investment is very strong. Protectionism is not an option. SSA countries must embrace trade liberalization which has for them and their populations a huge upside potential of growth and poverty alleviation.

The immediacy of pains that liberalization can generate and the more diffuse and longer-term nature of its benefits will always make life difficult for advocates of trade and investment openness. Open trade and investment are not only about higher growth they also involve fairness. **Fairness** in making sure that **the general interest**, that is the welfare of all citizens, **prevails over special interests**; and in ensuring that the benefits of liberalization are **distributed in an equitable manner within and between countries.**

Developed nations have a very important role to play since liberalization and capacity-building go hand in hand. The level of assistance supplied to help African nations build their human and institutional capacities for handling trade and investment issues will be a key factor. Developed nations also have to give more access to their markets, particularly in the fields where Africa enjoys a comparative advantage.

This is why **spirited, courageous and determined political leadership is vital, at the national as well as at the international level, in both developed and developing countries**, in order to implement the necessary changes, which will in the long run ensure the global prosperity of both developing and developed countries.