

Free-Trade Agreement · United States-Israel Free-Trade Area Agreement · Bilateral Investment Treaty Program · Group of Negotiations on Services · United Nations Conference on Trade and Development · World Intellectual Property Organization · Agreement on Import Licensing Procedures · Agreement on Trade in Civil Aircraft · International Tropical Timber Agreement · Common Fund for Commodities · Consultative Group of 18

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OPERATION OF THE TRADE AGREEMENTS PROGRAM

41st Report · 1989

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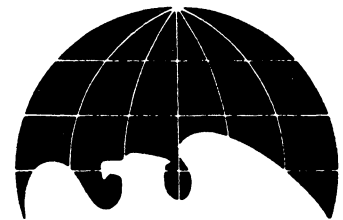
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WASHINGTON, DC 20436

OPERATION OF THE TRADE AGREEMENTS PROGRAM

41st Report

1989



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PREFACE

The annual *Operation of the Trade Agreements Program* report is one of the principal means by which the U.S. International Trade Commission (USITC) provides the U.S. Congress with factual information on trade policy and its administration. The report also serves as a historical record of the major trade-related activities of the United States, for use as a general reference by Government officials and others with an interest in U.S. trade relations. This report is the 41st in a series to be submitted under section 163(b) of the Trade Act of 1974 and its predecessor legislation.¹ The trade agreements program includes "all activities consisting of, or related to, the administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution. . ." and Congressional legislation². Among such laws are the Reciprocal Trade Agreements Act of 1962, the Trade Act of 1974, the Trade Agreements Act of 1979, the Trade and Tariff Act of 1984, and the Omnibus Trade and Competitiveness Act of 1988.

The report consists of a summary, an overview, five chapters, and a statistical appendix. The overview sketches the economic and international trade environment within which U.S. trade policy was conducted in 1989. Chapter 1 treats special topics that highlight developments in trade activities during the year. Chapter 2 focuses on activities in the General Agreement on Tariffs and Trade (GATT), the main area of multilateral trade agreement activities. Such activities outside the GATT are reported in chapter 3. Chapter 4 discusses bilateral relations between the United States and its major trading partners. The administrative actions taken under U.S. laws, including decisions taken on remedial actions available to U.S. industry and labor, are discussed in chapter 5. The period covered in the report is calendar year 1989, although occasionally, to enable the reader to understand developments more fully, events in early 1990 are also mentioned.

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

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

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List of Frequently Used Abbreviations and Acronyms

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

Summary

Selected Issues in Trade Agreements Activities In 1989

Chapter 1 of this report highlights four significant trade developments in 1989: the first-year experience under "Super 301", a new provision of U.S. law; the emergence of certain Eastern European economies; the liberalization of trade measures affecting United States-Mexican trade; and the evolution of a bilateral trade agreement between the United States and the Soviet Union.

During its first year of operation, three priority countries with restrictive trading practices were identified under the Super 301 provision of the Trade Act: Brazil (quantitative import restrictions, import bans and restrictive licensing); Japan (exclusionary government procurement practices for satellites and supercomputers and technical barriers to trade in forest products); and India (performance requirements in investment and barriers to trade in services). During 1989, no "priority countries"¹ were designated under the Special 301 provision of the Trade Act. Rather, 25 countries were singled out for special attention. Seventeen were placed on a "Watch List": Argentina, Canada, Chile, Colombia, Egypt, Greece, Indonesia, Italy, Japan, Malaysia, Pakistan, Philippines, Portugal, Spain, Turkey, Venezuela, and Yugoslavia. Eight were placed on a "Priority Watch List" (Brazil, India, Mexico, the People's Republic of China (PRC), Korea, Saudi Arabia, Taiwan, and Thailand).

The democratization that occurred in Eastern Europe during 1989 accelerated economic reforms in the region and prompted an immediate improvement and expansion in U.S. commercial relations with the countries of that region. President Bush's visit to Poland and Hungary in 1989 coincided with the opening of a new epoch in U.S. relations with these countries, and led to introduction of the East European Democracy Act of 1989, which became the centerpiece of comprehensive U.S. financial support and assistance to Poland and Hungary during the year.

In October 1989, President Bush and Mexico's President Salinas signed an agreement, entitled the "Understanding Between the Government of the United Mexican States and the Government of the United States of America Regarding Trade and Investment Facilitation Talks" (TIFTs), to facilitate negotiations between the two countries on expansion of trade and investment opportunities. The topics for initial negotiations included expanding trade and investment in petrochemicals and product standards issues.

Bilateral trade between the Soviet Union and the United States was an important topic of discussion at the Malta summit meeting between President Bush and President Gorbachev in December 1989. The two leaders agreed to undertake negotiations to draw up a trade agreement by June 1990 that would cover the mutual extension of MFN treatment; economic projects on finance, agriculture, statistics, and small business development; the establishment of a stock exchange and an antimonopoly policy in the Soviet Union; and a bilateral investment treaty.

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

The General Agreement on Tariffs and Trade (GATT) is a multilateral agreement drafted 43 years ago that sets forth general rules of conduct for trade between signatory countries. The GATT is both a comprehensive set of rules governing most aspects of international trade, and a forum for multilateral trade negotiations and dispute resolution among the contracting parties. GATT membership grew to 97 members in 1989 (when Bolivia acceded), with several more countries seeking to accede. GATT activities during 1989 are reviewed in chapter 2.

¹ I.e. countries which fail to provide protection for intellectual property rights or market access for U.S. persons that rely on such rights.

In 1989, the groups formed to conduct the Uruguay Round negotiations continued to employ significant resources of the country delegations and the GATT Secretariat. Thus, many regular and routine functions of the GATT were discontinued or deemphasized compared with previous years. Among the achievements of the Uruguay Round in 1989 were two major institutional changes to the GATT: streamlined dispute settlement procedures were implemented to ensure timely and efficient dispute settlement, and the Trade Policy Review Mechanism (TPRM) was created to encourage greater compliance with GATT rules. Specific developments in each of the negotiating groups of the Uruguay Round (the Trade Negotiations Committee, the Surveillance Body, the Group of Negotiations on Services, and the Group of Negotiations on Goods) are outlined in Chapter 2.

Aside from the Uruguay Round negotiations, work of the GATT committees and actions taken under the General Agreement continued, but with less intensity than in previous years because of the negotiations. In 1989, a number of article XIX ("escape clause") actions were notified or in effect as a result of previous notifications, or terminated, including the EC invocation for imports of certain types of processed cherries, and the Chilean termination on sugar, wheat, and edible vegetable oil imports. GATT dispute panels were requested by the United States on the following foreign trade practices: Canadian restrictions on ice cream and yogurt; Norwegian restrictions on apple and pear imports; Korean restrictions on beef imports; EC subsidies on oilseeds and related animal-feed proteins; EC restrictions on apple imports; EC restrictions on exports of copper scrap; and Canadian measures on exports of unprocessed salmon and herring. Finally, 1989 GATT dispute panels examining U.S. measures included the following: the Brazilian complaint on retaliatory U.S. tariff increases; the Australian complaint on the sugar import regime; the EC complaints on the U.S. waiver on sugar and U.S. actions under Section 337; the Canadian and EC complaint on the customs user fee; and the EC complaint against Japan on the United States-Japan Semiconductor Arrangement.

Six of the Tokyo Round agreements establish rules of conduct governing the use of nontariff measures (codes on subsidies and countervailing duties, government procurement, standards, import-licensing procedures, customs valuation, and antidumping), and three are sectoral agreements covering trade in civil aircraft, bovine meat, and dairy products. Chapter 2 reviews GATT activities in detail under these nine Tokyo Round agreements.

Trade Activities Outside the GATT

In addition to the GATT, several other international organizations deal with international trade issues. The Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD) provide forums for consultation and policy coordination on issues including international trade. Their work often complements the work done in GATT. Other bodies, such as the Customs Cooperation Council (CCC) and the international commodity organizations coordinate and regulate specific aspects of international trade. Chapter 3 discusses 1989 activities in these organizations and also covers the United States-Israel FTA, the United States-Soviet Grain Agreement, the Arrangement Regarding International Trade in Textiles, and trade developments in selected service industries.

1989 OECD highlights include the rejection of unilateral trade policy measures and other unilateral attempts to manage trade at its annual meeting, and an endorsement of OECD countries' responsibilities to confront environmental problems. The OECD also continued to monitor reform of its members' agricultural policies in 1989.

During 1989, the CCC worked in a number of areas to achieve a greater degree of international simplification and harmonization of customs procedures. It continued to administer the Harmonized Commodity Description and Coding System (HS), which entered into force internationally in 1988 and for the United States on January 1, 1989, and it began a systematic review of the entire nomenclature structure to ascertain whether product categories should be redescribed, added, or eliminated.

At the end of 1989, the United States was participating in six of seven international commodity agreements covering wheat, sugar, coffee, tropical timber, jute, and natural rubber. (The United States does not participate in the agreement governing cocoa.) In 1989, there were several developments affecting various commodities and accompanying agreements, including the collapse of the International Coffee Organization and declines in the prices of cocoa and rubber.

1989 was the fourth full year of operation of the United States-Israel FTA. The total reported value of 1989 imports under the FTA was \$759 million, or about 23 percent of total U.S. imports from Israel. This represents the lowest share of total imports from Israel since the FTA became operational.

Competition for market shares in the Soviet grain market remained intense during 1989. According to estimates by the U.S. Department of Agriculture, the U.S. share of total Soviet wheat imports declined from 50 percent during fiscal year 1988 to 33 percent during fiscal year 1989. However, the U.S. share in the Soviet coarse grain market—which includes corn—increased from 50 percent to about 70 percent during the same period.

The Arrangement Regarding International Trade in Textiles, commonly known as the Multifiber Arrangement (MFA), was established in 1974 and has been extended three times since its inception. The most recent extension (MFA IV) went into effect on August 1, 1986, and is scheduled to expire on July 31, 1991. This extension expanded coverage of the MFA from textiles and apparel of cotton, wool, and manmade fibers to include products of silk blends and of noncotton vegetable fibers. Of the countries with which the United States had bilateral agreements, the leading suppliers were Hong Kong, Taiwan, the People's Republic of China, and Korea. The combined imports from these countries totaled \$12.9 billion, or almost one-half of the \$26.6 billion in total textile and apparel imports in 1989. The value of imports from these four countries together rose by almost 15 percent in 1989 from the 1988 level.

Chapter 3 also reviews 1989 activities in detail in the five major service industries: architectural, engineering, and construction services; insurance services; financial services; maritime transportation services; and telecommunications and information services.

Developments in Major U.S. Trading Partners

Chapter 4 reviews the important bilateral trade issues of major U.S. trading partners in 1989. These major partners include the European Community (EC), Canada, Japan, Mexico, Taiwan, the Republic of Korea (Korea), and Brazil. In 1989, the United States recorded a \$1.5 billion merchandise trade deficit with the EC, representing an 88-percent decline from 1988. The EC plan to create a single market by 1992 provided the primary focus for bilateral trade issues in 1989. Also of concern were agricultural issues (meat hormone ban, moratorium on dairy-enhancing hormone, and canned fruit), U.S.-EC steel trade, and U.S. concerns over EC subsidization of Airbus Industrie (a European aircraft-manufacturing consortium).

The general state of U.S.-Canadian economic relations in 1989 was upbeat. Under the new free trade agreement (FTA), bilateral differences have a formal resolution process, and tariffs between these two major trading partners will be eliminated over the next ten years. However, some minor trade frictions did arise in 1989, one example being the disagreements over fish-related issues. The passage of a new Canadian goods and services tax (GST) of 9 percent (to be implemented in 1991) is likely to have an impact on commerce between the two countries.

Bilateral issues between Japan and the United States in 1989 were dominated by a series of disputes which were facilitated by legislative requirements of the newly enacted Omnibus Trade and Competitiveness Act of 1988. Among the product sectors affected were forest products, supercomputers, satellites, telecommunications, and major construction projects. Long-standing U.S. concerns about access to Japan's market for semiconductors and agriculture also remained prominent in the year.

The 1989 annual meeting of the United States-Mexico Binational Commission was characterized by a climate of cordiality and frankness. In addition to several noneconomic issues—such as migration, environmental concerns, and cultural affairs—financial cooperation, trade, and investment were important areas of bilateral consideration. In addition, Mexico's desire to increase its exports of steel, textiles, and automobiles to the U.S. and U.S. concerns over intellectual property protection, foreign debt, and the maquiladora industry, dominated bilateral issues.

Several major issues dominated the bilateral agenda in United States-Taiwan trade during 1989. Two bilateral agreements were reached in 1989 concerning protection of intellectual property rights. The question of whether Taiwan manipulates its exchange rate to gain an unfair trading advantage was a heated topic throughout the year, until Taiwan loosened its Central Bank's control of its exchange rate at the end of 1989. Taiwan authorities released a trade action plan to cut the bilateral trade imbalance by 10 percent a year for 4 years. Finally, an agreement was signed allowing U.S. officials to board Taiwan fishing boats to conduct spot-checks for driftnet fishing.

In 1989, Korea's bilateral trade surplus with the United States declined by 50 percent from 1988. During the year, bilateral relations improved and certain ongoing issues were resolved concerning aspects of intellectual property rights, driftnet fishing, steel trade, and aviation. Key remaining bilateral issues revolved around market access for U.S. beef and telecommunication services, Korea's use of the GATT balance-of-payments provisions for import restrictions, and food safety questions concerning bilateral fruit trade.

Brazil's economic relations with the United States in 1989 were strained by Brazilian preoccupation with general elections scheduled for November, and the outgoing government's focus on serious economic problems at home. During the year, Brazil barred imports of various agricultural and manufactured products, including meat, dairy products, plastics, chemicals, textiles, leather products, electronic items, motor vehicles, and furniture. Brazil also continued to use its licensing system to implement company and sectoral import quotas, which hampered U.S. exports of office machine parts, internal-combustion engine parts, and electrical machinery.

Administration of U.S. Trade Laws and Regulations

Chapter 5 reviews activities related to the administration of U.S. trade laws in 1989. Actions under import relief laws, unfair trade laws, and other import administration laws are included.

No investigations were instituted during 1989 under section 201 of the Trade Act of 1974 ("escape clause"), compared with one investigation on certain knives instituted during 1988. Also, no investigations were instituted during 1989 under section 406 of the Trade Act of 1974 ("market disruption"). The most recent investigation under section 406 was instituted in 1987, concerning ammonium paratungstate and tungstic acid from the PRC.

In fiscal year 1989, the U.S. Department of Labor instituted 2,282 trade adjustment assistance investigations, amounting to an increase of 124 percent from the 1,019 investigations instituted in fiscal year 1988. The increase was due to a special provision of the Omnibus Trade and Competitiveness Act of 1988, which gave oil and gas industry workers a 90-day period in which to file petitions for eligibility retroactive to 1985. The number of completed certifications in fiscal year 1989, both fully and partially granted, increased to 1,115 from 367 in fiscal year 1988. This was due to the increase in petitions from workers in the petroleum and related products industries.

The U.S. worker in the Department of Commerce certified 175 firms as eligible to apply for trade adjustment assistance during fiscal year 1989, amounting to a small increase from the 171 firms certified in the previous fiscal year.

The Department of Commerce and the Commission conducted numerous antidumping and countervailing duty (CVD) investigations under title VII of the Tariff Act of 1930. In 1989, the Commission completed 25 preliminary and 38 final antidumping duty investigations, compared with 38 preliminary and 11 final investigations in 1988. The Commission completed 3 preliminary and 9 final countervailing duty investigations in 1989, compared with 10 preliminary and 2 final investigations in 1988.

The Commission completed 18 investigations under section 337 of the Tariff Act of 1930, compared with 16 in 1988. As of December 31, 1989, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect.

In 1989, two investigations under section 301 of the Trade Act of 1974 were initiated by the U.S. Trade Representative (USTR) upon petitions filed by private parties (cigarettes from Thailand and toll equipment from Norway) and one investigation was self-initiated by USTR (canned fruit subsidies from EC). Other active 301 cases in 1989 included EC canned food production subsidies, oilseeds, animal hormone directive, and copper scrap restrictions; Japanese construction-related service barriers; Argentine patent protection for pharmaceuticals, differential export taxes on soybeans and soybean products, and air couriers; Korean wine practices and beef-licensing system; Canadian salmon and herring; and Brazilian informatics policies.

In 1989, the Commission initiated two investigations under section 22 of the Agricultural Adjustment Act on ice cream and cotton comber waste. Quantitative import restrictions established pursuant to section 22 authority remained in place throughout 1989 on cotton of specified staple lengths, cotton waste, certain cotton products, peanuts, certain dairy products, sugar, sugar syrups, and sugar-containing articles. Compensatory import fees remained in effect on refined sugar.

In 1989, the Department of Commerce completed three investigations under section 232 of the Trade Expansion Act of 1962—on plastic injection molding machinery, uranium, and petroleum. All cases resulted in negative findings, and no new investigations under section 232 were initiated during 1989.

The Caribbean Basin Economic Recovery Act (CBERA) finished its sixth year of operation at the end of 1989. Imports entering the United States free of duty under the CBERA increased by almost 15 percent between 1988 and 1989, to a total of \$906 million. The composition of U.S. imports from the CBERA beneficiaries continued to change in 1989, with strong growth exhibited in textiles, apparel, and chemical imports, and a decline in animal and vegetable imports.

Duty-free imports entering the United States under the Generalized System of Preferences (GSP) program in 1989 declined to \$10.0 billion from \$18.4 billion in 1988. The decline is attributable to the removal of four of the program's top five beneficiaries (Taiwan, Korea, Hong Kong, and Singapore), effective January 1, 1989. GSP imports receiving duty-free access in 1989 accounted for 41.1 percent of all eligible products, and accounted for 11.6 percent of total imports from beneficiary countries and 2.1 percent of U.S. imports from the world.

Overview:

The International Economic Environment in 1989

The world economy continued to expand in 1989, although at a slower rate than in 1988. The estimated increase of 4-percent in world output during the year has been exceeded only twice in the past decade, in 1984 and 1988. The growth in the volume of world merchandise trade parallels output growth: the year's 7-percent growth rate was also exceeded in the last 10 years only in 1984 and 1988. The value of world trade grew by 7.5 percent, passing the \$3 trillion mark for the first time.²

Some progress was made in reducing international payments imbalances in the year under review, but little improvement was seen in the situation of the least developed countries and the highly indebted developing countries.³ Efforts to promote economic reform and growth in the Soviet Union and Eastern European countries, and to further integrate them into the world trading system, arose as more immediate policy challenges near the end of 1989.

Trade and Economic Policy

In 1989 trade policy moved in several directions. Among many developments in the General Agreement on Tariffs and Trade (GATT), proposals were submitted on nontariff measures, intellectual property, and trade in services. Negotiations on tariff reductions were temporarily blocked at the beginning of the year by a failure to agree on the method to be used for reducing tariffs in the Uruguay Round. Bilateral and regional trade developments included the operational initiation of the United States-Canada Free-Trade Agreement, the institution by the United States of Super 301 actions with respect to certain trading practices of Japan, India, and Brazil, and the graduation of several newly industrialized countries (NICs) from the Generalized System of Preferences. In October President Bush and Mexican President Salinas signed a preliminary accord establishing a series of bilateral trade and investment negotiations between the United States and Mexico.

The closing weeks of 1989 saw the beginnings of dramatic changes in the political and economic structure of Eastern Europe, as new governments arose in Poland, Hungary, Czechoslovakia, East Germany, and Romania. In varying degrees, each of these governments has committed itself to greater individual political and economic freedom, and openness to the world trade and investment system. At a somewhat more deliberate pace the Soviet Union was also moving in these directions.

At the end of 1989 the European Community (EC) and the Soviet Union signed a 10-year trade and cooperation agreement, providing a framework for commercial and technical cooperation. The agreement includes reciprocal extension of most-favored-nation (MFN) status, and a pledge on the part of the EC to remove most of its quotas on imports from the Soviet Union by 1995. The agreement also provides for the training of Soviet entrepreneurs in Europe and provides various guarantees and assurances designed to facilitate EC business operations in the Soviet Union.

In the autumn of 1989 the EC issued an action plan on Poland and Hungary, calling for an end to quotas on imports from those countries. An expansion of an existing agreement with Czechoslovakia was nearing completion at the end of the year, as were comprehensive agreements with East Germany and Bulgaria.⁴

With some noteworthy exceptions, progress in the Uruguay Round negotiations was routine. Among various proposals tabled in the appropriate negotiating groups was one presented by the United States on the harmonization of country of origin rules. This proposal would require GATT parties to publish their laws, decisions, and practices that determine the origin of goods in trade.

² GATT press communique, GATT/1477, March 14, 1990, p. 3.

³ GATT Secretariat, *International Trade 1988-1989, Vol. I*, 1989, p. 16.

⁴ U.S. International Trade Commission, *International Economic Review*, February 1990, p. 5.

Difficulties persisted in negotiations on agriculture, textiles, and intellectual property. U.S. proposals for the reduction of nontariff barriers in agriculture were countered by a Japanese proposal which would permit certain agricultural subsidies and supports on the grounds of food security. No significant progress was made in the reporting year on reducing European agricultural subsidies.

The United States-Canada Free-Trade Agreement took effect at the beginning of 1989, and some early results of the pact have been mixed. There have been plant closings in Ontario at least partially attributed to the FTA, as well as business expansion in Quebec. Buffalo, NY has been experiencing a commercial and real estate boom at least partially fueled by Canadian trade and investment, and many U.S. cities along the border have seen an increased number of Canadian shoppers, attracted by lower U.S. prices that have resulted from an appreciation in the value of the Canadian dollar.⁵

Under the terms of the Super 301 provisions of the Omnibus Trade and Competitiveness Act of 1988, the Administration announced three priority countries and six priority practices for investigation. Japan was cited for restrictive government procurement policies on computers and satellites and for its standards and technical barriers for forest products. Brazil's import-licensing system and India's trade-related investment practices and barriers to trade in insurance services were also cited. As a separate issue, negotiations with Japan were instituted to obtain reductions in major structural impediments to trade (the SII, or Structural Impediments Initiative).

World Trade in 1989

In 1989 world merchandise trade continued to expand more rapidly than world output. Trade increased by 7 percent in volume over the previous year, and by about 7.5 percent in value. The value of world merchandise trade reached \$3.1 trillion, passing the \$3 trillion mark for the first time. Manufactured goods comprised about 70 percent of the value of world merchandise trade and contributed most of the growth in trade volume. Manufacturing trade increased by 8 percent, agricultural trade by 4 percent, and mining by about 4.5 percent. Figures are not yet available for trade in commercial services, but the level of trade in services was almost certainly higher than the \$600 billion level recorded in 1988.

Developing and developed countries experienced about the same rates of increase in trade volume, although developing economies had a higher rate of growth in the value of exports (12 percent, compared to 6.5 percent for the developed countries). The difference between the volume and value rates of growth is largely accounted for by an increase in the price of petroleum, a major export of the developing countries. Foreign trade by nonmarket economies was essentially stagnant; economic disruption in Eastern Europe and the Soviet Union held export growth to about 1 percent.

Among the developed countries, U.S. exports grew at about twice the world average. West European export growth was smaller, but still above the world average figure. For the fourth year in a row, Japanese exports grew at less than the world average rate.

U.S. Trade Performance

In 1989 the U.S. regained the position of the world's leading exporter, after ranking behind the Federal Republic of Germany for two years. Overall merchandise exports (f.a.s) increased by 13 percent to \$364.0 billion, and merchandise imports (customs value) increased by 7.3 percent, to \$473.0 billion. The merchandise trade deficit was \$109.0 billion, down \$9.5 billion from the previous year.⁶

⁵ Ibid.

⁶ U.S. Bureau of the Census, Foreign Trade Division, Report FT900 (CB-90-113), April 1990, p. 1.

Major manufacturing industries with the largest percentage increases in exports included electrical machinery (1989 exports of \$23.9 billion represented 6.6 percent of 1989 exports, and an increase of 10.6 percent over the 1988 level), organic and inorganic chemicals (up by 15.5 percent and comprising 4.1 percent of exports), airplanes (up by 19.2 percent, comprising 3.9 percent of exports), power-generating machinery (up 10.9 percent, comprising 3.9 percent of exports), specialized industrial machinery (up 14.3 percent, comprising 3.7 percent of exports), general industrial machinery (up 24.8 percent, comprising 3.6 percent of exports), and scientific instruments (up 22.5 percent, comprising 3.0 percent of exports). Exports of all manufactured goods increased 13.1 percent over the 1988 level, to \$276.4 billion. The value of agricultural exports increased by 9 percent over 1988, from \$38 billion to \$41 billion.⁷

The merchandise trade balances with specific trading partners generally improved during 1989. Measured as the difference between merchandise exports (f.a.s.) and imports for consumption (customs value), the deficit with NICs declined by 17 percent to \$31.5 billion, the deficit with Japan declined by 7 percent to \$49 billion, and the deficit with the European Community declined by 88 percent to \$1.5 billion. The deficit with Canada grew by 5 percent to \$13 billion, and with OPEC by 86 percent to \$17.1 billion.

The improvements in the trade deficit took place in the first half of 1989. Exports grew strongly in the first and second quarters, and slowed for the remainder of the year. The deficit declined strongly in the first quarter, slightly in the second, and started to grow again through the end of 1989. This was due in part to shrinking agricultural exports through the year (in particular to a temporary cutoff in exports of corn to the Soviet Union), to the strike at Boeing which cut exports of aircraft in the fourth quarter, and to an 8 percent appreciation in the value of the dollar in the first half of the year.⁸

Imports increased a total of 6.4 percent, led by a 28 percent increase in imports of oil. U.S. production of oil declined during the year, while both the price and volume of imports grew. The value of imported cars declined, reflecting a decrease in imports from Japan and Western Europe which was only partially offset by an increase in cars from Canada. The decrease in imports of cars from Japan reflected in large part a relocation of production to the United States, since sales of Japanese models actually increased in the United States.

⁷ U.S. Bureau of the Census, *United States Department of Commerce News*, February 1990, p. 1.

⁸ Board of Governors of the Federal Reserve System, *Federal Reserve Bulletin*, May 1990, p. 270.

Chapter 1

Selected Issues in Trade Agreements Activities in 1989

Introduction

This chapter describes four significant trade developments in 1989: the first-year experience under "super 301" and "special 301," new provisions of U.S. law; the movement of certain Eastern European economies towards market-oriented reform; the liberalization of measures affecting United States-Mexican trade; and the debate surrounding conclusion of a bilateral trade agreement between the United States and the Soviet Union.

The year 1989 marked the entry into force of a new, and in the view of many, controversial provision of the Omnibus Trade and Competitiveness Act of 1988 ("1988 Trade Act").¹ Known as "super 301," the provision provides the President with broad powers to seek redress for foreign actions that harm U.S. commercial interests. It requires the United States Trade Representative (USTR) during 1989 and 1990 to identify "priority" unfair trade "practices" and "priority countries" engaging in such practices, and to initiate investigations and seek remedies of these practices. The provision was a key variable in influencing overall U.S. relations with key trading partners in the year under review. It also exerted a strong influence on the world trading system, which was struggling to build international consensus on a host of difficult issues in the Uruguay Round. Underlying the tension associated with the 301 provision were questions about how far the United States can and should go in exerting its commercial interests when it has a stake in broader acceptance of the tenets of a rule-based system of mutual rights and obligations governing international trade.

Developments in Eastern Europe in 1989 were dramatic both politically and economically. The shift towards greater personal and economic freedom in parts of the Communist bloc and lessened East-West tensions encouraged hope for future expansion of U.S. trade and economic relations with the region. Congress reacted to the events in Eastern Europe by putting in place a package of nearly \$1 billion in trade and economic assistance measures for Poland and Hungary and by taking a number of other steps to expand two-way flows of goods, services, and capital.

With the election of a new Mexican President, commercial relations between the United States and Mexico accelerated. Bilateral negotiations

¹ Section 301 of the Trade Act of 1974, as added by section 1302 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. §2420.

resulted in agreements in 1989 on textiles, steel, and intellectual property. These sectoral agreements, and the considerable liberalization of the Mexican economy, led to the initiation of discussions about a possible free trade agreement between the United States and Mexico.

As perestroika led to a decrease in tension between the United States and the Soviet Union, the issue of a bilateral trade agreement was mentioned with increased frequency. The question of a trade agreement, its terms, and its conditions became a main subject for discussion at the superpower summit, held in Malta in December of the year under review.

Super 301

Super 301² has been described by many U.S. and foreign trade analysts as one of the most controversial and important changes to U.S. trade law arising out of the 1988 Trade Act. It differs from the regular section 301 procedure,³ which gives the USTR discretionary authority on what foreign practices to investigate and when. Super 301 requires that by a specified date, the USTR must identify and then begin investigations of "priority practices" and "priority foreign countries" that are the greatest barriers to U.S. exports.⁴ Moreover, in regular section 301 procedures, the USTR deals with trade barriers one at a time. But super 301 gives the USTR additional authority to deal with an array of major barriers, and for the first time, to identify countries that have major barriers.⁵ The USTR was required to issue super 301 lists of "priority" practices and countries only in 1989 and 1990.⁶

The unilateral focus of the Super 301 created controversy in the United States and abroad. In the view of some U.S. Government officials, super 301 was an important and much needed tool in opening foreign markets to U.S. goods.⁷ Other U.S. and foreign trade experts cautioned

² Super 301 is codified in the United States Statutes in 19 U.S.C. §2420.

³ A distinction must be made between the various types of trade statutes using "301." As used herein, "regular section 301" refers to Chapter 1 of title III of the Trade Act of 1974, as amended, 19 U.S.C. §2411 *et seq.* Regular section 301 provides the authority and procedures for the President to enforce U.S. rights under international trade agreements and to respond to certain unfair foreign practices. The principle difference between "Regular section 301" and "super 301" is that under regular section 301 procedures, the USTR deals with one trade barrier at a time, while under super 301, the USTR can investigate an entire array of barriers of a particular foreign country in the same investigation. "Special 301" refers to Section 182 of the Trade Act of 1974, as added by section 1303 of the Omnibus Trade and Competitiveness Act of 1988. It deals with barriers to trade caused by the inadequate protection of intellectual property rights.

⁴ 19 U.S.C. §2420(a), (b).

⁵ 19 U.S.C. §2420(a).

⁶ *Ibid.*

⁷ USTR Carla Hills statement, at her confirmation hearing in January 1989.

that widespread use of the provision could create the impression that one of the General Agreement on Tariffs and Trade (GATT) system's key architects was threatening to "go it alone" to enforce its notion of free trade. These analysts viewed Super 301 as an impediment to the successful conclusion of the GATT Uruguay Round and a dangerous precedent that could reduce the effectiveness of multilateral trade dispute resolution. This part of the report looks at the developments that led up to the creation of Super 301, the provisions themselves, the 1989 experience with those provisions, and the international reaction to those events.

Background

The United States was the principal motivator and architect of a postwar multilateral trading system based on nondiscrimination and reciprocity. In 1947, the United States joined with 22 other nations in devising the GATT to embody these principles. The General Agreement has served as a vehicle for the mutual reduction of tariff and other barriers to trade and as a framework of agreed-upon rules for the conduct of international commerce. In the event that disputes on trade matters arise, the GATT includes procedures for their resolution based on consultation and consensus. Retaliation is allowed only after all formal avenues of conciliation are exhausted.

The United States has reserved its ability to act unilaterally against barriers to U.S. exports under section 301 of the 1974 act, which empowers the President to retaliate unilaterally against foreign practices perceived as detrimental to U.S. commercial interests.⁸ The regular section 301 procedures and remedies were substantially strengthened by the 1988 Trade Act.⁹

⁸ Similar provisions were present in section 252 of the Trade Expansion Act of 1962 regarding U.S. responses to unjustifiable or unreasonable foreign import practices.

⁹ The principal amendments in 1988 to strengthen the traditional section 301 authority (as opposed to "Super 301") were (1) to require the USTR to make unfair trade practice determinations in all cases, and to transfer authority to determine and implement section 301 action from the President to the USTR, subject to the specific direction, if any, of the President; (2) to make section 301 mandatory in cases of trade agreement violations or other "unjustifiable" practices, except in certain circumstances; (3) to include additional types of practices as specifically actionable under section 301; (4) to tighten and specify time limits on all investigations and actions; and (5) to require monitoring and enforcement of foreign settlement agreements and to provide for modification and termination of section 301 actions. See "Overview and Compilation of U.S. Trade Statutes," U.S. Congress, House Ways and Means Committee, Sept. 18, 1989, p. 64 ("Trade Statute Overview").

Developments Leading to the Passage of Super 301

Trade analysts have identified several factors as important in Congress' decision in 1988 to create Super 301.¹⁰ One prominent factor was the perceived weakness of the GATT dispute settlement procedures. Other factors include the inadequacy of GATT rules in agriculture, the nonexistence of GATT rules in such areas as services and intellectual property, and the gap between the United States and foreign government practices of promoting domestic industries.¹¹ Finally, there is evidence that congressional frustration with administration handling of trade policy played a role.

Although recognized as generally working well, a number of problems with GATT dispute settlement procedures have been identified. For example, a "defendant" country can use existing GATT procedures to block the establishment of a panel, delay the work of the panel, and block the adoption of the report. It can take years from the time a complaining country requests consultations to the implementation of the GATT report.¹² Because the GATT lacks enforcement powers, there is no mechanism to ensure full implementation of a panel report. These inadequacies in the dispute settlement procedures have led the United States to push for reform of these GATT procedures in the ongoing Uruguay Round trade talks.¹³

Another factor was frustration by some U.S. legislators with the manner in which past and present chief executives had administered U.S. trade policy. Some legislators complained that the President has not invoked section 301 in a manner consistent with Congress' intent—to strongly defend U.S. commercial interests abroad.¹⁴ They pointed to the fact that

¹⁰ "Super 301 Action Against Japan, Brazil and India: Rationale, Reaction, and Future Implications," Raymond J. Ahearn, Richard Cronin, Larry Storrs of the Foreign Affairs and National Defense Division, Congressional Research Service, January 26, 1990, pp. 6-13 ("CRS Study").

¹¹ 134 Cong. Rec. S4678-03 (daily ed. April 25, 1988) (Statement of Senator Leahy); 134 Cong. Rec. S4540-02 (daily ed. April 22, 1988) (Statement of Senator Byrd); 134 Cong. Rec. S10711-01 (daily ed. August 3, 1988) (Statement of Senator Danforth).

¹² See U.S. International Trade Commission, *Review of the Effectiveness of Trade Dispute Settlement under the GATT and the Tokyo Round Agreements*, USITC Publication 1793, 1985, p. v.

¹³ The Contracting Parties agreed to new streamlined dispute settlement procedures at the Montreal midterm review in December 1988. These procedures were adopted in April 1989. See section on "Dispute Settlement" for further discussion of the modifications.

¹⁴ For example, Senator George J. Mitchell (D., ME.) in hearings on section authority in 1986 stated—

Section 301 of the 1974 Trade Act is the mechanism intended to address the increasing foreign use of unfair trade practices. But it does not work. The history of section 301 is a history of administration after administration of both

Presidential action was taken on only 2 of over 40 regular section 301 cases from 1974 to 1985. Even though the President had taken action in seven additional cases from 1985 through the enactment of the 1988 Trade Act,¹⁵ the mounting U.S. trade deficit resulted in pressure on Congress by business and labor alike to devise a mechanism to systematically and effectively reduce barriers to U.S. exports.¹⁶

Many in Congress, business, and labor saw an enhanced section 301 process as a key vehicle for ensuring that the President pursue a more systematic and prioritized approach to address foreign trade barriers.¹⁷ They argued that the full implementation of the law would require the President (1) to identify practices that were systematic and pervasive, (2) to target countries that had the largest potential to increase U.S. exports, and (3) to measure success according to increases in U.S. exports.¹⁸ The provision would, these legislators believed, reorder the priority traditionally placed by the President on national security and foreign policy over U.S. economic interests in formulating U.S. trade policy.¹⁹

Super 301 Provisions of the 1988 Trade Act

Super 301 was created in an effort to redress these problems. It included a number of changes in regular 301 procedures intended to prompt the President to more vigorously attack foreign trade barriers that had a particular burdensome effect on U.S. exports. It included provisions for mandatory investigations of such barriers under rigorous timetables. The USTR deals with trade barriers one at a time in traditional section 301 procedures. But in super 301, the USTR has additional authority to deal with a variety of major barriers as well as to identify countries that have major barriers in the same investigation. Export targeting and a persistent pattern of denial of workers' rights were added to the list of foreign acts actionable under the law. Formal responsibility for taking action under section 301

¹⁴—Continued

parties refusing to implement the law. Instead, this President and his predecessors have used the wide discretion provided in the law to deny or to delay taking action, sometimes for close to a decade.

U.S. Congress, Senate Finance Committee, Hearings on Presidential Authority to Respond to Unfair Trade Practices, 99th Cong., 2d sess., 1986, p. 14-15.

¹⁵ Ibid.

¹⁶ CRS Study, pp. 10-11.

¹⁷ 134 Cong. Rec. S4875-02(daily ed. April 27, 1988)(Statement of Senator Bentsen).

¹⁸ 134 Cong. Rec. S10571-01(daily ed. August 2, 1988)(Statement of Senator Danforth); 134 Cong. Rec. S4627-05 (daily ed. April 25, 1988)(Statement of Senator Bentsen).

¹⁹ 133 Cong. Rec. S1850-02 (daily ed. February 5, 1987)(Statement of Senator Bentsen); 132 Cong. Rec. H3024-07 (daily ed. May 21, 1986)(Statement of Congressman Frenzel); 134 Cong. Rec. H3460-01(daily ed. May 19, 1988)(Statement of Congresswoman Bentley).

was transferred from the President to the USTR. Other major changes include mandatory identification, specific criteria to be followed during the identification process, timetables for action, and mandatory retaliation.

Within 30 days after the USTR submission of the annual *National Trade Estimate Report on Foreign Trade Barriers*, the USTR must identify "trade liberalization priorities."²⁰ In the report on priorities, the USTR must identify: (1) "priority practices" that, if eliminated, would be likely to have the most significant potential to increase U.S. exports; and (2) "priority countries" to be determined by the USTR based on the extent and number of the practices and the level of U.S. exports that would be reasonably expected from the implementation of existing trade agreements.²¹ The USTR must also determine the amount by which U.S. exports to each "priority country" would have increased if the "priority practices" of that country had not existed.²²

Within 21 days of identifying the "priority countries" and "priority practices" in the trade priorities report to the Senate Finance Committee and the House Ways and Means Committees, the USTR *must* initiate traditional section 301 investigations with respect to the priority countries and practices.²³ In such investigations, the normal section 301 authorities, procedures, time limits, and other requirements generally apply to these investigations.²⁴

The USTR must also request consultations with the foreign countries who have been identified as "priority" countries or having "priority practices."²⁵ While such consultations are required in all section 301 cases, in super 301 consultations, the USTR must seek an agreement that provides for (1) the elimination of or compensation for the "priority practices" by no later than 3 years after the start of the investigation; and (2) the reduction of priority practices over 3 years with the expectation that U.S. exports to the priority country will increase incrementally each year.²⁶ Thus, success under super 301 is judged by an increase in U.S. exports, not by the more traditional section 301 standard of mere elimination of the practice per se.²⁷

If the USTR reaches an agreement with the consulted country, then the investigation is suspended.²⁸ However, if no agreement is

²⁰ 19 U.S.C. §2420(a)(1).

²¹ 19 U.S.C. §2420(a)(1),(2).

²² 19 U.S.C. §2420(a)(1)(C).

²³ 19 U.S.C. §2420(b).

²⁴ Trade Statute Overview, at 71.

²⁵ 19 U.S.C. §2420(c).

²⁶ 19 U.S.C. §2420(c)(1)(A),(B).

²⁷ Statement of Steve Beckman, International Economist, UAW, before the House Ways Subcommittee on Trade, June 8, 1989.

²⁸ 19 U.S.C. §2420(c)(3).

reached or if the USTR determines that the foreign country is not complying with an agreement, the USTR must continue the investigation under the same procedures as for any section 301 investigation.²⁹ Thus, within 12–18 months of the start of the super 301 investigation, the USTR must decide whether the practice (1) violated a trade agreement or (2) was unreasonable or discriminatory. If the practice is determined to violate a trade agreement, the USTR must take action or use its waiver authority.³⁰ If the USTR determines the practice is unreasonable or discriminatory, the USTR has discretion on whether and how to take action.³¹

Beginning in 1990, the USTR must report annually on (1) how much U.S. exports would have increased if the “priority practices” had not existed; (2) whether increased U.S. exports demonstrate the elimination of a “priority practice”; and (3) if U.S. exports to “priority countries” have not increased, what action the USTR has taken.³¹ If increased U.S. exports for two successive years show that “priority practices” have been eliminated, the USTR may eliminate that “priority country” from the annual report.³³

Super 301 Developments in 1989

On May 25, 1989, the USTR identified the first round of Super 301 “priority countries” and “priority practices” within 30 days of the release of the *National Trade Estimate Report on Foreign Trade Barriers* as required by the 1988 Trade Act. The USTR identified three “priority countries” under Super 301: India, Brazil, and Japan. The USTR identified six “priority practices” for these three countries: barriers to trade in insurance services (India); trade-related investment restrictions (India);³⁴ for quantitative import restrictions, including import bans and restrictive licensing (Brazil); exclusionary

²⁹ 19 U.S.C. §2420(c)(3).

³⁰ Where there is a violation of a trade agreement, the USTR must take the following responses: (1) deny trade agreement concessions; (2) impose import restrictions; or (3) enter into an agreement with the foreign country to eliminate its practice, eliminate the burden on U.S. commerce, or provide compensation. 19 U.S.C. §2411(c)(1). However, even in trade agreement violation cases, the USTR waivers are allowed. The USTR is not required to take action if the GATT finds that U.S. rights under a trade agreement have not been denied. 19 U.S.C. §2411(a)(2)(A). The USTR also is not required to act if the USTR finds that (1) the foreign country is taking satisfactory measures; (2) the foreign country is eliminating its practice or has agree to a solution to the burden on U.S. commerce; (3) the foreign country cannot take the preceding two actions, but agrees to compensation; (4) in extraordinary cases, the harm to the U.S. economy from taking action would be much greater than the benefits, with consideration of how inaction would effect the credibility of the provision; or (5) taking action would cause serious harm to the U.S. national security. 19 U.S.C. §2411(a)(2)(B).

³¹ 19 U.S.C. §2411(b).

³² 19 U.S.C. §2420(d).

³³ 19 U.S.C. §2420(d)(2).

government procurement practices in the (a) satellite and (b) supercomputer sectors (Japan); technical barriers to trade in the forest products sector (Japan).³⁵

During the U.S. interagency deliberations on which “priority” practices and countries should be identified in 1989, the balancing of domestic interests with foreign policy considerations was discussed.³⁶ U.S. domestic interests wanted the law implemented fully and vigorously.³⁷ Others suggested that foreign policy considerations necessitated a narrower interpretation of the law.³⁸ A major foreign policy consideration was whether the potential unilateral U.S. action would undermine the Uruguay Round. Several issues are being discussed in these multilateral trade negotiations that are of particular interest to the United States, i.e. integrating investment, intellectual property, and services into the GATT, agricultural reform, and strengthened GATT rules and disciplines.³⁹ Committee members debated whether an aggressive pursuit of the law would negate the potential for agreements in those important areas of U.S. interest.

The May 25, 1989 determination by USTR reflected a limited use of Super 301—only 3 countries were singled out of the 30 proposed by U.S. companies and trade associations. The USTR apparently did not focus on primary U.S. export potential or systemic barriers. Instead, it cast the decision as furthering progress on issues being pursued in the Uruguay Round, such as investment, services, government procurement, and technical barriers (standards). Several key factors have been identified as contributing to the limited use of Super 301 in 1989. First, the Bush administration initiated separate dialogue with Japan on structural impediments that hinder U.S. exports, an initiative expected to address more systemic barriers to U.S. exports.⁴⁰ Another factor suggested by U.S. trade analysts was the advance concessions by South Korea and

³⁴ Indian Government approval is required for all new or expanded foreign investment and such approval is conditioned upon a number of criteria including requirements for foreign equity participation. When approval is granted, the Indian Government often imposes export targets and requires investors to use locally produced goods. These “performance requirements” harm U.S. investors and distort trade.

Private insurance companies are not permitted to sell insurance in India. The state-owned General Insurance Co. of India and its four subsidiaries have a monopoly on sales of general insurance and the Life Insurance Corporation of India has a monopoly on the sale of life insurance. The India Super 301 issues remained unresolved in 1989 and 1990. However, the Uruguay Round is addressing both investment measures and insurance—as part of the services negotiations—so both areas could be resolved multilaterally.

³⁵ For an elaboration of the Brazilian and Japanese practices, see separate discussions in chapter 4.

³⁶ CRS Study, p. 10–11.

³⁷ *Ibid.*, p. 13.

³⁸ *Ibid.*

³⁹ *Ibid.*, p. 15.

⁴⁰ See ch. 4 for a discussion of this initiative.

Taiwan,⁴¹ enabling the administration to claim that the mere existence of the Super 301 process was working to open up markets.⁴²

Reaction to Super 301

Super 301 has been given extensive, and generally negative, coverage by foreign governments, media, and business interests. A common complaint is that Super 301 is an exercise in unilateralism. Nevertheless, U.S. trade analysts believe that the threat of being designated under Super 301 led many U.S. trading partners to negotiate changes in their practices in the hope of avoiding such designation.

At a June 1989 special GATT Council meeting, the GATT secretariat presented its report on global trade policy developments for the first 6 months of 1989. The Super and Special 301 provisions⁴³ of the 1988 Trade Act were identified in the report as the single trade policy initiative "which could have the biggest impact on the multilateral trading system and on the Uruguay Round."⁴⁴ The European Community stated that, in effect, the United States possessed a negotiating advantage in the Uruguay Round with Super 301. Israel stressed that trade complaints should not be pursued unilaterally. Australia noted that resort to unilateralism could undermine the Uruguay Round. For the countries named to the Super 301 list, Brazil asserted that Super 301 had "destructive potential for the GATT and the Uruguay Round."⁴⁵ India stated that it could not accept "dictation" of its economic policies while Japan contended that Super 301 "ignored the basic principles which formed the basis of the multilateral trading system."⁴⁶ Arthur Dunkel, Director-General of the GATT, recently criticized section 301 as "a good example of what our world has come to" when multilateral negotiations are not successful. He expressed his belief that the U.S. trade measure should be weakened in the interests of ensuring a strong Uruguay Round agreement.⁴⁷

In the regular GATT Council meeting on June 22, 1989, the Brazilian representative defended the practices noted as offensive in the May U.S. announcement: temporary suspension of import licenses, quantitative restrictions, and lack of transparency in the issuance of import licenses.

⁴¹ South Korea's concession package included investment, localization (a system of import barriers) and agricultural reforms. Taiwan cut tariffs, simplified import-licensing procedures, and proposed liberalization in the banking and insurance sectors. See ch. 4 for more details.

⁴² CRS Study, p. 17.

⁴³ The "Special 301" provisions are discussed in a subsequent section.

⁴⁴ GATT, *GATT Focus*, No. 63, July 1989, p. 6.

⁴⁵ *Ibid.*, p. 7.

⁴⁶ *Ibid.*, p. 8.

⁴⁷ *International Trade Reporter*, May 30, 1990, p. 766.

He stated that it was public knowledge that Brazil needs to apply trade regulatory measures to correct its serious debt problems. He further stated that Brazil's import control procedures are fully justified under article XVIII:B⁴⁸ of the General Agreement and that these controls have been regularly examined by the GATT Committee on Balance-of-Payments Restrictions. In reference to Brazil's inclusion on the Special 301 "priority watch list," the Brazilian representative stated that the Brazilian Government had faithfully complied with existing international conventions on intellectual property rights.⁴⁹

India argued that the "priority practices" that the United States named—trade-related investment measures and trade in insurance—are not currently covered under the GATT, therefore are not subject to any international rules. Moreover, he asserted that the fact that GATT imposes no obligations in this area means that other signatories have no rights. While the Indian representative acknowledged that the United States has not taken any retaliatory action, he claimed that the threat of unilateral action puts India at a disadvantage. He further stressed that the practices cited in the Super 301 announcement were aimed at changing India's macroeconomic policies, over which India alone has sovereign rights.⁵⁰

The Japanese statement expressed "grave concerns" over the U.S. announcement and emphasized that Japan had "no intention to negotiate under duress."⁵¹ Japan believes that its market is already open, the delegate stated, and the U.S. criteria for "fairness" were one-sided and overlooked the United States' own use of import restrictions. He said that the U.S. trade deficit stems from its own macroeconomic policies and should be reduced.⁵²

During the June meeting, the U.S. representative informed the other GATT members that the Super 301 process only identified the United States' trade liberalization priorities and that no other action had actually been taken. The United States was prepared, the representative said, to engage in good faith negotiations to resolve the issues identified as part of the 301 process in both bilateral and multilateral fora. Such negotiations, he argued, are fully compatible with the essence of the GATT system. The delegate further noted that the law itself did not mandate automatic retaliation. He also emphasized the U.S. administration's continued commitment to the

⁴⁸ Art. XVIII relates to balance-of-payments restrictions that can be imposed to overcome the short supply of foreign currency.

⁴⁹ U.S. Department of State Telegram, 1989, Geneva, Message Reference No. 05403, June 1989.

⁵⁰ GATT, *GATT Focus*, No. 63, July 1989.

⁵¹ U.S. Department of State Telegram, Geneva, Message Reference No. 05414, June 1989.

⁵² *Ibid.*

multilateral trading system and the Uruguay Round.⁵³

At their annual meeting in May 1989, ministers representing the 24 member nations of the Organization for Economic Cooperation and Development (OECD) rejected unilateral trade policy measures and other attempts to manage trade. They stated that such moves are a threat to the multilateral trading system. In a communique issued at the close of their 2-day Paris meeting, member countries said they "firmly reject the tendency towards unilateralism, bilateralism, sectoralism, and managed trade which threatens the multilateral system and undermines the Uruguay Round negotiations." The declaration was agreed to by all member countries including the United States, and did not specifically mention any U.S. actions. But the criticism of unilateral trade policy measures was widely interpreted by U.S. trade experts as criticism of recent U.S. actions taken under the so-called super 301 provisions of the 1988 Trade Act.

Special 301

The so-called "special 301" provisions of the Omnibus Trade and Competitiveness Act of 1988⁵⁴ require the USTR to identify those foreign countries denying protection of intellectual property rights and market access to U.S. firms relying on such protection, and to determine which of those countries are "priority countries."⁵⁵ Special 301 provisions were structured by Congress in a manner similar to that for the super 301 provisions, with some differences. In determining "priority countries," the USTR must identify only those countries (1) that have the "most onerous or egregious acts, policies, or practices," (2) whose practices cause the "greatest adverse impact (potential or actual) on the relevant U.S. products," and (3) who are not negotiating in good faith or making significant progress in negotiations.⁵⁶ The "priority country" designation triggers an accelerated 6-month investigation by USTR using regular section 301 procedures.⁵⁷

Within 30 days of identifying "priority countries," the USTR must begin a regular section 301 investigation of the intellectual property trade barriers of those countries.⁵⁸ The investigation continues along the normal section 301 procedure but with a shorter 6 month deadline (as opposed to 12-18 months for a regular section 301 investigation) for the USTR to determine if the foreign practice violated U.S. rights under a trade agreement or was

"unreasonable" or "discriminatory."⁵⁹ In addition, the maximum delay for the USTR to take remedial action is 90 days for special 301 cases, compared to 180 days for other cases.⁶⁰

On May 25, 1989, the same day that the USTR released the list of super 301 countries and practices, the USTR reported under the special 301 provisions. The USTR did not name any "priority countries." The USTR concluded that no foreign country met every standard for adequate and effective intellectual property protection as set forth in the U.S. proposal on intellectual property in the Uruguay Round. Thus, the USTR determined that all countries were eligible for priority designation, and the particular concerns were communicated to each trading partner. Instead of identifying countries on a "priority" list, the USTR singled out 25 countries for special attention. Seventeen were placed on a "Watch List,"⁶¹ and 8 on a "Priority Watch List."⁶²

During 1989 the United States increased its efforts with these 17 countries to resolve problems associated with inadequate intellectual property protection or barriers to market access. Accelerated action plans for resolving problems associated with inadequate intellectual property protection were pursued with each of the eight countries.

In November 1989, the status of the eight countries on the "Priority Watch List" was reviewed. Saudi Arabia, Korea, and Taiwan were moved from this list to the "Watch List" due to the progress these countries have made in protecting intellectual property rights.⁶³

⁵⁹ 19 U.S.C. §2414(a)(3)(A).

⁶⁰ 19 U.S.C. §2415(a)(2)(C).

⁶¹ Countries on the "Watch List" are Argentina, Canada, Chile, Colombia, Egypt, Greece, Indonesia, Italy, Japan, Malaysia, Pakistan, the Philippines, Portugal, Spain, Turkey, Venezuela, and Yugoslavia.

⁶² Countries on the "Priority Watch List" are Brazil, India, Mexico, People's Republic of China, Republic of Korea, Saudi Arabia, Taiwan, and Thailand.

⁶³ In April 1990, Ambassador Hills reported that several countries have taken steps to enhance the protection of intellectual property rights or its enforcement. Specially, the Governments of Korea, Poland, Czechoslovakia, Mexico, Saudi Arabia, Colombia, Chile, Malaysia, Indonesia, Egypt, Spain, Portugal, and Yugoslavia have made progress in this area. Also, many countries have committed considerable efforts to the Uruguay Round trade talks on trade-related intellectual property. Brazil, India, PRC, and Thailand remain on the Priority Watch List. Mexico and Portugal have been removed from all lists. Portugal was removed from all lists in recognition of its positive steps to improve intellectual property rights. In January 1990, Mexico published its "Industry and Trade Sectoral Plan," which outlined the Mexican plan to modernize protection of patents, trademarks, and trade secrets. Also, Mexico stepped up enforcement efforts against patent and trademark infringers. Recent developments in the Federal Republic of Germany were noted in the April 1990 announcement. Of concern to the United States are the judicial interpretations of copyright protection for computer programs that apparently undermine the effective level of protection. The United States has notified FRG of its concerns. The 19 countries still on

⁵³ GATT, *GATT Focus*, No. 63, July 1989.

⁵⁴ The "Special 301" provisions are codified in the United States Statutes in 19 U.S.C. §2242 *et seq.*

⁵⁵ 19 U.S.C. §2242(b).

⁵⁶ 19 U.S.C. §2242(b).

⁵⁷ 19 U.S.C. §2242.

⁵⁸ 19 U.S.C. §2242(a).

Reaction to Special 301

The subject of the U.S. special 301 announcement was raised in various Uruguay Round negotiating groups. At the outset of the July 1989 trade-related intellectual property rights meeting, several participants expressed concern over the establishment of "watch lists" under the special 301 provision on intellectual property. They stressed that the provision could negatively affect the multilateral negotiations on intellectual property rights.⁶⁴ In the November 1989 Surveillance Body meeting, Brazil and India both protested their countries being named to the "priority watch list" under the U.S. special 301 provisions.⁶⁵

Summary and Prospects for 1990

Many of the controversial aspects of the 1988 amendments to section 301 are slated to expire in 1990 unless specifically renewed by Congress. Foreign concern still exists as to whether the United States will continue the mandatory identification of priority countries. Such foreign reaction may have been a factor in the May 1990 decision not to identify any countries under the super 301 provision. In announcing that decision, President Bush reiterated his commitment to the Uruguay Round and his belief that the "multilateral negotiations in GATT are the most promising route for creating new opportunities for American industry and agriculture and strengthening the global trading system."⁶⁶ However, he emphasized that the United States was not abandoning the super 301 process and may use it to remove foreign barriers to U.S. products in the event of failure to achieve sufficient progress in the Uruguay Round.⁶⁷

United States-East European Relations at a Historic Turn

The democratization that occurred in Eastern Europe⁶⁸ during 1989 accelerated economic reforms in the region and prompted an immediate improvement and expansion in U.S. commercial relations with the countries of the region.⁶⁹ President Bush visited Poland (July 9-11, 1989)

⁶³—Continued

the "Watch List" are Argentina, Canada, Chile, Colombia, Egypt, Greece, Indonesia, Italy, Japan, Korea, Malaysia, Pakistan, the Philippines, Saudi Arabia, Spain, Taiwan, Turkey, Venezuela, and Yugoslavia.

⁶⁴ GATT, *News of the Uruguay Round on Multilateral Trade Negotiations (NUR)*, No. 30, Aug. 3, 1989.

⁶⁵ *NUR*, Jan. 11, 1990.

⁶⁶ Statement by the President, Apr. 27, 1990.

⁶⁷ *Ibid.*

⁶⁸ Eastern Europe refers to Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Romania.

⁶⁹ *Weekly Compilation of Presidential Documents*, Dec. 4, 1989, pp. 1839, 1840.

and Hungary (July 11-13, 1989),⁷⁰ and the passage of the Support for East European Democracy (SEED) Act of 1989 created a comprehensive legislative framework for U.S. financial support and assistance to those two countries.⁷¹

The sweeping political changes that took place in the rest of Eastern Europe occurred too late during 1989 to allow market-oriented economic and trade reforms to develop to the same extent as they did in Poland and Hungary during the year. However, the apparent willingness of East Germany, Czechoslovakia, Bulgaria, and Romania to dismantle totalitarian regimes led both the Congress and the administration to indicate interest in improving U.S. commercial relations with each of these countries and in assisting them in their progress toward political and economic democratization.⁷² U.S. negotiations with Czechoslovakia for a bilateral trade agreement began in December 1989.⁷³

The rest of this section reviews United States-East European trade developments during 1989. It highlights 1989 developments in United States-Polish and United States-Hungarian commercial relations. Finally, it provides data on 1989 economic performance in Poland and Hungary and a summary of economic policies in these two countries.

Merchandise Trade With the United States

Since World War II, United States-East European trade, similarly to United States-Soviet trade, has been constrained by political-military antagonisms and the incompatibility of economic and trade systems. U.S. trade with the region over the past four decades expanded slowly and remained small. During 1989, United States-East European merchandise trade turnover (exports plus imports) amounted to \$2.3 billion, comprising a mere 0.3 percent of U.S. trade with the world, and a level approximating the average annual trade turnover during 1980-1989.

⁷⁰ For a description of the President's visits to Poland and Hungary, and statements made during the visits, see *Weekly Compilation of Presidential Documents*, July 24, 1989, vol. 25, No. 29, pp. 1066-1092.

⁷¹ Public Law 101 179 (22 U.S.C. §5401). See also "Statement on Signing the SEED Act of 1989" in *Weekly Compilation of Presidential Documents*, Dec. 4, 1989, pp. 1839-1840, 1859.

⁷² During the first quarter of 1990, U.S. commercial and business relations improved with East Germany (interview with U.S. Department of State, Office of German Affairs, June 1, 1990); and appeared to be improving with Bulgaria (interview with the Embassy of Bulgaria, May 15, 1990, and the U.S. Department of State, Office of Eastern European Affairs, June 1, 1990), and with Romania (interview with the Embassy of Romania, May 1, 1990, and the U.S. Department of State, Office of Eastern European Affairs, June 1, 1990).

⁷³ On Feb. 20, 1990, President Bush announced the Administration's recommendation to grant MFN status to Czechoslovakia, in return for similar treatment of U.S. products by that country. (*Weekly Compilation of Presidential Documents*, Feb. 20, 1990, p. 277.)

U.S. exports to Eastern Europe have been traditionally dominated by agricultural products, whereas mineral products, prepared foodstuffs, and base metals have made up the bulk of U.S. imports from the region. Despite its relatively minute scale and set pattern, however, United States-East European trade shows a promising versatility. The United States maintains some trade with Eastern Europe in every major industrial sector (appendix table A-1), not the least because Poland, Hungary, and Romania have enjoyed U.S. MFN status for relatively long periods.⁷⁴

Among the countries of the region, Poland had the largest trade turnover with the United States during 1989, followed by Romania, Hungary, Bulgaria, East Germany, and Czechoslovakia. Poland had been the largest U.S. trading partner among the East European countries (as measured by the value of annual trade turnover) from the end of World War II through 1980. From 1981 through 1988, Romania replaced Poland as the region's leading U.S. trading partner,⁷⁵ but United States-Romanian trade declined sharply from 1988 to 1989, as discord in overall bilateral relations mounted until the fall of the Ceausescu regime in late 1989.⁷⁶

The United States has registered annual deficits in trade with Eastern Europe since 1983. However, the deficit dropped by 57.3 percent during 1989, from \$705.5 million during 1988 to \$301.3 million. The primary reason for this decline was the \$282.8 million decrease in the U.S. deficit in trade with Romania.⁷⁷ During 1989, the United States registered surpluses in trade only with Bulgaria and Poland, running deficits with the other East European countries.

⁷⁴ For the most favored nation (MFN) status of the nonmarket economies (NMEs) see U.S. International Trade Commission, *61st Quarterly Report to the Congress and the Trade Policy Committee on Trade Between the United States and the Nonmarket Economy Countries During 1989*, USITC Publication 2286, pp. 1-4, and for a brief analysis on the effects of granting MFN status to an NME on U.S. trade, see USITC, *Survey of Views on the Impact of Granting Most Favored Nation Status to the Soviet Union*, USITC Publication 2251, pp. H1-H9.

⁷⁵ The greater United States-Romania turnover in merchandise trade during 1981-1988 was primarily the result of large U.S. imports from Romania. During this 8-year period, Romania was the leading source of U.S. imports from the region in every year, whereas U.S. exports to Poland exceeded the annual value of exports to the other East European countries seven times.

⁷⁶ An important event in the course of deteriorating U.S. commercial relations with the Ceausescu regime was Romania's Feb. 28, 1988 announcement not to request renewal of its MFN tariff status with the United States. (*Trade Between the United States and the Nonmarket Economy Countries*, 57th Quarterly Report, pp. 11-12.) Beginning on July 3, 1988, imports from Romania entered the United States at the significantly higher non-MFN column 2 tariff rates.

⁷⁷ U.S. imports from Romania declined at a much faster rate than U.S. exports to that country, from 1988 to 1989. The decline in U.S. imports from Romania may be attributable to a decline in Romania's overall hard

U.S. exports to the region increased by \$142.5 million from \$868.2 million during 1988 to \$1,010.8 million during 1989. U.S. exports to Bulgaria, Hungary, and Poland increased over the period, more than offsetting the decreases in exports to Czechoslovakia, East Germany, and Romania (appendix tables A-2 through A-7). The preeminence of agricultural products among U.S. exports to Eastern Europe continued during 1989.⁷⁸ Vegetable products (sec. 2), including grains and soybeans, retained their lead among U.S. exports to Eastern Europe during 1989, despite a precipitous decline from their 1988 level.⁷⁹

Vehicles, aircraft, and other transport equipment (sec. 17) was the second-largest commodity category section among U.S. exports to Eastern Europe during 1989. The primary reason for this was the delivery of two airplanes to Poland, valued at \$126.3 million. Machinery and mechanical appliances (sec. 16) was the third-largest commodity section among U.S. exports to Eastern Europe, and mineral products (sec. 5) the fourth. Poland was the largest customer for U.S. machinery products in Eastern Europe during 1989, whereas shipments to Hungary increased the most from 1988. Romania remained the largest East European importer of U.S. mineral products during 1989,⁸⁰ but the increase in these shipments from 1988 to Bulgaria was the most significant.

U.S. imports from Eastern Europe decreased by \$261.6 million from \$1,573.7 million during 1988 to \$1,312.0 million during 1989. U.S. imports from Czechoslovakia, Poland, and Romania declined, more than offsetting increases from Bulgaria, East Germany, and Hungary over the period. Despite their sharp drop from 1988, mineral products (sec. 5) retained their lead among U.S. imports from Eastern Europe during 1989. The decline is largely attributable to the reduction of refined petroleum oil shipments from Romania.

Prepared foodstuffs, beverages and tobacco (sec. 4) ranked second among U.S. imports from Eastern Europe during 1989. Prepared or preserved meat other than sausages remained the largest subgroup within this commodity section,

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currency exports and to the higher U.S. tariffs on imports from Romania, following the indicated change in the country's tariff status. (*Trade Between the United States and the Nonmarket Economy Countries*, 61st Quarterly Report, p. 35.)

⁷⁸ Every year during 1980-1989, either corn, wheat or soybeans—under various product designations as trade statistics changed over the years—was the leading item among U.S. exports to Eastern Europe.

⁷⁹ The 22 commodity sections represent the highest level of aggregation in the Harmonized Tariff Schedule of the United States.

⁸⁰ U.S. shipments of coal (sec. 5, heading 2701) to Romania amounted to \$70.9 million during 1989.

with Poland and Hungary as the main suppliers. In the third-largest commodity section, textiles and textile articles (sec. 11), a major decline in shipments from Romania largely explains the overall decline in U.S. imports from 1988 to 1989. U.S. imports of articles of apparel and clothing accessories from Eastern Europe decreased from \$164.8 million during 1988 to \$118.3 million during 1989. Shipments from Romania in this combined product category, amounting to \$94.7 million during 1987, further declined from \$72.0 million during 1988 to \$27.7 million during 1989. Romania, by far the largest supplier of textiles and textile articles to U.S. markets during the 1980s, fell behind Hungary and Poland during 1989.

The category of base metals and articles of base metal (sec. 15) ranked fourth among U.S. imports from Eastern Europe during 1989. Shipments from Romania declined in this commodity section also. Shipments from Romania, by far the region's leading supplier to the United States in this product category during 1987, declined in 1988 and fell considerably below those from Poland, Hungary, and East Germany during 1989.⁸¹

Commercial Developments With Poland and Hungary

A number of steps were taken in 1989 to improve U.S. commercial relations with Poland and Hungary. The single most significant development was the passage of the Support for East European Democracy (SEED) Act of 1989, on November 28, 1989.⁸² The Act authorized \$938 million in assistance to promote democratization and economic reforms in Poland and Hungary.⁸³ It made Poland and Hungary eligible for the programs of the Overseas Private Investment Corporation (OPIC)⁸⁴ and the U.S.

⁸¹ For more details on United States-Eastern Europe trade developments, see *Trade Between the United States and the Nonmarket Economy Countries*, 61st Quarterly Report.

⁸² Public Law 101-179 (22 U.S.C. §5401). See also "Statement on Signing the SEED Act of 1989" in *Weekly Compilation of Presidential Documents*, Dec. 4, 1989, pp. 1839-40, 1859.

⁸³ *Weekly Compilation of Presidential Documents*, Nov. 28, 1989, p. 1839.

⁸⁴ 22 U.S.C. §2199. In December 1989, OPIC guaranteed \$100 million of General Electric's proposed \$150 million takeover of the Hungarian light bulb manufacturer Tungfram—the first OPIC coverage approved following the enactment of the SEED Act. As of January 1990, OPIC had 35 applications pending for deals with Poland and 15 for deals with Hungary. (Interview with OPIC, Office of Public Affairs, May 8, 1990.)

Export-Import Bank (Eximbank).⁸⁵ It also made Poland eligible for GSP tariff status.⁸⁶

In response to Poland's request for a \$1 billion fund, the Act provided \$200 million for Poland's Economic Stabilization Fund to be administered in coordination with the European Community and other industrialized democracies.⁸⁷ The stabilization fund is to help Poland alleviate balance of payments difficulties and to finance the importation of goods considered crucial for economic recovery and reform. The act also provided Poland with \$128 million for the purchase of food and other agricultural commodities to alleviate crucial shortages created by the transition from state-directed controls to a free market economy.⁸⁸ Further, the act provided \$240 million for a Polish-American Enterprise Fund and \$60 million for a Hungarian-American Enterprise Fund.⁸⁹ These funds are being established to promote the development of small businesses, the agricultural sector, and joint ventures between U.S. and host country businesses; and other policies and practices conducive to private sector development. Environmental initiatives were allocated \$40 million⁹⁰ and management training and agricultural extension activities, \$10 million.⁹¹ The program to expand the Trade and Development Program into Poland and Hungary received \$6 million.⁹² The act also provided \$4 million to Poland and \$1 million to Hungary for the implementation of labor market reforms, and to facilitate adjustment during the period of economic transition and reform.⁹³ The act called

⁸⁵ 12 U.S.C. §635 and 22 U.S.C. §2185. The Eximbank extends credit, credit guarantees, and insurance in connection with the purchase or lease of any product by an eligible country. Insurance and guarantees extended by the Eximbank must be repaid within 1 year from the date of arrival at the port of importation. The aggregate amount of outstanding commitments of the bank may not exceed \$200 million of contingent liability for loan principal during any fiscal year (22 U.S.C. §2185(b)).

⁸⁶ Poland was formally extended Generalized System of Preference (GSP) status on Jan. 5, 1990. (*Weekly Compilation of Presidential Documents*, Jan. 8, 1990, pp. 20-21.)

⁸⁷ 22 U.S.C. §5412.

⁸⁸ 22 U.S.C. §5413. The disbursement of this appropriation is administered by the U.S. Department of Agriculture.

⁸⁹ 22 U.S.C. §5421. Disbursement of these appropriations is administered by the Agency for International Development.

⁹⁰ 22 U.S.C. §5452. Disbursement of these appropriations is administered by Environmental Protection Agency and the Department of Energy.

⁹¹ 22 U.S.C. §5423. Disbursement of this appropriation is administered by the Agency for International Development.

⁹² This money is being appropriated to expand activities designated under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. §2241) into Poland and Hungary.

⁹³ 22 U.S.C. §5422. This program is to be administered by the Bureau of International Labor Affairs of the Department of Labor, and is to be appropriated for the 3-year period beginning Oct. 1, 1989.

for the establishment of a SEED Information Center System to serve as a central clearinghouse for information on business opportunities in Poland and Hungary and for the coordination of voluntary assistance in these countries.⁹⁴

Other major developments included the following:

- On July 10, 1989, the United States and Poland signed agreements for rescheduling \$965 million of Poland's official debts.⁹⁵ The terms of rescheduling were reached during the 1985 and 1987 Paris Club meetings.⁹⁶
- On September 21, 1989, the United States and Poland signed a preliminary treaty on bilateral business and economic relations.⁹⁷ Among other things, the agreement dealt with the protection of investments and intellectual property rights, and provided certain guarantees for the repatriation of profits earned by U.S. companies from their investments in Poland.⁹⁸
- On October 26, the United States announced that it was granting Hungary "permanent MFN" treatment.⁹⁹

- On November 1, 1989, the President designated Hungary as a beneficiary developing country for purposes of the Generalized System of Preferences (GSP).¹⁰⁰
- From November 28 through December 2, 1989, a group of high-level U.S. Government officials and prominent business representatives visited Poland. Led by the U.S. Secretary of Agriculture, the U.S. delegation included the Secretary of Commerce, the Secretary of Labor, and the Chairman of the White House Council of Economic Advisers.¹⁰¹ The delegation discussed with the Polish Government Poland's immediate economic problems, its transition into a market economy, and U.S. assistance.¹⁰²
- On December 12, 1989, the United States increased the quota allocated to the importation of steel products from Hungary by two-thirds and from Poland by 44 percent.¹⁰³

Poland

Economic developments

High inflation and a general weakening of economic performance characterized the Polish economy during 1989. According to Poland's official economic performance report, real GDP remained unchanged during 1989. Overall industrial output declined by 2.0 percent, agricultural output increased by 2.0 percent and private sector activities, including services, expanded by 12.0 percent.¹⁰⁴ Gross investment remained at a level close to that of 1988.¹⁰⁵ A

⁹⁴ For further details on the SEED Act see *Trade Between the United States and the Nonmarket Economy Countries*, 61st Quarterly Report, pp. 46-50. On Mar. 21, 1990, new legislation expanding the benefits of the Support for East European Democracy Act of 1989 to the entire East European region (SEED II) was presented in the U.S. Senate. (Interview with Congressional Research Service, May 31, 1990). The proposed legislation would amend the SEED Act of 1989 by inserting "Bulgaria, Czechoslovakia, the German Democratic Republic, Romania, and such other Eastern European country as the President may designate," where Poland and Hungary are currently referred to jointly. SEED II would appropriate an additional \$1.3 billion to cover the additional countries that may be included in the amended act and would replace the SEED Information Center System with an Eastern European Business Information Center (See Senate Bill S-2040). After markup, the bill was reported out of the Senate Foreign Relations Committee on July 31, 1990.

⁹⁵ U.S. Department of State Telegram, 1989, Warsaw, Message Reference No. 09307.

⁹⁶ Interview with U.S. Treasury Department, Office of the Assistant Secretary for International Affairs, Apr. 25, 1990.

⁹⁷ Foreign Broadcast Information Service (FBIS), *Daily Report: Eastern Europe*, Sept. 26, 1989, p. 38.

⁹⁸ The agreement was signed by President Bush and Polish Prime Minister Mazowiecki on Mar. 21, 1990. *Business America*, Apr. 9, 1990, pp. 10-11.

⁹⁹ Although nondiscriminatory tariff treatment will now be extended to Hungarian products indefinitely, rather than on a year-to-year basis, nonwaiver MFN status is not quite the same as the so-called unconditional MFN status that applies to Poland (whose MFN status was restored in 1960, prior to the passage of the 1974 Trade Act, as amended) and to market economies. The nonwaiver procedure of section 402, which is currently applicable to Hungary, requires that the President report semiannually to the Congress that the country's emigration policies and practices have remained in full compliance with the Act. (*Trade Between the United States and the Nonmarket Economy Countries*, 61st Quarterly Report, pp. 43-45.)

¹⁰⁰ See Proclamation 6060, 54 F.R., p. 46357 and *Weekly Compilation of Presidential Documents*, Nov. 6, 1989, pp. 1661-1662. Title V of the Trade Act of 1974, as amended, established the U.S. GSP program and authorized the President to provide duty-free entry to eligible articles imported from designated beneficiary developing countries (BDC). Title V contains certain general and specific limitations on GSP eligibility. For example, certain countries and certain import-sensitive articles are ineligible for preferential GSP treatment. The President may designate a BDC as eligible for GSP benefits if all of the requirements of title V are satisfied. (19 U.S.C. 2461-2466.) An amendment removing Hungary from the list of countries ineligible to receive GSP treatment was included in the Trade and Tariff Act of 1974. *Ibid.* For details on GSP benefits see chapter 5.

¹⁰¹ *Weekly Compilation of Presidential Documents*, Nov. 20, 1989, pp. 1752, 1753.

¹⁰² U.S. Department of State Telegram, 1989, Warsaw, Message Reference No. 16874.

¹⁰³ *Trade Between the United States and the Nonmarket Economy Countries*, 61st Quarterly Report, p. 20.

¹⁰⁴ For Poland's official 1989 economic performance report, see Foreign Broadcast Information Service (FBIS), *Daily Report: Eastern Europe*, Feb. 1, 1990, pp. 50-52.

¹⁰⁵ *Ibid.*

widespread decontrol of prices, followed by substantial wage increases, caused living expenses to rise by 254 percent during 1989.¹⁰⁶

Among the main branches of industry, output in the food-processing industry dropped by 8.4 percent and in metallurgy by 5.5 percent. Much of the decline in industrial production can be blamed on energy shortfalls. Expansion in the still-small but fast-growing private sector of industry was reported to be 26.0 percent.¹⁰⁷ Grain production increased from 24.5 million metric tons (mt) during 1988 to 26.8 million mt during 1989.¹⁰⁸

Trade performance

A strain on the export capacity and growing demand for Western goods became apparent from the country's 1989 trade performance. Poland's hard currency exports increased by 3.2 percent to \$8.1 billion and its hard currency imports increased by 10.8 percent to \$7.4 billion during 1989.¹⁰⁹ This resulted in a \$0.7 billion merchandise trade surplus during 1989, down from \$1.2 billion during 1988. The deficit on the hard currency current account increased from \$0.6 billion during 1988 to \$1.8 billion during 1989, reaching 3.0 percent of the GDP.¹¹⁰ At yearend 1989, hard currency gross debt amounted to \$40.0 billion,¹¹¹ and gross debt to the Soviet Union amounted to 5.0 billion rubles.¹¹²

In trade with other NMEs, Poland's ruble exports increased by 1.8 percent to 11.5 billion rubles and its imports declined by 3.7 percent to 9.9 billion rubles during 1989.¹¹³ Poland's surplus increased sharply from 1.0 billion rubles during 1988 to 1.6 billion rubles during 1989.¹¹⁴

Economic policies

Efforts to get inflation under control and to liberalize economic life began in earnest after the freely elected government assumed office in September 1989.¹¹⁵ During the closing quarter of

¹⁰⁶ International Monetary Fund (IMF), *IMF Survey*, Feb. 19, 1990, pp. 57, 58.

¹⁰⁷ FBIS, *Daily Report: Eastern Europe*, Feb. 1, 1990, pp. 51-52.

¹⁰⁸ Interview with U.S. Department of Agriculture (USDA), Economic Research Service, Agricultural and Trade Analysis Division.

¹⁰⁹ Estimated by USITC staff, based on official Polish Government data published for January-November 1989. (FBIS, *Daily Report: Eastern Europe*, Mar. 9, 1990, pp. 38-39.)

¹¹⁰ *IMF Survey*, p. 58.

¹¹¹ FBIS, *Daily Report: Eastern Europe*, Feb. 1, 1990, p. 52.

¹¹² FBIS, *Daily Report: Soviet Union*, Mar. 5, 1990, p. 84.

¹¹³ Estimated by USITC staff, based on official Polish Government data published for January-November 1989. (FBIS, *Daily Report: Eastern Europe*, Mar. 9, 1990, pp. 38, 39.)

¹¹⁴ *Ibid.*

¹¹⁵ *IMF Survey*, p. 57. For a description of unsuccessful efforts to combine anti-inflationary measures with measures of economic liberalization during January August 1989, see The Economist Intelligence Unit (EIU), *Country Report: Poland*, No. 3, p. 11.

1989, the Polish government had developed a truly radical program to regain control over inflation and to develop the private sector. Part of the program was implemented in December 1989, the rest on January 1, 1990.¹¹⁶ The fundamental concept of the program—which has sometimes been referred to as “shock therapy”—was to allow inflation to accelerate while applying strict controls to the growth of wages, investment, and government spending.¹¹⁷

Inflation accelerated as a result of an almost complete deregulation of prices and the devaluation of the national currency (zloty).¹¹⁸ The zloty's devaluation coincided with the introduction of its partial convertibility, which is also referred to as “internal convertibility.” The new currency legislation devalued the zloty by about 50 percent, to 9,500 zlotys to the dollar, and established a unified exchange rate for the Polish currency, approximating the realistic free market exchange rate on the domestic currency market. Beginning Jan. 1, 1990, private entities, including foreign investors, were given authority to purchase unlimited amounts of foreign currency to carry out commercial transactions at the new rate. Nevertheless, controls on the transfer of capital remain in effect, and the law mandates that all hard currency earnings be converted into zlotys.¹¹⁹

The devaluation of the zloty caused the prices of imported inputs to rise, but as a result of restrictive monetary and fiscal policies the rate of inflation began to moderate. The growth of money supply was restricted to a rate below, and

¹¹⁶ Based on the speech delivered at the National Intelligence Council conference on East European economic reforms by Jeffrey Sachs, the Galen L. Stone Professor of International Trade at Harvard University, Research Associate of the National Bureau of Economic Research, economic advisor to the Government of Poland, on Jan. 19, 1990. For a brief description of Poland's monetary and fiscal policies during 1989, see *IMF Survey*, p. 59, 60, and *IMF Press Release No. 90/6*, Feb. 5, 1990, pp. 1-3.

¹¹⁷ When demand expressed in monetary terms (effective demand) grows slower than inflation, both producers and consumers reduce their purchases of goods and services. This in turn, reduces output and real incomes, causing further contraction in the overall demand for products and services, and a repeated reduction in the rate of inflation. This process can, in principle, continue until the country attains an acceptable low rate of inflation. (For an explanation of economic theory underlying Poland's stabilization program see Stanley Fischer, Rudiger Dornbusch, Richard Schmalensee, *Economics*: McGraw Hill, New York, 1988, pp. 50-54.)

For an assessment of expectations from the program over the short term, see *IMF Survey*, pp. 5-60, *IMF Press Release*, No. 90/6, Feb. 5, 1990, pp. 1-3.

¹¹⁸ *IMF Survey*, p. 58-60 and U.S. Department of State Telegram, 1989, Warsaw, Reference No. 00893.

¹¹⁹ *Ibid.* Based on information provided to then USITC Commissioner Alfred Eckes during his visit to Poland in October, 1989, Polish authorities do not expect the zloty to become fully convertible before the end of the 1990s.

the rate of interest was set above, the expected rate of inflation.¹²⁰ Restrictive fiscal policies included major cuts in subsidies and centrally funded investment in state budget outlays, the issuance of treasury bonds, and a highly progressive tax on enterprise wage funds.¹²¹

In addition to measures to stabilize the economy, the program also included measures designed to transform Poland's nonmarket economic system into a market economy. A uniform corporate tax system was introduced and the flow of funds among enterprises, approximating the functions of a capital market, was facilitated.¹²² The liquidation of unprofitable enterprises began.¹²³ The authorities encouraged private economic activities and the inflow of Western capital.¹²⁴ The Government of Poland reportedly intends to accomplish the transformation into a market economy within 2 to 3 years.¹²⁵

On December 5, 1989, the Polish Government requested that Poland's terms of membership in the GATT be renegotiated to reflect progress in making the country's economic system compatible with market principles.¹²⁶ If the request were granted, Poland would be released from its obligations to increase its imports from GATT members by 7 percent annually and its trade commitments would be defined in terms of tariff concessions.¹²⁷

Hungary

Economic developments

Declining real incomes, growing unemployment, and budgetary and current account overruns characterized Hungary's economic

¹²⁰ By setting interest rates above the rate of inflation, the policymakers wanted to assure that the holding of cash balances became an economically rational alternative for both producers and consumers. (From speech of Professor Sachs.)

¹²¹ *IMF Survey*, p. 59, 60, and *IMF Press Release* No. 90/6, Feb. 5, 1990, pp. 1-3. For early assessments of the stabilization program's results see *IMF Survey*, p. 59, 60, *IMF Press Release* No. 90/6, Feb. 5, 1990, pp. 1-3; FBIS, *Daily Report: Eastern Europe*, Apr. 30, 1990, pp. 43, 44, May 3, 1990, p. 38, and May 10, 1990, p. 46.

¹²² U.S. Department of State Telegram, 1989, Warsaw, Message Reference No. 10368, and FBIS, *Daily Report: Eastern Europe*, Dec. 7, 1989, pp. 41, 42.

¹²³ U.S. Department of State Telegram, 1989, Warsaw, Message Reference No. 10016; and article by Roman Stefanowski, "Economic Results for 1989," *Report on Eastern Europe*, RFE/RL, Mar. 9, 1990, p. 37.

¹²⁴ U.S. Department of State Telegram, 1989, Warsaw, Message Reference No. 10016.

¹²⁵ *Ibid.*, pp. 58-62.

¹²⁶ *Inside U.S. Trade*, pp. 1, 13.

¹²⁷ *Ibid.* Press comments reflected U.S. support and GATT receptiveness of the Polish request. *The Journal of Commerce*, Jan. 26, 1990, p. 22. For the terms of Poland's accession to GATT, see *Trade Between the United States and the Nonmarket Economy Countries*, 27th Quarterly Report, pp. 77, 78.

life in 1989.¹²⁸ Real GDP declined by 1.5 percent, mainly as a result of lower demand on the domestic market and a fall in the volume of exports in ruble trade.¹²⁹ The 1.5 percent decline in the GDP was the largest since 1956, when it declined by 11.0 percent. Industrial production declined by an estimated 2.4 percent.¹³⁰

Among the main branches of industry, growth was registered only in electricity output (1.7 percent) and the food industry (0.1 percent), while declines occurred in the rest.¹³¹ Production in light industry declined by 5.7 percent, in mining by 5.1 percent, in construction materials production by 4.0 percent, in the chemical industry by 2.7 percent, and in iron and steel production by 1.3 percent.¹³² However, labor productivity rose by 1.7 percent and construction increased by 3.2 percent. Total grain output edged up from 14.6 million metric tons (mt) during 1988 to 14.7 million mt during the year under review.¹³³ Inflation amounted to at least 16.0 percent and unemployment increased.¹³⁴

Trade performance

Trade liberalization caused Hungary's trade surplus to edge down during the year under review. Hungary's hard currency exports increased by 8.5 percent to \$6.2 billion and its hard currency imports expanded by 11.5 percent to \$5.7 billion during 1989.¹³⁵ The surplus in merchandise trade declined from \$670 million during 1988 to \$500 million during 1989.¹³⁶ The current account deficit increased from \$0.8 billion during 1988 to an estimated \$1.4 billion during 1989.¹³⁷ The major reasons for the increase in the current account deficit was reportedly the heavy interest payment burden that fell due during the year and an unexpectedly

¹²⁸ Data and estimates on Hungary's 1989 economic performance were published in *PlanEcon Report*, PlanEcon, Mar. 28, 1990, pp. 1-27. For a review of political events in Hungary during 1989, see *Radio Free Europe Research*, RFE/RL, Oct. 6, 1989, pp. 3-53, Dec. 1, 1989, pp. 3-21, and The Economist Intelligence Unit (EIU), *Country Report: Hungary*, No. 3, 1989, pp. 7-12.

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

¹³¹ Data taken from the "Heti Világazdaság," Feb. 10, 1990, p. 8. (in Hungarian).

¹³² *Ibid.*

¹³³ Interview with U.S. Department of Agriculture (USDA), Economic Research Service, Agriculture, and Trade Analysis Division, Apr. 17, 1990.

¹³⁴ U.S. Department of State Telegram, 1989, Budapest, Message Reference No. A-11.

¹³⁵ FBIS, *Daily Report: Eastern Europe*, Jan. 19, 1990, pp. 17, 18.

¹³⁶ *Ibid.*

¹³⁷ For a time series on official Hungarian statistics on the country's hard currency transactions and debt from 1970 through 1988, see FBIS, *Daily Report: Eastern Europe*, Dec. 18, 1989, pp. 65, 66. For an estimate of the 1989 current account deficit and its causes, see article by K. Okolicsanyi "Growing Shortage of Convertible Currency," in *RAD Background Report (Hungary)*, RFE/RL, Dec. 29, 1989, pp. 1, 2.

large deficit in hard currency tourism.¹³⁸ The gross debt increased from \$17.3 billion at yearend 1988 to \$20.7 billion at yearend 1989, and the net debt from \$11.1 billion to \$15.0 billion.¹³⁹

Hungary's surplus in trade with members of the Council for Mutual Economic Assistance (CMEA) was an estimated 1.0 billion rubles during 1989.¹⁴⁰ The reasons for the surplus, according to Hungarian sources, were failure by some CMEA partners to deliver products, a switch of domestic demand from CMEA to Western suppliers, and lack of funds by some Hungarian enterprises to pay for their scheduled imports.¹⁴¹ The authorities expressed their wish during 1989 to place Hungary's CMEA trade on a hard currency basis and to make the country less dependent on the CMEA energy system.¹⁴²

Economic policies

Hungary made significant strides during 1989 in introducing a market economy and attracting Western capital into the country. Under new legislation, state-owned companies began to be transformed into limited liability and joint-stock companies.¹⁴³ With the development of a commercial banking and credit system, the state's role in allocating investment resources had been curtailed.¹⁴⁴ Although high producer subsidies signaled hesitation on the part of the authorities to liquidate unprofitable industrial enterprises, consumer subsidization was further reduced, and more prices and wages were deregulated.¹⁴⁵ A new law gave workers the legal right to strike.¹⁴⁶

New measures of trade liberalization released 40 percent of the country's hard currency imports from state licensing requirements.¹⁴⁷ Legislation facilitated the repatriation of profits of Western firms in hard currency and allowed for the direct

purchase of Hungarian production assets.¹⁴⁸ In November 1989, the First Hungarian Fund was established to pool private and corporate capital for investment in small and medium-sized companies, in existing or planned joint ventures.¹⁴⁹ Subscribers to the \$80 million capital subscription included the International Finance Corporation, the Hungarian National Bank, and a number of United States and Canadian financiers.¹⁵⁰ The number of joint ventures was 1,000 at the end of 1989, up from 288 at the end of 1988.¹⁵¹

The higher-than-anticipated budget and current account deficits made negotiations for a new, extended standby agreement with the International Monetary Fund (IMF) difficult throughout the year under review.¹⁵² But at the end of 1989, the Government adopted a new program to reduce both the domestic and external imbalances during 1990.¹⁵³

Summary

Although the economies of both Poland and Hungary deteriorated in many respects during 1989, the transformation of these two countries into market economies made significant headway.

¹⁴⁸ The implementation of the new legislation ran into difficulties because it was not clear who had the right to sell state property and at what price. For descriptions of the problems and controversy surrounding the transfer of state into private property in Hungary, see the British journal *Economist*, Aug. 26, 1989, pp. 36, 37, and FBIS, *Daily Report: Eastern Europe*, Nov. 20, 1989, pp. 29-32.

Despite these problems several transactions were successfully concluded. See FBIS, *Daily Report: Eastern Europe*, Aug. 3, 1989, pp. 26-28, and Aug. 23, 1989, p. 35. *Business Eastern Europe*, Dec. 4, 1989, pp. 385, 386, FBIS, and *Daily Report: Eastern Europe*, Jan. 9, 1990, pp. 27, 30, and Jan. 24, pp. 33, 34.

¹⁴⁹ Karoly Okolicsanyi, "Western Capital Discovers Hungary," *Report on Eastern Europe*, Mar. 23, 1990, pp. 18-21.

¹⁵⁰ *Ibid.* A second investment fund, called the Hungarian Investment Fund, was established by British investment managers. The shares were oversubscribed at \$126 million. The establishment of a third investment fund called the Central European Development Corporation was announced in January, 1990. Its planned capital subscription is \$250 million. Among its main contributors are Ronald Lauder, Chief Executive Officer of Estee Lauder, the cosmetics manufacturer. Total capital subscription was \$0.5 billion in early 1990. *Ibid.*

¹⁵¹ U.S. Department of State Telegram, 1990. Washington, Message Reference No. 006531.

¹⁵² For details on negotiations between IMF and Hungarian officials during 1989 see article by K. Okolicsanyi, "IMF Forces Economic Changes on Hungary," in *Hungarian Situation Report*, RFE/RL, Jun. 1, 1989, pp. 15-17; FBIS, *Daily Report: Eastern Europe*, Jun. 8, 1989, pp. 52, 53; Jun. 8, 1989, pp. 61, 62; and Aug. 16, 1989, pp. 23, 24.

¹⁵³ The new program intends to contain inflation, strengthen economic activity, reduce government expenditures, attract further foreign investment, and continue the process of privatization and economic liberalization. The new program apparently satisfied IMF officials, since the IMF concluded a new standby agreement with Hungary on Mar. 14, 1990. (Interview with IMF Public Information Office, Apr. 9, 1990.)

¹³⁸ *Ibid.*

¹³⁹ FBIS, *Daily Report: Eastern Europe*, Dec. 18, 1989, p. 66, and Mar. 2, 1990, p. 25.

¹⁴⁰ FBIS, *Daily Report: Eastern Europe*, Jan. 4, 1990, pp. 39, 40.

¹⁴¹ *Ibid.*

¹⁴² *Ibid.* Currently, imports from the Soviet Union account for 60-70 percent of Hungary's energy needs. FBIS, *Daily Report: Eastern Europe*, Dec. 1, 1989, p. 86.

In trade with Poland, Hungary registered a surplus of 67.7 million rubles during 1989. The protocol signed in 1989 calls for the settlement of balance in dollars in bilateral trade by June 30, 1991. *Business Eastern Europe*, Apr. 23, 1990, p. 138.

¹⁴³ Joint Publications and Research Service (JPRS), *JPRS Report: Eastern Europe*, Mar. 2, 1989, pp. 1-48.

¹⁴⁴ FBIS, *Daily Report: Eastern Europe*, Mar. 13, 1989, p. 15.

¹⁴⁵ See U.S. Department of State, *Hungarian Economic Reform: Status and Prospects*, Sept. 1989, pp. 8, 9.

¹⁴⁶ FBIS, *Daily Report: Eastern Europe*, Mar. 31, 1989, pp. 34, 35.

¹⁴⁷ U.S. Department of State Telegram, 1989. Budapest, Message Reference No. A-11. Form Jan. 1, 1990, 65 percent of the imports became exempt from state licensing requirements. (Interview with the Hungarian Commercial Counselor, Embassy of Hungary, May 29, 1990).

The direction of change was similar in the rest of Eastern Europe, marking the year 1989 as one of historic significance. The successful implementation of economic reforms, combined with the improvement of commercial relations with the Western industrial democracies are expected to enhance the future importance of Eastern Europe in the world trading system.

United States-Mexican Trade and Investment Facilitation Talks

In October 1989, President Bush and Mexico's President Salinas signed an agreement to facilitate talks between the two countries on trade and investment issues. Formally titled the "Understanding Between the Government of the United Mexican States and the Government of the United States of America Regarding Trade and Investment Facilitation Talks" (TIFTs), the agreement established a negotiating process for dealing with trade and investment issues. Rather than merely providing a forum for talks on these issues, however, the mandate of the TIFTs is for the conduct of comprehensive negotiations to expand trade and investment opportunities.¹⁵⁴

The TIFTs were preceded by a bilateral understanding reached in 1987 that established a formal mechanism to govern bilateral commercial relations.¹⁵⁵ The earlier understanding provided mechanisms for the countries to consult on trade issues, to resolve trade disputes, and to negotiate the removal of trade barriers. Under this understanding, a number of consultations were held, working groups were created to deal with specific trade and investment issues, and five binational technical groups were established to promote a closer working relationship between the two countries and to facilitate commerce.¹⁵⁶

The TIFTs understanding states that the negotiations should focus on specific product areas and on broader issues such as services, intellectual property rights, technology, investment, distribution problems, and tariff and nontariff barriers to market access. The understanding also represents a significant departure in the methodology to provide background information and data for use by both countries in these negotiations. Binational teams of government experts will gather, analyze, and review the trade and investment data to be used as the basis for negotiations in order to "facilitate a resolution of issues before negotiators are called to the table."¹⁵⁷ To further expedite negotiations under the TIFTs, a timetable was

¹⁵⁴ See USITC, *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States Mexican Relations*, USITC Publication 2275, April 1990, p. 2-6.

¹⁵⁵ *Ibid.*, p. 2-3.

¹⁵⁶ For more information on this understanding see *Ibid.*, pp. 2-3 to 2-6.

¹⁵⁷ *Journal of Commerce*, Nov. 8, 1989.

established to mark progress of the talks. In meeting a deadline set for November 1989, the two countries agreed on topics that would be the subject of initial negotiations. Expanding trade and investment in petrochemicals was one topic, and product standards the other. Subsequently, in December 1989, binational teams began discussions on each nation's product standards and technical regulations as well as testing and certification systems. Under the TIFTs mandate, the team is scheduled to issue a report in March 1990.¹⁵⁸ Further sessions of the TIFTs were also scheduled for 1990.¹⁵⁹

Malta Summit Meeting

United States-Soviet trade relations were characterized by a concerted effort to expand and facilitate trade flows. A trade agreement was an important topic of discussion at the summit meeting in Malta between President Bush and President Gorbachev during December 2-3, 1989. At the summit, the two leaders agreed to undertake negotiations to draw up a trade agreement with the goal of completing such an agreement by the subsequent summit meeting planned for late June 1990 in the United States.¹⁶⁰

An important element of the trade agreement would be mutual extension of MFN treatment.¹⁶¹ At the summit, it was noted that to obtain approval of the U.S. Congress for granting MFN status through a Jackson-Vanik waiver, the Soviet Union would have to relax its emigration restrictions.¹⁶² Other trade-related topics covered at the summit included expanding U.S.-Soviet technical cooperation on economic matters.

¹⁵⁸ USITC, *Review of Trade...*, p. 2-6.

¹⁵⁹ Further information on United States-Mexican trade issues is in chap. 4 of this report.

¹⁶⁰ White House fact sheet on the President's initiatives during his meetings with Chairman Mikhail Gorbachev of the Soviet Union at Malta, Dec. 4, 1989.

¹⁶¹ At the request of the Senate Committee on Finance, the USITC conducted a survey of U.S. business persons, government officials, scholars, and other experts on US-Soviet trade to get their views on granting MFN status to the Soviet Union. The findings of this study are reported in *Survey of Views on the Impact of Granting Most Favored Nation Status to the Soviet Union*, USITC publication 2251, January 1990.

¹⁶² Section 402 of the 1974 Trade Act is known as the Jackson-Vanik amendment. Under its provisions, products from a nonmarket economy country may not receive MFN treatment and the country may not participate in U.S. financial credit or guarantee programs in the President determines that the country denies its citizens the right opportunity to emigrate; imposes more than a nominal tax on visas or other documents required for emigration; and imposes more than a minimal levy, fine, or other charge on any citizen as a consequence of the desire to emigrate. (19 U.S.C. §2432(a)(1), (2), and (3)) Products of nonmarket economy countries may be eligible for MFN treatment and for U.S. financial programs and the President may conclude a commercial agreement with a NME country only after the President submits a report to Congress indicating that the country is not in violation of the preceding conditions. (19 U.S.C. §2432(b))

President Bush proposed accomplishing this through "economic projects" on finance, agriculture, statistics, and small business development, as well as establishment of a stock exchange, changes in budgetary and tax policy, and introduction of an antimonopoly policy. He also suggested that the two countries discuss a bilateral investment treaty that would protect U.S. businesspersons wishing to invest in the Soviet Union, and offered to explore with the U.S. Congress lifting statutory restrictions on export credits and guarantees, another action that requires a Jackson-Vanik waiver.

After the summit, the President announced that he would support granting the Soviet Union observer status at the GATT at the conclusion of the Uruguay Round and urged that the Soviet Union immediately begin making its market more compatible with the GATT by moving toward establishing prices at the wholesale level. President Bush also suggested that ties between the Soviet Union and the OECD be improved and that East-West economic cooperation be furthered through the Conference on Security and Cooperation in Europe (CSCE) process.

Chapter 2

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

Introduction

In 1989, the stalemate from the 1988 Montreal Midterm Review¹ was resolved, and many national positions were identified in the 15 negotiating groups of the Uruguay Round, the eighth round of multilateral trade negotiations conducted since the inception of the General Agreement on Tariffs and Trade (GATT).² The term GATT has come to refer to both a multilateral agreement and an organization.³ Thus, the GATT is both a comprehensive set of rules governing most aspects of international trade and a forum sponsoring discussions and negotiations of any and all trade-related concerns members may raise.

Administration and governance of the GATT are conducted by the Contracting Parties⁴ and the Council of Representatives (the Council).⁵ The Contracting Parties and the Council also oversee implementation of the Tokyo Round agreements. The Contracting Parties meet annually to oversee the operation and direction of GATT. The annual sessions provide a forum for review of GATT activities pursued during the preceding year and for decisions on work for the following year. In the interim, the Council usually meets monthly to oversee virtually all GATT activities and to act on behalf of the Contracting Parties on both routine and urgent matters. Proposals are debated at Council meetings until consensus on a course of action is reached. Work is then parceled out to committees or specially created

¹ All but four of the negotiating proposals of the 15 groups were agreed upon at the Montreal meeting. Areas of disagreement were agriculture, intellectual property rights, safeguards, and textiles. Formal approval of the other proposals was postponed until agreement could be reached in April 1989 on these outstanding issues. See a detailed report on the Montreal Ministerial and the points of debate in ch. 1 of last year's report, USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, July 1989.

² Negotiated in 1947 among 23 countries, the GATT had a membership of 97 countries at the end of 1989, with several more countries seeking to accede.

³ In this chapter, the acronym "GATT," as commonly used, refers not only to the agreement but also to the secretariat and bodies administering it and to the whole of trade-related activities carried out under its auspices. The use of the term "General Agreement" refers solely to the actual legal document.

⁴ In this report, the conventional practice is followed of using the term "Contracting Parties" (capitalized) to refer to the parties to the General Agreement acting formally as a body. References to individual contracting parties, or to several contracting parties, are lowercase.

⁵ The Council is the Contracting Parties' intersessional body; it meets on average nine times annually, and is the central body directing GATT activities.

bodies. Figure 1 presents the organizational structure of the GATT.

This chapter reports on 1989 developments in the Uruguay Round negotiations, activities of the GATT Contracting Parties, the Council, and the committees of the GATT, and actions taken under GATT articles. The final section reviews the activities of the bodies responsible for implementation of the Tokyo Round agreements covering nontariff measures and certain sectors (aircraft, meat, and dairy products).

GATT Activities During 1989

In 1989, the groups formed to conduct the Uruguay Round negotiations continued to employ significant resources of the country delegations and the GATT Secretariat. Thus, many regular and routine functions of the GATT were discontinued or de-emphasized compared with previous years. However, two major institutional changes—among the first concrete achievements of the Uruguay Round—were adopted by the GATT Council on April 12, 1989. Streamlined dispute settlement procedures and a newly created Trade Policy Review Mechanism (TPRM) had been agreed to in the December 1988 Midterm Review. The new dispute procedures are designed to ensure timely and efficient dispute settlement in GATT while the review mechanism is a new device for encouraging greater compliance with GATT rules. Also, one new member, Bolivia, acceded to the GATT in 1989, bringing to 97 the total number of contracting parties.⁶

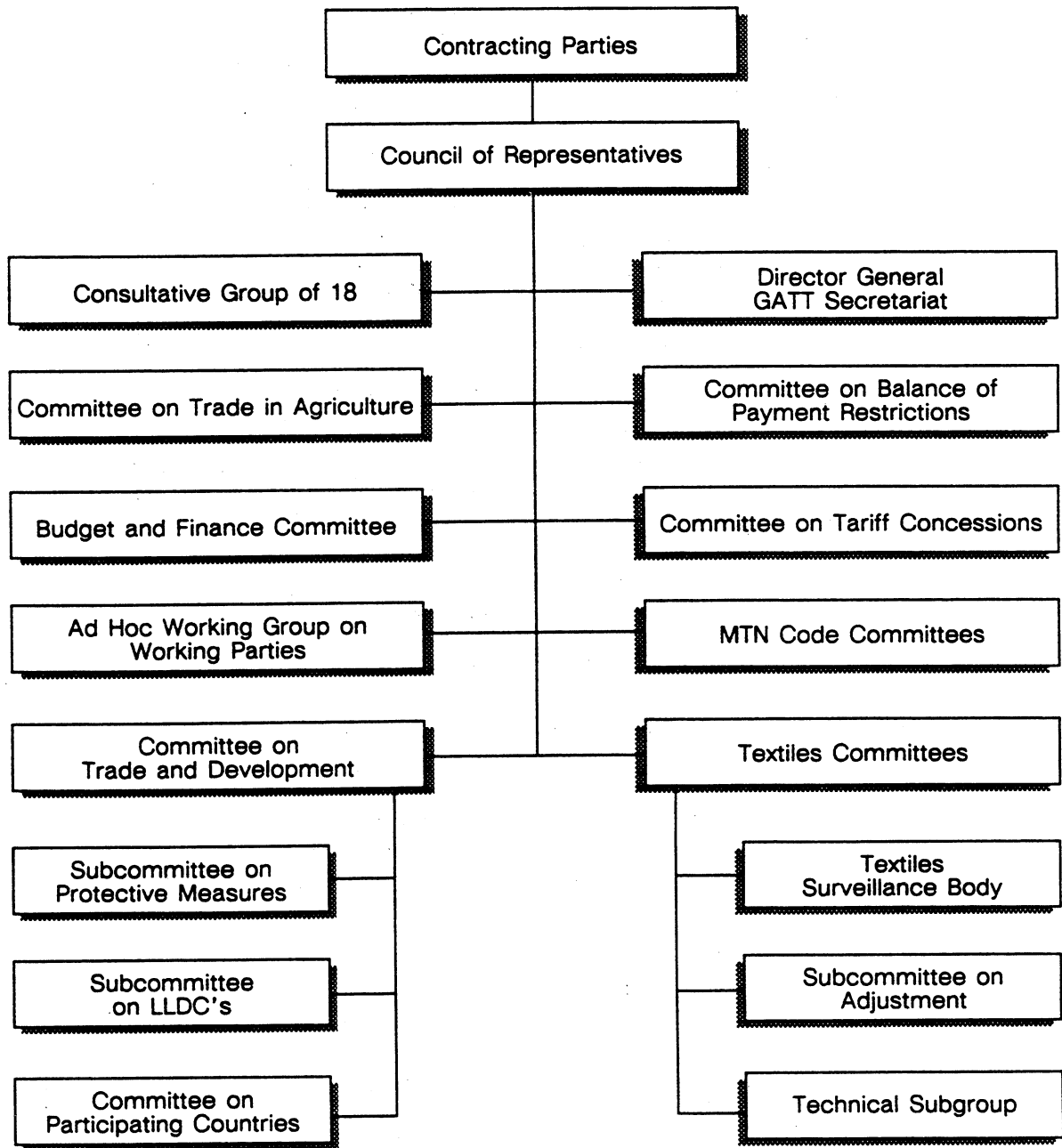
Uruguay Round Negotiations

A meeting of GATT trade ministers held in Punta del Este, Uruguay, on September 15–20, 1986, initiated the Uruguay Round of Multilateral Trade Negotiations (MTN). The resulting ministerial declaration scheduled 4 years of negotiations in which participants are expected to consider proposals to improve the GATT rules, notably those covering agriculture, subsidies, safeguards, dispute settlement, and nontariff measures (NTMs). New areas of negotiation on services, intellectual property rights, and investment measures were also included.

A special administrative structure was set up to administer the Uruguay Round negotiations. Its groups and subgroups set their own schedules of frequent meetings which national delegates attend. The Punta del Este ministerial declaration established a Trade Negotiations Committee (TNC) that began meeting before the end of 1986 to initiate its task of coordinating negotiating

⁶ The terms of Costa Rica's accession to the GATT were agreed to on Nov. 20, 1989. On November 24, Costa Rica signed the Protocol of Accession. It will become a contracting party of GATT 30 days after the Costa Rican Legislative Assembly ratifies the protocol.

Figure 1
Organizational structure of the GATT



activities. The TNC is responsible for oversight of every aspect of the negotiations. Also formed were a Group of Negotiations on Goods (GNG) and a Group of Negotiations on Services (GNS), and a Surveillance Body that oversees the ministers' commitment to standstill and rollback of protectionist measures. All three groups report to the TNC. Fourteen negotiating groups report to the GNG. The GNS and the Surveillance Body do not have subgroups. The following sections report on the discussions occurring in the TNC, GNS, the Surveillance Body, and the 14 topic groups which report to the GNG.

Trade Negotiations Committee

The TNC met in April 1989 to reconcile the four areas that had not been agreed to in Montreal at the December 1988 Midterm Review. After intensive negotiations, the delegates did achieve agreement on negotiating plans for agriculture, intellectual property, safeguards, and textiles. The completion of the Montreal package was deemed "good for the multilateral system" by Arthur Dunkel, chairman of the TNC and Director-General of the GATT Secretariat.⁷ In July, the TNC approved a timetable for the duration of the Uruguay Round. The final ministerial meeting will be held in Brussels, Belgium, from November 26 to December 8, 1990. Dunkel also proposed a three-phase work schedule to be followed for the timely completion of the trade round. Phase 1 occurred between September and December 1989, when delegations tabled their national positions in the various negotiating groups. During phase 2, running from January to August 1990, the objective is to reach a broad agreement in every group. The final phase, the period up until the final ministerial, will be devoted to "polishing up" the agreements and preparing the necessary legal documents for final adoption.⁸ At the TNC's 10th meeting of the Uruguay Round in December 1989, several participants reiterated their commitment to the success of the trade round and to the multilateral trading system. Some participants were concerned that progress in the diverse negotiating groups lacked balance. In general, though, the scene was set for the major push necessary to secure substantial results in every area.⁹

Surveillance Body

GATT members viewed the development of protectionism since the end of the 1970s as necessitating the adoption of firm standstill and rollback commitments that would go beyond simple efforts by governments to do their best to avoid introducing or maintaining protectionist

measures.¹⁰ The Surveillance Body is responsible for overseeing these standstill and rollback commitments. Participants may bring actions or measures taken by their own governments or by other members to the attention of this body through a process of written notifications.¹¹

In 1989, the body continued to consider notifications regarding breach of standstill commitments and received a revised rollback offer from the European Communities (EC). At the May meeting two notifications were received: Argentina reported the increase in U.S. subsidies for agricultural products and Australia reported the imposition of higher Swedish levies on sheep meat. Both countries maintained that the actions violated the standstill commitment. In addition, several delegations expressed concern about the possible harm to the multilateral trading system from the implementation of the so-called "Super 301" of the U.S. Omnibus Trade and Competitiveness Act of 1988 (the Trade Act.)¹² In July, discussion continued to focus on the U.S. Super 301 provision; the United States, meanwhile, declared its strong commitment to the round. In addition, the United States expressed its apprehension about the "Television Without Frontiers" directive approved by the EC Parliament. The United States claimed that by reserving broadcast programming for European films, the directive discriminated against non-European nations, a position which is inconsistent with EC GATT obligations.¹³

No new standstill Notifications were received by the Surveillance Body at the November 1989 meeting. However, several delegates drew attention to a number of issues under the "early warning" system.¹⁴ Also, the EC announced a

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

¹¹ Notifications so addressed to the Surveillance Body are then circulated to all participants, along with any comments or other factual information received. Procedures on rollback commitments operate in a similar fashion except that consultations concerning a possible rollback commitment are undertaken by interested parties and the results reported to the Surveillance Body. "The Uruguay Round—Decisions of 28 January 1987," GATT press release No. 1405, Feb. 5, 1987, p. 4.

¹² GATT, *NUR*, No. 28, May, 26, 1989.

¹³ GATT, *NUR*, No. 29, July 7, 1989.

¹⁴ For measures that are under consideration but have not been adopted by national legislatures, the Surveillance Body serves as a forum where delegations can voice their concern and possibly head off any measures that might undermine the Uruguay Round or the GATT. The specific measures discussed in November were (1) Brazil and India both protested their countries being named to the priority watch list under the US Special 301 provision dealing with intellectual property. (2) Chile warned that the U.S. Senate draft proposal for the extension of restrictive "quality control" measures for various fruit (kiwis, peaches, pears, nectarines, and plums) would violate the standstill agreement. (3) Australia questioned whether several EC agricultural measures would contravene the standstill accord. (The specific measures cited were the increases

⁷ GATT, *News of the Uruguay Round of Multilateral Trade Negotiations (NUR)*, No. 26, Apr. 12, 1989.

⁸ GATT, *NUR*, No. 30, Aug. 3, 1989.

⁹ GATT, *NUR*, No. 33, Jan. 11, 1990.

revised rollback offer¹⁵ which contained the abolition of a large number of QRs maintained by member states. Although, the offer was unconditional, the Community claimed that similar commitments by other participants would be needed to ensure implementation of the rollback commitment.¹⁶ The only other rollback offer to date was made by Japan in October 1988. Consultations continued in 1989 between Japan and Hong Kong involving the Japanese prior-confirmation system on silk fabrics. No action has been taken, though, on either rollback offer.

Group of Negotiations on Services¹⁷

The objective of the services negotiations is to establish a multilateral framework agreement that would ensure transparency (openness), predictability, and nondiscrimination in the services arena, thereby contributing to the liberalization and expansion of international trade in services, currently not covered by the GATT. Discussions in this group revolve around a number of issues: (1) sector coverage,¹⁸ (2) definition of trade in services,¹⁹ (3) application of

GATT principles,²⁰ (4) labor mobility,²¹ (5) developing countries' concerns,²² and (6) the mechanics of liberalization.²³

¹⁴—Continued)

operators would have the right to establish an office to produce a service in the host country or to otherwise facilitate its entry abroad.) This all-inclusive definition would cover basically all international service transactions amounting to trillions of dollars.

²⁰ Since the nature of trade in services and trade in goods are different, the delegates in Geneva are debating the applicability of such GATT principles as transparency, nondiscrimination, and national treatment to a services agreement. One basic distinction between the goods and services sectors pertains to the protective instruments employed in each area. Traded goods depend on tariffs and other import restraints applied at the border to control their flow or to influence their price in the marketplace. In services, since there are no tariffs, protection usually takes the form of discriminatory regulations on licensing and activities or restrictions on the establishment or on a foreign supplier. Justification for preventing freely traded services incorporates such arguments as protection of employment, infant industries, consumers, and legal entities; national security; and exchange-rate and balance-of-payment considerations. Due to the complexity of services trade protection, a simple application of GATT principles seems infeasible. GATT, *GATT Focus*, No. 60, March/April 1989.

²¹ The negotiations on services connect international factor mobility with international trade to a much greater degree than any negotiations on trade in goods. Many services require physical proximity of the provider of the service to the user. In this context, a services agreement will need to address labor relocation and subsequent immigration problems. For a more detailed discussion on labor mobility, see Jagdish N. Bhagwati, *The World Bank Economic Review*, vol. 4, No. 4, September 1987. Developing and developed countries differ over the types of labor that should be allowed more liberalized movement. Most developed countries support freedom of movement for skilled and professional workers, accomplished through an accreditation process. On the other hand, developing countries desire more mobility for their essentially unskilled labor force. Developed countries are concerned that this added freedom could undermine unions and hinder immigration laws.

²² The importance of services trade is signified by its sheer volume. In 1988, exports of services totaled \$505 billion. (GATT, *International Trade 88-89*, vol. 1, 1989.) Most developing and developed countries agree that the service sector contributes to economic development. However, divergence occurs over whether the mere liberalization of services will contribute to the economic development of developing countries. Since many developing countries do not have viable service industries, they perceive their benefits from liberalization to be minimal; therefore they are demanding concessions from developed countries.

To promote development in exchange for liberalization of the sector, developing countries have proposed the "adoption of an unconditional most-favored-nation clause," which would automatically extend advantages to all members of an agreement; the encouragement of the transfer of technology, with priority attention to those sectors in which developing countries are competitive (i.e., labor intensive ones); and "relative reciprocity" whereby a link is established between the level of concessions and the level of development. (Mexico advocated this concept because there can not be equal treatment among unequal partners.) GATT, *GATT Focus*, No. 60, Apr./May 1989. (Transfer of technology in services does not have the same connotation as in investment. Services technology transfer refers to job training, expertise, information handling, etc. Investment transfers refer to specific products or processes. See section below on trade-related investment measures.)

²³ Measuring the exchange of concessions and benefits in a services agreement will be difficult since the

¹⁴—Continued
in processing aids for dried grapes, the one-percent increase in dairy production quotas eligible for price support, consideration of import securities affecting peas and beans, and a proposal that subsidies be paid to encourage conversion from surplus production to previously unsubsidized products.) (4) A delegate from Argentina noted that it considered the EC's increase in price supports for certain corn production a breach in the commitment. (5) Finally, the EC expressed concern over Brazil's increased export taxes on the vegetable fibre sisal. GATT, *NUR*, No. 33, Jan. 11, 1990.

¹⁵ In March 1988, the EC submitted the first rollback offer. The offer proposed the elimination of over 100 of the EC's quantitative restrictions (QRs) covering a variety of industrial and agricultural products.

¹⁶ *Ibid.*

¹⁷ For further discussion on Uruguay Round developments related to services see ch. 3.

¹⁸ Even though the Montreal framework declared that "work should proceed without excluding any sector of trade in services," the exclusion of certain sectors may arise "for certain overriding considerations." Most debate on sector coverage has been generated over the starting point for liberalization, i.e., should the total sector be liberalized with some exceptions, or should the status quo be accepted and then certain sectors be liberalized. GATT, *NUR*, No. 27, Apr. 24, 1989.

¹⁹ Developing and developed countries are at odds over defining "trade in services." Many developing countries contend that negotiations should exclude both "internal" trade and the production and distribution of services within national frontiers. Conceptually, this narrow definition would only cover those service goods that physically cross borders, such as postal services or telecommunications. In monetary terms, the amount of trade affected would be about \$100 billion. United Nations Conference on Trade and Development (UNCTAD), *Uruguay Round Papers on Selected Issues*, 1989, p. 63.

Conversely, several developed countries maintain that the broadest definition should be employed to achieve effective market access. Types of transactions denoting international trade in services involve cross border supply of the service, cross-border movement of consumers, a commercial presence or establishment, and the movement of personnel essential to the supply of the service. (Establishment means that foreign service

In late April, the group decided to devote the next three meetings to an examination of the implication and applicability of the above issues to specific sectors. The group agreed to address the telecommunications²⁴ and construction sectors²⁵ in June, transportation²⁶ and tourism²⁷ in July,

²³—Continued

negotiations deal with concepts, i.e., labor mobility, and regulations and not dollars and cents. The GATT Secretariat recently estimated the amount of world exports of services. However, the report cited various measuring difficulties, such as the United States lack of statistics for banking services. Therefore, a mechanism will need to be devised to define and ensure an overall "balance" to the liberalization process.

²⁴ In discussing telecommunications in June, the difference between the basic network (in most cases dominated by a state-controlled or owned monopoly) and the enhanced, value-added network was emphasized. (The enhanced network includes services like teletext, electronic mail and remote data processing, which use the basic network.) Many delegations believe the new framework of disciplines should only apply to the enhanced services sector since a close relationship exists in the basic network between the sale of goods (telephone equipment, for instance) and the provision of services in this area. To ensure openness in this sector, the group emphasized the need for publicizing the activities of the many national regulatory bodies and establishing national enquiry points for foreign suppliers to access information relating to regulations.

²⁵ During the talks on the construction industry, background material revealed that the value of construction contracts awarded to the top 250 international contractors in 1987 was \$74 billion with a further \$4 billion in design contracts. (GATT, *NUR*, No. 29, July 7, 1989.) The major issue in construction, is labor mobility. Developing countries favor free labor movement for both skilled and unskilled while developed countries worry about how labor mobility would affect immigration laws. With the numerous regulations for construction at all levels of government—Federal, State, and local—developing countries are also concerned about the resources that would be required to construct a sophisticated system of enquiry points. In addition, the application of national treatment would be an important element for the multilateral framework, since the industry does have subsidization, local content rules, local personnel recruitment, and government procurement.

²⁶ The discussion of transportation was mainly confined to air transport and maritime sectors with surface transport and multimodal transport mentioned briefly. In 1988, the United States was the largest provider of scheduled air services carrying passengers, freight, and mail, followed by the Soviet Union, Japan, the United Kingdom, and France. This sector is highly regulated and subject to many bilateral agreements negotiated under the 1944 Chicago Convention, that dictates airline access to routes and airports and is founded on the principle of national sovereignty over airspace. With this in mind, many delegates argued that principles like nondiscrimination and national treatment could not be applied in the present system. They felt that the bilateral agreements were becoming more liberal and should not be challenged or undermined by new multilateral decisions. Other participants believed the current system was too restrictive and, in the long run, should not be eliminated from coverage under a services agreement. There was widespread agreement that some aspects of the industry could be covered by the Montreal decision. These included ground handling services, charter aviation, and computer reservation systems.

The maritime sector is also highly regulated by a mixture of liner conferences (groups of companies fixing tariffs on regular shipping routes), the UNCTAD Liner

and professional²⁸ and financial services,²⁹ including insurance³⁰ in September.

²⁸—Continued

Code (freight sharing business between pairs of developed and developing countries), and cabotage (reservation of coastal shipping for national flag carriers and, often, crews and ships of national origin), which would be difficult to cover in a multilateral services agreement. Participants differed over how to liberalize the industry, with some emphasizing that existing regulations promoted national security interest, national shipping capacities, and standards of safety which should not be subject to any multilateral framework. On the other hand, some delegations believed the system was restrictive, inefficient, and led to unnecessarily high transport costs. These countries felt that the sector should not be excluded from a longterm agreement.

²⁷ The tourist industry is estimated to represent the largest industry in the world with total sales, in 1987, of \$1.9 trillion. (GATT, *NUR*, No. 30, Aug. 3, 1989.) Since governments openly attempt to attract tourists, the industry is far less regulated than the sectors the group had already discussed. However, some regulations do exist that affect individual tourists (visa or currency restrictions) and the activity and ownership of enterprises (tour operators, travel agents, hotels, and catering services.) The major issue discussed concerned labor mobility.

²⁸ Internationally "traded" professional services include accounting, legal, management, advertising, health care, architectural, engineering, and software. The nature of trade may be cross-border (via computer terminals, for instance, or through the travel by the supplier or customer) or through local commercial presence. Regulation exists for various reasons: consumer protection, promotion of domestic business and local employment, the need to manage foreign exchange, and preservation of cultural identity. A key issue debated was the practice of discrimination on the basis of nationality and the recognition of foreign qualifications in order to practice.

²⁹ Financial services include banking, insurance, and security-related services. Some participants noted that the banking and securities sectors should be considered in two parts; first, in regard to financial flows, and second, in the context of establishment or commercial presence. These sectors are also highly regulated since they represent instruments of national and international economic management—monetary and fiscal policies and debt management—which require prudent supervision. Many participants stressed the importance of maintaining the integrity of the regulatory systems, since liberalization could lead to more regulation instead of less. In recent years, substantial deregulation and liberalization has occurred in the financial services sector in both developed and developing countries. Nevertheless, a number of delegations considered many regulations as still restrictive and capable of discipline in a multilateral framework. For example, some participants felt that the regulations affecting establishment, acquisition of domestic enterprises, and the operation of foreign-owned banks and security houses are overly restrictive.

³⁰ Total premiums paid in 1987 for both life and nonlife insurance was estimated at \$1,070 billion. (Companies in North America garnered 40 percent of the business, in Europe over 30 percent, in Asia 25 percent, and developing countries 5 percent. Background material presented to the group as cited in GATT, *NUR*, No. 31, Oct. 16, 1989.) Again, this sector is highly regulated, partly to protect consumers and partly because insurance premiums provide major sources of investment funds. While some participants believed that the integrity of the national insurance sector could be undermined by multilateral liberalization, others realized that the industry could benefit from liberal trade principles.

Switzerland³¹ and New Zealand³² were the first two delegations to table proposals in 1989 on the overall structure and mechanism for a services agreement. In October 1989, the United States presented its near-complete draft legal text of a framework agreement.³³ In general, the U.S. plan was widely accepted, its only major criticism being its apparent lack of reference to developing countries' concerns. India and a number of other participants felt the U.S. plan did not specifically address the issues of promoting services in developing countries and increasing their export earnings in this sector.³⁴ Singapore³⁵ and Korea³⁶

³¹ The Swiss plan envisaged a three-part "General Agreement on Services (GATS)" with general provisions applicable to all commercial services including an obligation to negotiate; an agreement on immediately applicable achievements; and provisions on the long-term process of progressive liberalization including binding. An initial level of commitments affecting several commercially important services would be negotiated in the short term while eventual progressive liberalization would be achieved through successive inclusion of different sectors subject to the rules and disciplines of the agreement. GATT, *NUR*, No. 31, Oct. 16, 1989.

³² A "GATS" was also suggested by New Zealand consisting of generally applicable rules and individual country schedules of reservations and concessions. The list of reservations would allow each signatory of the agreement to indicate those areas—sub-sectors or activities—where the obligations of framework would not be applied immediately. Reserved areas would be gradually eliminated through successive negotiating rounds, and eventually bound. The New Zealand plan would cover all traded or tradeable services and could entail an "entry fee" through an assessed, balanced initial level of agreements.

³³ The U.S. plan would cover all services except those specifically excluded in national schedules. A number of market-access provisions were addressed—establishment, cross-border provisions of services, temporary entry for service providers, and licensing and certification. Further articles incorporated national treatment, nondiscrimination, domestic regulation of services, transparency, payments and transfers, short-term measures for balance of payments reasons, and general exceptions. A Committee on Trade in Services would be established as well as dispute settlement procedures. Signatories would be able to reserve certain provisions and particular sectors plus list additional commitments, protocols, or special arrangements they wish to participate in. The effective date of the proposal is January 1, 1992 and would be subject to further negotiations in 3 years to increase the coverage and reduce the number of reservations.

³⁴ GATT, *NUR*, No. 32, Nov. 21, 1989.

³⁵ Singapore's proposal emphasized the development considerations of developing countries and recommended these countries would have a longer time period to implement any framework, would give preference to domestic service providers over external suppliers, and would provide incentives for domestic services providers. It also suggested a safeguard provision against detrimental corporate practices of foreign service companies.

³⁶ Korea also advocated a "General Agreement on Trade in Services" approach for liberalizing the services sector. The Korean plan would involve two stages: initial commitments made by the end of the Uruguay Round, then, periodic negotiations thereafter to widen the coverage of the agreement. Other provisions that should be included in an accord, along with the "Montreal principles," would cover subsidies and countervailing measures, government procurement, antidumping, dispute settlement, and obligations of local governments.

also submitted their proposals while Austria and the EC offered their ideas on certain elements that would form a services agreement.³⁷ Brazil³⁸ and Japan³⁹ tabled their proposals during the November meeting.

In December, the chairman presented a draft text of a services framework agreement, which was a compilation of proposals, papers, and communications from various countries. The draft was divided into three sections with a possible fourth covering institutional aspects of a future framework. The scope of the agreement and the definition of trade in services was outlined in section one. Part two described the "Montreal principles"⁴⁰ while the third section detailed the coverage of the agreement, the modalities of progressive liberalization (initial commitments and the mechanics of liberalization), and sectoral annotations for interpreting and clarifying the framework. The draft was generally accepted with some participants expressing disappointment over the numerous areas of disagreement⁴¹ and the lack of consideration for development interests. In 1990, the participants will be negotiating from the chairman's draft text with the objective of a broad agreement in services by July 1990.

³⁷ Austria advocated a cautious approach to progressive liberalization with additional negotiating rounds to open new sectors, to cover more transactions, and to reduce regulations. On the role of nondiscrimination in a services agreement, the EC suggested that a balance between the rights and obligations granted under an accord and the benefits gained should hinge on each signatory assuming an appropriate minimum—though not similar—level of mutual obligations leading to overall reciprocity. A specific provision of the EC communication would allow more rapid liberalization for countries of regional agreements while another would permit a country to withdraw its commitment to another signatory if that signatory's concessions are inadequate.

³⁸ Brazil defined trade in services as the cross-border movement of services, consumers, and factors of production essential to suppliers. Permanent foreign direct investment and international immigration would not be covered. Four basic principles would always apply: respect for policy objectives, consistency with development objectives, balance of benefits among participants, and exceptions. In consideration of developing countries, the Brazilian submission included the strengthening of domestic services capacity, technology transfer, and preferential financial mechanisms.

³⁹ Japan considered the major objective of an agreement to be an increase market access. To realize this goal, Japan advocated national treatment, unconditional MFN treatment, and standstill and rollback of existing regulations through periodic reviews. Japan opposed the application of a reciprocal market access approach.

⁴⁰ In the Montreal accord, delegations agreed to examine the following principles in respect to a services agreement: transparency, progressive liberalization, national treatment, MFN/non-discrimination, market access, increasing participation of developing countries, safeguards, exceptions, and regulatory situations.

⁴¹ There were 160 brackets in the text which signified areas of disagreement.

Group of Negotiations on Goods

During 1989 the GNG discussed issues raised by the 14 topical negotiating groups whose activities it oversees. In July, the GNG group reviewed the progress of the Uruguay Round negotiations under part I of the Punta del Este declaration.⁴² TNC Chairman Dunkel noted that activity in the groups had accelerated in previous months after the relatively slow start following the conclusion of the TNC meeting in April. Dunkel also stressed the need for all delegates to signify their national positions in each of the negotiating groups and urged that intensive negotiations start by early 1990 to keep the round on its scheduled completion goal of December 1990. In both the July and December meetings, some participants noted the imbalance in the progress of the trade talks. In particular, they saw issues of special interest to developing countries taking second place to the nontraditional areas such as intellectual property, investment, and services.⁴³ In December, the continued failure of the Tariffs Negotiation Group to reach an agreement on the modality for tariff reductions was noted as a possible threat to the success of the round.⁴⁴

The 14 issue-specific negotiating groups report to the GNG and serve as the negotiating forums for the various Uruguay Round agenda topics related to trade in goods. Highlights of the groups' activities throughout 1989 are described below.

Tariffs⁴⁵

The negotiating objective for tariffs calls for the reduction or elimination of tariffs.⁴⁶ The major issue in the talks is determining the modality for tariff-cutting, whether by formula or request-offer.⁴⁷ The midterm agreement stated

⁴² Part I of the declaration addressed the objectives, general principles, and subjects for negotiations and the standstill and rollback commitments. See USITC, *Operation Trade Agreement Program*, 38th Report, 1986, USITC Publication 1995, 1987, app. A for a copy of the declaration.

⁴³ GATT, *NUR*, No. 30, Aug. 3, 1989.

⁴⁴ See section on "Tariffs" later in this chapter.

⁴⁵ Tariff-cutting exercises, traditionally featured in trade rounds, have substantially reduced tariff levels over the last 40 years. At times, an across-the-board, tariff-cutting formula was used, with general rules for departures from the formula. Tariff negotiations entail binding commitments not to impose tariffs that are above agreed-upon levels on specific products.

⁴⁶ An overall goal of the Uruguay Round negotiations is to increase market access—the ability of a domestic industry to penetrate a related market in a foreign country—which can be hampered by various trade barriers. During the current trade talks, six market negotiating groups are directly addressing the issue of increasing access to global markets: tariffs, nontariff measures, textiles, agriculture, tropical products, and natural resource-based products.

⁴⁷ The request-offer negotiating approach involves a country submitting a request to a trading partner which identifies the concessions the requesting country seeks through negotiations. Compensating offers are similarly tabled and negotiated by the delegates of the countries involved.

that the target amount of overall reductions should be "at least as ambitious" as the Tokyo Round, which was estimated to be 34 percent.⁴⁸

In July 1989, the EC⁴⁹ and Japan⁵⁰ both advocated cutting tariffs across-the-board through the use of a mathematical formula with a "harmonizing effect" (the higher the rate, the higher the percentage reduction). Most participants supported the formula approach, while the United States reiterated its intention of pursuing a request-offer approach.

In September, Canada offered a compromise proposal between the two tariff-cutting methods.⁵¹ Even though many participants deemed the proposal constructive, the United States maintained its support of the request-offer method.⁵² The chairman of the group, in consultations with other participants, offered a possible negotiating framework in October. This approach specified a tariff-cutting formula augmented by request-offer negotiations. Several delegations welcomed the proposal but questions still remained on how to reconcile the two approaches.

At an informal trade minister's meeting in Tokyo in November 1989, U.S. Trade Representative (USTR) Carla Hills presented a new plan to break the tariff negotiations impasse. Ambassador Hills proposed that all Uruguay Round participants submit by January 15, 1990, their initial plans for cutting and eliminating tariffs. Each participant would be able to choose the method of reduction as long as the goal of an average of 33 percent cut in tariffs was reached. No agreement was reached in Tokyo nor was there any consensus on the modality for reducing tariffs by yearend 1989; therefore intensive informal consultations were planned for the beginning of 1990.⁵³

⁴⁸ GATT, *GATT Activities in 1979*, (Geneva, 1980), p. 19.

⁴⁹ The EC advanced a series of reductions, whereby industrialized and more advanced developing countries would lower tariffs of 40 percent or more down to a ceiling rate of 20 percent, and tariffs below 40 percent would be reduced between 21 and 50 percent. Developing countries would bind their tariffs at 35 percent, while tariffs of less than 35 percent would be reduced bilaterally. Least developed countries would contribute to the limits of their capabilities.

⁵⁰ Japan proposed a formula similar to the one used in the Tokyo Round to cut customs duties of developed countries by a third as implied in the Montreal decision. Under the Japanese plan, developing countries would lower their tariffs in accordance with the general principles of the Punta del Este declaration and increase their tariff bindings to the highest level possible.

⁵¹ Under the Canadian plan, a formula would be used to cut tariffs by 32 to 38 percent and would eliminate duties below 4 percent. The formula would be supplemented by early request-offer negotiations to achieve deeper cuts.

⁵² GATT, *NUR*, No. 31, Oct. 16, 1989.

⁵³ Informal discussions in January 1990 did provide agreement on detailed procedures for lowering or abolishing tariffs. A timetable was established for the submission of each participant's proposal for the reduction, elimination, and binding of its respective

Nontariff measures

In negotiations on NTMs, the central aim is to liberalize global market access, either by multilateral rule-making, a formula-based method, or a request-offer approach. Along with deciding on the method for increasing market access, the group is discussing rule-making in certain problem areas, such as preshipment inspection (PSI), rules of origin, export restrictions, and fees, dues, and other charges on imports.

In May, Australia introduced a proposal using a formula-based modality for increasing market access. Japan stated that the arbitrary use of rules of origin restricted trade and investment. The Japanese statement advocated the drafting of nondiscriminatory, predictable, and transparent rules. Several participants, such as the United States and Canada, encouraged further work in this area. The EC suggested that rules of origin were technical and neutral and should be handled by the Customs Cooperation Council (CCC).⁵⁴

Two proposals were tabled at the September meeting involving rules of origin. Hong Kong⁵⁵ proposed that some general principles be adopted, consisting of objectivity, impartiality, transparency, and predictability.⁵⁶

The second proposal presented was by the United States. The proposal suggested that all origin systems be based on standards defined in positive statements that affirm rather than negate origin; be consistent; be understandable; and be subject to review by an administrative or judicial authority.⁵⁷

⁵³—Continued
tariffs on a line-by-line basis. The proposals were then reviewed and assessed to ensure that individual proposals complied with the midterm review agreement. The participants also agreed that concessions made in other negotiating groups will be taken fully into account in assessing a member's contribution to tariff reductions. The compromise announced on Jan. 30, 1990, avoided specifying which approach should be used. Rather, the participants may choose either a formula-based or request-offer method for reducing tariffs by 33 percent. GATT, *NUR*, No. 34, Feb. 23, 1990.

⁵⁴ GATT, *NUR*, No. 29, July 7, 1989.
⁵⁵ Hong Kong identified the two main problems with rules of origin. First, the increase in specialization of processes and the multicountry processing and manufacture of goods have made the determination of origin difficult and has led to uncertainty as to which rules to apply. Second, an absence of uniform international rules has allowed importing countries high degrees of discretion, and of discipline with the possibility of the rules becoming trade distorting.

⁵⁶ The Hong Kong proposal also realized that the possibility of negotiating internationally harmonized rules in the Uruguay Round was slim, therefore, to ensure nondiscriminatory application of rules, Hong Kong recommended requiring the rules to not have trade-distorting, restrictive, or disruptive effects, nor should the rules nullify or impair the rights of the contracting parties under the General Agreement.

⁵⁷ The U.S. plan recommended two phases for the eventual harmonization of rules of origin. Phase one would consist of the GATT requesting the CCC to do three studies: (1) using the Harmonized System

In November, the EC and Japan indicated they would be submitting draft plans on rules of origin at a later date.⁵⁸ By the end of 1989, no agreement had been reached on the framework and procedures for the negotiations on liberalizing global market access.⁵⁹

⁵⁷—Continued
Commodity description and coding (HS) nomenclature, the CCC would identify where the processing of a product results in a change within the nomenclature sufficient to warrant conferring origin; (2) identify those product areas which are typically subject to a variety of rules of origin and/or rules of origin different from the primary rule of origin used by individual countries; and (3) report the generic types of "non-MFN" policies or programs that are subject to special rules of origin, indicating the country, and the program or policy used.

Under phase two, the contracting parties, by using the three reports of the CCC, would negotiate harmonized rules of origin based on the HS nomenclature to increase predictability in the multilateral trading system and to promote transparency. Once an agreement was reached, contracting parties would observe various procedural rules. Member states, within 90 days of the effective date of the agreement, would be required to provide the GATT Secretariat a description of the regulations and practices that are used to determine origin. Nations would also report any changes in origin rules at least 120 days before the change is adopted, along with an explanation for the change. Finally, countries that plan legislative changes to their rules should notify other countries on request at least 45 days before the change takes effect.

⁵⁸ In an apparent shift in its negotiating stance, the EC submitted a proposal in February 1990 for devising rules of origin that are nondiscriminatory, neutral, transparent, predictable, consistent, and applied only on an MFN (nonpreferential) basis. (The EC had maintained that rules of origin were neutral and not commercial policy measures, therefore were not covered by the General Agreement.) Moreover, contracting parties would be allowed to challenge the rules before a judicial authority of the issuing country and disputes arising from the application of rules would be handled by articles XXII and XXIII of the General Agreement. The EC is also insisting that all GATT countries subscribe to the Customs Cooperation Council's 1973 Kyoto Convention. This convention bases origin on the last substantial process of production. Furthermore, the CCC would have the responsibility to deal with technical questions concerning the interpretation of non-preferential origin rules. For this purpose, a CCC Origin Committee would be established. *European Community News*, No. 4/90, Feb. 14, 1990. Japan's proposal on rules of origin, introduced in February 1990, was similar to the EC's. Japan also recommended the establishment of a Committee on Rules of Origin. In addition, the Japanese submission advanced that rules of origin should not be trade restrictive or impair or nullify the rights of GATT members. The CCC would also be requested to prepare studies on rules of origin by the fall of 1990, with an objective of securing the harmonization of rules. These studies would then help determine the "basic guideline" to be used for post-Round work on the subject. GATT, *NUR*, No. 34, Feb. 23, 1990.

⁵⁹ In February 1990, after the tariff impasse was broken, (see "Tariff Section" above) the Nontariff Measures Group adopted procedures for its negotiations. Participants agreed to use the following approaches to increase market access, depending on the nature of the nontariff measures: multilateral rulemaking, multilateral formula, and the request-offer method.

The negotiating objectives of the Agriculture Group are to achieve greater liberalization of trade in agriculture through (1) improving market access,⁶⁰ (2) improving the competitive environment,⁶¹ and (3) minimizing the adverse trade effects of health and sanitary regulations.⁶²

The long-term objective of farm reform "is to establish a fair and market-oriented agricultural trading system" through "substantial progressive reductions in agricultural support and protection."⁶³ In the short term, participants agreed in April to ensure that current support and protection levels would not be exceeded and that tariff and nontariff market access barriers would not be intensified during the remainder of the round. Price supports should also not be increased above their current levels.

The September meeting addressed a recent communication from the EC on GATT rules and disciplines affecting agriculture.⁶⁴ In the submission, the EC maintained that the objective of the negotiations was to improve existing rules rather than fundamentally change them. Many of the countries considered the EC's suggestions as offering only minor improvements which seemed to advocate the status quo. In addition, some were critical of the maintenance of a dual-price system and variable levies. Several countries regarded the proposal as falling short of the guidelines laid down in the midterm review.⁶⁵

⁶⁰ The question under debate is how to effectively and efficiently reduce nontariff barriers in agriculture.

⁶¹ Overall accord exists for disciplining export subsidies, either by prohibiting them or reducing the use of subsidies. The reduction of subsidies would be measured by an Aggregate Measure of Support (AMS).

⁶² The goal for setting sanitary and phytosanitary standards is to eliminate unjustifiable health-related barriers to trade. Article XX(b) of the General Agreement allows a contracting party to adopt or enforce measures to protect human, animal, or plant life or health. However, the types of measures are determined at the discretion of the contracting party, which makes it extremely difficult to challenge the "necessity" of the measures. (U.S. Department of Agriculture, "Harmonizing Food Safety and Other Health-Related Regulations for Agricultural Trade," *National Food Review*, vol. 12, No. 3, July-September 1989, p. 38.)

⁶³ The elements and guidelines for farm reform agreed to in April 1989 provide for strengthened and more operationally effective GATT rules and disciplines and consideration of special and differential treatment for developing countries. Also, an agricultural agreement should take into account the possible negative effects of the reform process on net-food-importing-developing-countries as well as the nontrade factors used by some participants in their agricultural policies. GATT, *NUR*, No. 26, April 12, 1989.

⁶⁴ Specific articles that affect agriculture are art. XVI:1 and XI. The first article distinguishes between primary and secondary products and allows subsidies on primary (usually interpreted as agricultural) products. Article XI pertains to the general elimination of quantitative restrictions but establishes conditions to restrict imports of any agricultural or fisheries product for government supply measures.

⁶⁵ GATT, *NUR*, No. 31, Oct. 16, 1989.

Other items discussed were the preliminary ideas of Switzerland and the Nordic countries⁶⁶ for including nontrade factors in farm reform.⁶⁷

In October,⁶⁸ the United States presented a comprehensive farm trade reform plan. The new U.S. scheme covered four major areas of agricultural trade: market access, internal support,⁶⁹ export-based subsidies, and sanitary and phytosanitary standards.⁷⁰ Response to the

⁶⁶ Finland, Iceland, Norway, and Sweden.

⁶⁷ Switzerland suggested that countries whose agricultural policies are based on noncommercial concerns should adopt a complementary approach for reducing support. The basic element for determining the disciplines for these countries could be a minimum level of market access or rate of self-sufficiency. The Nordic countries called for stricter GATT rules and disciplines and a liberalization of agricultural trade, but stated that some countries may need protection at the frontier for nontrade reasons.

⁶⁸ In other discussions in October, Peru, on behalf of Egypt, Jamaica, Mexico, and Morocco recommended compensating the net-food-importing-developing-countries for the negative short-term and medium-term effects of agricultural reform. The Organization of Economic Cooperation and Development (OECD) estimated that prices of dairy products and eggs would increase by 49 percent as a result of farm reform. Also, prices of cereals would rise 36 percent and meat 16 percent. To alleviate the burden of these increased prices, the net food-importing countries have recommended they receive low-interest loans and credits, increased food aid, financial resources and technical assistance to enhance purchasing capacity and to allow them to finance development programs and modernize their agriculture.

⁶⁹ Internal supports are governmental policies such as a municipal transportation subsidy, tax incentive, or price support program which create surpluses, deny access to incoming products, or distort trade.

⁷⁰ Under the U.S. reform proposal, increased market access would be accomplished through tariffication. (Tariffication entails converting nontariff barriers, such as quotas, variable levies, voluntary restraint agreements (VRAs), and minimum input prices into tariffs then reducing the resultant tariffs through planned, periodic tariff negotiations.) To improve the competitive environment, the U.S. plan envisages three categories of internal support measures. Supports that distort trade and link income to production would be prohibited, policies that do not tie production and marketing to income, such as disaster assistance, would be permitted, while all other policies not meeting the first two criteria would be monitored and disciplined as needed. Using the traffic light concept, a red-light support or prohibitive policy would be required to be phased out in 10 years while green-light policies would be permissible under the GATT. A yellow-light subsidy designation would be monitored and subject to disciplinary action and reduced through the use of an AMS. In addition, all export subsidies, restrictions and prohibitions, including those authorized under article XI:2(a) to relieve short supply, would be diminished over a 5-year period. Only bona fide food aid would be allowed.

The U.S.'s plan also established a mechanism for notification, consultation, and dispute settlement to ensure that measures taken to protect human, animal, and plant health are based on sound scientific evidence and are equivalent to the appropriate standards established by competent organizations. (The United States named the Codex Alimentarius Commission, the health and safety regulating arm of the United Nations World Health Organization, as an appropriate body to set the standards and regulations in this area.) The U.S. agricultural reform package also required the active participation of all countries. However, longer time

proposal was mixed. Most of the members of the Cairns group⁷¹ supported the plan even though Canada expressed its reservations about the abolition of Article XI(2)(c) which covers production controls.⁷² Japan opposed the plan since it would mean that Japanese subsidies for rice would have to be curtailed.⁷³ The European Community rejected the proposal on the grounds that it contradicted the April midterm review agreement.⁷⁴

Five new proposals were discussed at the November meeting. The Cairns Group, Japan, Korea, Brazil and Colombia jointly, and Bangladesh⁷⁵ all submitted plans for agricultural reform. The Cairns proposal resembled the U.S. plan in several different aspects.⁷⁶ The major difference between the U.S. and Cairns' proposals is the emphasis the latter group placed on the use of the AMS. The United States would utilize the measure to monitor the actionable policies while the Cairns group wants countries to commit to annual reductions in the measure. Japan's proposal emphasized its view on the need for border adjustment measures for food security reasons.⁷⁷ The Korean communication also

⁷⁰—Continued

periods could be granted to developing countries while developed nations could accelerate the reduction of trade barriers and internal support policies for products of priority to developing countries.

⁷¹ The Cairns Group is a group of agricultural exporting countries and includes Argentina, Australia, Austria, Brazil, Canada, Chile, Hungary, Indonesia, Malaysia, New Zealand, the Philippines, Thailand, and Uruguay. The group's name derives from the Australian city where the members first met in August 1986 and called for the removal of market access barriers, substantial reduction of agricultural subsidies, and the elimination, within an agreed period, of subsidies affecting agricultural trade.

⁷² Canada uses the article in its supply management and quota schemes for agricultural products.

⁷³ Rice is Japan's staple food. Therefore, it maintains a policy of self sufficiency in rice for national security reasons.

⁷⁴ *European Community News*, EC office of Press and Public affairs, No. 37/89, Oct. 25, 1989.

⁷⁵ Bangladesh, as a spokescountry for the least developed countries, called for the granting of short-term food aid and of direct financial and technical assistance for their agricultural sector.

⁷⁶ The Cairns Group views the reform process as stretching over a period of 10 years or less with trade-distorting policies prohibited. To increase market access, the group of agricultural exporting nations support a tariffication scheme. The Cairns Group would allow developing countries a longer time for implementing the agreement but called for all countries to participate in the reform. As for rules, both the Cairns Group and the United States claim that articles XI and XVI should be revised.

⁷⁷ Also, the Japanese plan recognized that export subsidies can be trade distorting and should be progressively reduced and eventually eliminated. However, since some domestic support policies are not trade distorting, they should not be prohibited. Japan would clarify the conditions under article XI:2(c)(i) where a country can restrict imports of any agricultural or fisheries products for governmental supply management measures and advocated a review of article XI:2(a) which allows export restrictions in the event of food shortages.

supported the need to take into account noneconomic factors for liberalizing trade in agricultural products.⁷⁸ The joint communication from Brazil and Colombia emphasized the problems developing countries would have in implementing farm reform.⁷⁹

In December, three more proposals were presented and discussed. Both the Nordic Countries and Austria emphasized the need for allowing flexibility in the choice of national policies.⁸⁰ In its submission, the EC "reaffirmed its attachment of a system of dual pricing in agriculture"⁸¹ and to the AMS as a means to reduce support and protection in the agricultural sector.⁸² The EC remained doubtful about the feasibility of tariffication as a means of lowering border protection in a uniform manner. However, the EC is prepared to consider tariffication as

⁷⁸ Korea would allow the maintenance of potential agricultural production capabilities and the minimum market access or minimum rates of self sufficiency. For internal supports, Korea suggested the possibility of decoupling production support. Article XI:2 would be improved under the Korean plan to allow more frequent invocation.

⁷⁹ In particular, the proposal reiterated the Cairns Group ideas for developing countries, i.e. longer time and greater flexibility for developing countries to implement farm reform. Also, certain quantitative restrictions which meet economic and social development needs and support measures that develop general infrastructures and human resource capabilities would continue to be allowed for developing countries.

⁸⁰ The Nordic countries' submission recognized the importance of moving away from trade-distorting practices but clearly defined national policy objectives such as food security, regional, social, and environmental should still be permitted. The Nordic countries also acknowledged that most export subsidies need to be eliminated and farm supports should be "decoupled," i.e., the link between income and production should be broken.

⁸¹ GATT, *GATT Focus*, No. 68, Feb. 1990.

⁸² Specifically, the European plan outlined the characteristics of a Support Measurement Unit (SMU) and how it could be used to reduce structural surplus and trade disruptions in the priority products of cereals, rice, sugar, oilseeds, milk, beef, veal, pork, eggs, and poultry. The SMU would use a fixed external reference price which would relate internal support levels to external prices, i.e., measure the reduction of internal supports relative to the fixed external reference price. These external prices would be agreed upon by the participants, but the EC suggested the years from 1984 to 1986 to avoid excessive price fluctuations. One drawback of the SMU is that it cannot be used for some products due to the complexity of the measurement. Specific products that would be treated differently are fruits and vegetables, fisheries, forest products, and sheep. Under the EC plan, countries would commit to reducing support for an initial 5-year period but could renegotiate their commitments after the fourth year of the plan.

Another aspect of the EC plan addressed the needs of developing countries. Special and differential treatment for developing countries under the EC submission would consist of flexibility in the application of rules and take into account the possible negative affects of the reform process to the net-food-importing countries.

long as rebalancing is permitted.⁸³ Many participants welcomed the EC's plan and "were encouraged by the EC's apparent willingness to negotiate seriously."⁸⁴ Objections to the proposal were voiced concerning the undefined 5-year commitment to reduce supports, the use of 1986 as a reference year, and the concept of rebalancing.

In 1989, agriculture remained a contentious area under negotiation. All the major countries had submitted proposals but the group continued to discuss the elements of the Montreal agreement with seemingly little movement toward a broad agreement on farm reform.

Tropical products

Negotiations on tropical products⁸⁵ were included on the negotiating agenda in recognition of the importance of trade in this sector to developing countries. Several countries have offered proposed concessions in this area,⁸⁶ but with the breakdown of the Montreal talks in 1988, only some countries implemented the concessions on January 1, 1989, the effective date of the Montreal decision. After the April 1989 TNC meeting, the Montreal trade-liberalization package was implemented with an estimated trade value of \$20 billion.⁸⁷

In July, Colombia presented a plan for further increasing access to world markets for tropical products.⁸⁸ A number of countries supported Colombia's proposal; however, its feasibility was

⁸³ Rebalancing would increase trade barriers on certain commodities in exchange for reducing them on others. Specifically, the products on the list of the SMU would be denoted by a fixed component which would be reduced at a similar rate as the SMU. A corrective factor would be used to take into account exchange rate variations and world market fluctuations.

⁸⁴ GATT, *GATT Focus*, No. 68, Feb. 1990.

⁸⁵ Seven groups have been identified as tropical products: (1) tropical beverages, (2) spices, cut flowers, and plants, (3) certain oil seeds and vegetable oils, (4) tobacco, tobacco products, rice, manioc, and tropical roots, (5) tropical fruits, (6) tropical wood and wood products and natural rubber and rubber products, and (7) jute and hard fibers.

⁸⁶ The countries which offered concessions were Argentina, Australia, Austria, Brazil, Canada, Costa Rica, Colombia, Czechoslovakia, the EC, Finland, Hungary, Indonesia, Japan, Malaysia, Mexico, New Zealand, Norway, the Philippines, Poland, Sweden, Switzerland, Thailand, and the United States. For details of the U.S., Japan, and EC's tariff-cutting packages, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, July 1989, p. 22.

⁸⁷ GATT, *NUR*, No. 28, May 26, 1989.

⁸⁸ Colombia recommended that developed countries should eliminate all duties on unprocessed tropical products, abolish or substantially reduce duties on semi-processed and processed products, and eliminate or substantially lower all nontariff measures affecting trade in this sector. The effective date of the Colombian plan was Jan. 1, 1991. In exchange, developing countries would indicate the contributions they would be willing to make in the tropical products group and the other market-access groups.

questioned by the United States and the EC.⁸⁹ Also at the July meeting, Korea formally submitted its contribution to the group.⁹⁰

More countries announced their contributions to tropical products liberalization at the October meeting. Yugoslavia presented its package along with Singapore, which will bind its tariffs at a ceiling level of 20 percent for coffee beans, pepper, and cocoa. President Bush signed the Presidential Proclamation that implemented the U.S. contribution, effective October 18, 1989, while Canada reported the approval of its concessions on October 19, 1989, with a retroactive effective date of July 1, 1989.

A proposal was introduced by Canada on the procedures for the advancement of negotiations in the group. Canada suggested the use of a tariff-cutting formula complemented by the request-offer method.⁹¹ Several delegations supported the plan while others noted that it did not reflect the special attention accorded to tropical products in the Punta del Este declaration.

With the lack of progress in mind, the ASEAN group⁹² introduced its suggestion for fulfilling the Montreal decision at the early December meeting.⁹³ General support was expressed by several delegations, but some countries had difficulties with the different levels of commitments for developed and developing countries. By yearend 1989, the negotiators had not reached an agreement on the procedures necessary to increase market access for tropical products.⁹⁴

⁸⁹ GATT, *NUR*, No. 30, Aug. 3, 1989.

⁹⁰ The Korean package included the reduction of tariffs on some 238 products—such as coconuts, bananas, pineapples, coffee, cocoa beans, cigars, rubber, and certain wood products—staged over a 5-year period. Several nontariff barriers would be eliminated under the Korean plan. Also, Korea committed to abolishing import licensing measures on dates, mangoes, cigarettes, fruit juices, tapioca, pineapples, and bananas.

⁹¹ This proposal was also submitted to the other market-access groups—tariffs, nontariff measures, natural resource-based products, textiles, and agriculture. See the "Tariffs Section" for more information on the proposal.

⁹² The ASEAN countries are Thailand, Philippines, Malaysia, Singapore, Indonesia, and Brunei.

⁹³ The group proposed that developed countries should eliminate all duties on unprocessed tropical products, eliminate or substantially reduce through a formula at least 75 percent of their duties on semiprocessed and processed items, further lower duties through the request-offer method, and finally to continue to decrease nontariff measures through negotiations. On the other hand, developing countries would make concessions in this group and in the other market-access areas dependent upon their individual development, financial, and trade needs. The ASEAN plan would be implemented by Jan. 1, 1991.

⁹⁴ In mid-February 1990, the negotiators agreed to the first line-by-line tariff-cutting procedures for tropical products.

Negotiations on safeguards are aimed toward arriving at a comprehensive agreement which reinforces the disciplines of the General Agreement and elaborates on transparency, criteria for action such as serious injury, digressivity,⁹⁶ structural adjustment,⁹⁷ compensation and retaliation, and means for notification, consultation, surveillance, and dispute settlement. These basic elements have been the focus of inconclusive safeguards discussions in the past.⁹⁸ At the April 1989 meeting of the TNC, the ministers agreed that work on a draft text of an agreement should be completed by June. They were unable, though, to come to a final agreement on time limits, selectivity, and "grey area" measures.⁹⁹

The chairman's draft, along with two papers—the EC's and the United States'—were discussed in late June. In the chairman's proposal, a specific time limit for the duration of safeguard measures would be established. Any extension of the time limit would require justification from the country invoking the measure and specific plans for structural adjustment within the industry concerned. A maximum time period for the application of safeguards would be set after which no safeguard measures could be invoked. The draft text also calls for most measures to be applied on an MFN basis; however, selective measures in special circumstances could be possible. These selective safeguards would be subject to tighter disciplines and surveillance.¹⁰⁰ The draft text also favors the use of tariffs rather than quotas on imports

⁹⁵ Safeguards are emergency actions by governments, sometimes covered by GATT art. XIX, to temporarily restrain imports to protect domestic industries from an influx of imports and to give the industries time to adjust to competition. Few countries invoke art. XIX since the disciplines of the article are so stringent. (The 4 countries which use the article the most are the United States, EC, Canada, and Australia. See section on "Article XIX" later in this chapter.) A country exercising art. XIX is required to notify the GATT and consult with affected exporting countries to arrange compensation. The incentive to negotiate stems from the right of affected countries to suspend unilaterally "substantially equivalent concessions or other obligations," i.e. to retaliate.

⁹⁶ Digressivity refers to the principle that safeguards measures should be enacted so as to be progressively reduced over time.

⁹⁷ Structural adjustment means that the industry or the government undergoes changes to adjust to the increased competition such that the safeguard measures can be phased out.

⁹⁸ See USITC, *Operation of the Trade Agreements Program*, 31st Report, 1979, USITC Publication 1121, p. 54, and 34th Report, 1982, USITC Publication 1414, p. 17.

⁹⁹ Grey area measures are safeguard-like actions that are taken outside the scope of the GATT, for example VRAs and Orderly Marketing Arrangements (OMAs).

¹⁰⁰ Surveillance would be done through a safeguards committee, which would be established by the agreement.

subject to safeguard action.¹⁰¹ The paper presented by the United States outlined its own ideas on how safeguards could be applied.¹⁰² The EC suggested that safeguards could be MFN tariffs or global quotas and would not be subject to countermeasures, i.e. retaliation or compensation.¹⁰³

In September, the participants discussed the chairman's draft agreement. The main issue debated was the selective application of safeguard measures. Several participants oppose selectivity and favor the imposition of safeguards on an MFN basis. The role and value of retaliation was examined in November. Many small and developing countries cannot effectively resort to retaliation. They also believe that the possibility of retaliation causes some countries to take measures outside the GATT system (such as voluntary restraint agreements). Consequently, it might be more advantageous to abandon retaliation and instead rely on tougher disciplines of safeguards. Other countries feel that the threat of retaliation has a useful effect on the decision-making process and do not want to relinquish the right of retaliation.¹⁰⁴ For nongovernment safeguard measures, for example industry-to-industry restrictive arrangements, the group felt that it could be "dangerous to leave such options available."¹⁰⁵

¹⁰¹ Other details of the chairman's text relate to compensation and retaliation. During the initial time when safeguards are in effect, the suspension of equivalent concessions (retaliation) would not be imposed and compensation need not be offered. Resort to retaliation or compensation could be invoked if a transition measure failed to conform to the agreement or was extended past the initial deadline. Safeguards would not be applied against least developed countries' products nor to less developed countries whose market share in the product is minimal. All safeguard measures inconsistent with the accord would be phased out or eliminated.

¹⁰² Safeguard measures would have to take the form of tariffs that could be increased up to 50 percentage points above the existing rate. Quantitative restrictions could also be imposed but only to reflect imports over the most recent representative period. Transition measures could be applied in any of three ways: (1) on an exclusively MFN basis, (2) on an MFN basis with exceptional circumstances, or (3) on a selective basis if the importing and exporting countries agree. Additionally, safeguards should not exceed 8 years with structural adjustments consistent with GATT obligations and should be digressive. Safeguards would be subject to compensation or retaliation and would be overseen by a safeguards committee.

¹⁰³ A safeguards committee would also be established for multilateral surveillance purposes. A two-track approach was envisioned by the EC paper. Short-term safeguards—possibly 3 years—would be imposed without structural adjustment necessary for the industry. Longer-term measures would require an adjustment process. The Europeans also suggested an examination of the circumstances whereby selective safeguards might be applied—for instance where a sudden increase in imports from a very limited number of suppliers caused serious injury—and the stricter disciplines which might apply to the measures.

¹⁰⁴ GATT, *NUR*, No. 32, November 21, 1989.

¹⁰⁵ *Ibid.*

In 1990, the group planned to continue to discuss the chairman's draft text with the goal of reaching a broad agreement by July 1990.¹⁰⁶

*MTN agreements and arrangements*¹⁰⁷

This group's mandate is to work on improving the operation of the codes negotiated during the Tokyo Round.¹⁰⁸ During the past 3 years the group has focused most of its attention on the Standards Code,¹⁰⁹ the Import-Licensing Agreement,¹¹⁰ and the Antidumping Code. Some issues related to the Customs Valuation Code,¹¹¹ the Subsidies Code, and the Government Procurement Code¹¹² have also been raised.

¹⁰⁶ The EC presented their formal proposal for safeguards in early February 1990. Under the EC plan, a selective safeguard could be imposed in special circumstances. The EC proposal would permit provisional interim precautionary action against one or a group of suppliers if the importing country's authorities determined that domestic producers were seriously injured from the large increase in imports. The safeguard would be imposed after consultations and would be proportional to the injury suffered and would be removed after a maximum of eight months or at the end of the full injury investigation. Where serious injury is found, the importing country could, after consultations, apply safeguard measures selectively for a maximum period agreed to in the negotiating group. Countries affected by the interim or final measures would be able to withdraw equivalent concessions (retaliate) or other obligations to the importing country. This was the first proposal that directly addressed the issue of selectivity. GATT, *NUR*, No. 34, Feb. 23, 1989.

¹⁰⁷ The MTN agreements and arrangements, also known as "codes," were negotiated during the Tokyo Round. For descriptions of these instruments and accounts of recent activities under their auspices, see section on "Implementation of the Tokyo Round Agreements" later in this chapter.

¹⁰⁸ Some of the codes cover NTMs such as antidumping, subsidies, and countervailing duties (CVDs), standards, government procurement, customs valuation, and import licensing. Three other agreements cover sector trade in bovine meat, dairy products, and civil aircraft. The Subsidies Code is addressed in a separate group.

¹⁰⁹ See section on "Standards Code" later in this chapter for more detailed discussion of the negotiations in this area.

¹¹⁰ The United States and Hong Kong introduced a joint proposal for a comprehensive revision of the Import Licensing Code in September 1989. The two countries encouraged transparent and predictable import licensing, particularly nonautomatic licensing, recommended strict time-limits for notifying changes in licensing procedures, and suggested advance publication of exceptions to nonautomatic licensing procedures.

¹¹¹ India tabled a paper in September clarifying an earlier proposal on the Customs Valuation Code. India recommended the code provide more flexibility to enable customs administrations to reject the declared values of the imports in certain defined situations. India believed importing and exporting countries are in collusion which leads to undervaluation of imports. If the value of imports are under-reported, the importing country does not collect as much duty on the products.

¹¹² See section on "Government Procurement Code" later in this chapter for more detailed discussion of the negotiations in this area.

Hong Kong and Japan tabled proposals on antidumping in the July 1989 meeting.¹¹³ In addition, the EC noted that remedies were needed to overcome injurious dumping practices like a surge of imports in anticipation of antidumping action and the circumvention of antidumping duties through "screwdriver" assembly plants.¹¹⁴

In September, Singapore presented an outline of principles and objectives to ensure that antidumping rules were not protectionist, disguised safeguards, or used against the public interest. The objective of Singapore's paper was to impose discipline on the conduct of antidumping investigations and to modify the code.

Two differing proposals were presented in November on antidumping. Korea elaborated on a previous proposal aimed at strengthening disciplines on importing countries while the United States emphasized the need to extend the coverage of the code to prevent circumvention of antidumping duties. Korea's plan would require administering authorities to consider the benefits received by domestic industries from low-priced imports. Japan, Mexico, and Hong Kong supported the Korean plan while the EC believed it only considered the interests of exporting countries.

The comprehensive amendments to the antidumping code proposed by the United States would give importing countries more leeway in dealing with circumvention, input dumping, and repeated dumping. Companies can now circumvent an antidumping action by establishing assembly operations in a third country so that the origin of a finished product changes or the imported goods fall outside of the tariff provision which imposed duties on it or by shipping in parts for assembly in the importing country. Singapore,

¹¹³ Both countries advocated stricter rules to stop governments from acting against normal price competition and a more precise method for calculating antidumping margins. Hong Kong would like the interests of the consumer, end user of dumped goods, and the domestic industry taken into account when antidumping duties are determined. Japan outlined several changes to the code for determining the constructed value of goods, namely to include costs of production, selling costs, general and administrative expenses and any costs of the exported products, and the normal profit from the sale of products of the same general category in the domestic market of the country of origin.

¹¹⁴ In July 1988, Japan requested consultations with the EC concerning the EC's antidumping regulation of 1987, the so-called "screwdriver regulation." This regulation aimed to ensure that imports of parts and components do not result in circumvention of antidumping duties of finished products. The GATT Council agreed to establish a dispute settlement panel in October 1988. See GATT, *GATT Focus*, No. 58, Nov./Dec. 1988, p. 9. The panel ruled in March 1989 that the EC duties imposed on Japanese products assembled in the EC are inconsistent with its regulations. The report was adopted at the May 1990 GATT Council meeting. See section on "Dispute Settlement" later in this chapter.

Korea, and Hong Kong felt that their normal business practices would be exposed to antidumping actions under the U.S. plan.¹¹⁵

At the December 1989 meeting, the EC called for a simplification of antidumping investigations.¹¹⁶ In 1990, the group planned to continue to examine the three main codes—antidumping, standards, and licensing—and will strive toward general agreement in these areas by July 1990.

Subsidies and countervailing measures

Distinct from the group on MTN agreements and arrangements, this group is examining the subsidies-related provisions of the General Agreement as well as the MTN code on subsidies and countervailing measures in order to improve all GATT rules and disciplines relating to the measures. The framework to guide negotiations for the duration of the trade round endorsed the so-called traffic light approach where three subsidy categories were established: prohibited (red), permitted but actionable or countervailable (yellow), and permitted (green).

Canada called for improved, more effective, and enforceable disciplines for prohibited subsidies and for countervail action in its June proposal.¹¹⁷ Switzerland and Japan tabled their recommendations on how to improve GATT disciplines for subsidies and countervailing measures at the September meeting. Both

¹¹⁵ GATT, *NUR*, No. 33, Jan. 11, 1989.

¹¹⁶ The EC suggested a representative sample should be taken in cases where there are large numbers of producers and types of products. Also, the period for the validation of provisional measures should be extended from 4 months to 9 months. Other procedural changes recommended by the Europeans were new criteria for regional injury and time guidelines for retroactive dumping duties. Finally, the EC submission would revise the code to counteract the tendency of multinational companies to use the lower price charged by its subsidiary in the country of production rather than the company's home market price, thereby increasing the likelihood of antidumping findings against these companies.

Another aspect of the EC proposal dealt with minimum standards. The EC suggested that rules be set up in a number of areas are presently left to the discretion of the investigating authority. In this respect, the EC has identified eight different minimum standards: (1) evidence required for the initiation of investigations; (2) minimum requirements for provisional measures; (3) transparency; (4) like product; (5) insufficient domestic sales; (6) threat of injury; (7) causality; and (8) judicial reviews.

¹¹⁷ The Canadian submission suggested establishing a multilateral body to advise governments on their prospective subsidization programs, whether they were prohibited or not and the conditions for allowing them. The conditions for counter action on subsidies were outlined along with the types of programs that would be non-actionable but subject to tighter disciplines. Canada also proposed that the following programs be permissible under GATT: regional development programs, research and development assistance, and aid for basic public infrastructure development. A minimum level of subsidization was suggested where no countervail action would be allowed.

countries made suggestions on how to classify subsidies in the three categories suggested in the midterm agreement.¹¹⁸

Six new proposals were tabled in early December by the United States,¹¹⁹ the EC,¹²⁰ the Nordic countries,¹²¹ India,¹²² Australia,¹²³ and

¹¹⁸ Switzerland advocated using the degree of trade-distorting effects as measured by normative and quantitative criteria to classify the subsidies into the three categories. Under the Swiss plan, export subsidies would be prohibited and actionable, domestic programs related to structural adjustment, environment, research and development, regional aid, and the promotion of cultural values would be exempted from any countervailing duties, while programs which did not cause negative trade effects would be permitted. In addition, Switzerland proposed using quantitative criteria—or trade impact as indicated by the amount of subsidy and quantity of imports—to determine whether a subsidy would be prohibited or not. Like Canada, Switzerland recommended the establishment of a GATT standing body to determine the legality of subsidies or appropriateness of countervailing action, and to submit its recommendations to the GATT Council.

Japan identified two types of subsidies that would be permitted under its plan: generally available subsidies (when the program is open to all companies) and specific subsidies with significant social or economic policy objectives (e.g., structural adjustment, research and development, and regional development). Prohibited subsidies would include export aids and domestic support programs that favor local goods over imported products. The Japanese proposal also called for strict guidelines on the imposition of countervailing duties.

¹¹⁹ The U.S. submission defined a subsidy (industrial or agricultural) as a government action that conferred a benefit on the recipient company (ies) and contained guidelines for classifying subsidies into three categories i.e. prohibited, actionable, or permitted. Under the U.S. plan, export subsidies would fall into the prohibited category. Other types of subsidies would be prohibited if the following revisions were made to the code: elimination of the "artificial distinction" between primary and non-primary products; extension of the prohibition to "trade-related" subsidies which encourage the use of domestic inputs over imported inputs or are granted to predominantly exporting companies; and extension of the prohibition to trade-distorting domestic subsidies which exceed a certain percentage of sales.

Actionable subsidies, as the second category of subsidies in the U.S. plan, would be measured by the benefit to the recipient and would invoke countervailing action when imports cause or threaten material injury to the domestic industry. If the subsidy is not terminated within a reasonable time period, it would be countervailable plus subject to other countermeasures. Permissible or nonactionable subsidies would consist of governmental provisions for basic human services, unemployment insurance, and natural disaster relief. The American proposal would allow the imposition of countervailing measures on subsidy programs that effect trade in third-country markets.

¹²⁰ The EC offered a different definition of a prohibited subsidy. Only industrial subsidies which cost a government, tend to favor exports, and provide a benefit to specific sectors would be prohibited. The EC claimed that domestic subsidies should be permitted as they are legitimate instruments of social and economic policies. However, they would be actionable if a country can demonstrate a negative effect on the domestic industry.

¹²¹ Due to the difficulty distinguishing between the three categories, the Nordics suggested that the group concentrate on providing more public information regarding subsidy programs and practices, strengthening the rules for investigating subsidized imports, and developing a more effective dispute settlement mechanism. The Nordic countries also felt that the code

Bangladesh.¹²⁴ Nine proposals were tabled during 1989 concerning subsidies and countervailing measures. The group plans to continue discussions in 1990 on how to improve the subsidies code and the General Agreement articles that refer to these measures.

GATT articles

While the work of other negotiating groups covers issues relevant to numerous articles of the GATT, this negotiating group has singled out certain provisions for particular attention to improve their effectiveness and observance. In May, a revised proposal by New Zealand concerning article II:1(b) (schedule of tariff bindings) was presented and reviewed.¹²⁵ The group agreed that the proposal should be reviewed and examined in much more depth.

In October, the group requested the GATT Secretariat to prepare a draft decision which could put New Zealand's May proposal into effect. The objective of the plan was to ensure transparency of the legal rights and obligations derived from article II:1(b) by recording other duties and charges (ODCs) on the bound tariffs. The United States introduced another proposal on article II whereby uniform import fees or charges would be permitted for funding adjustment assistance programs related to import competition. Such fees or charges would be

¹²¹—Continued

did not adequately address subsidies affecting third country markets and import displacement. Their suggestions for revising the code would be to establish a maximum level of subsidies—any subsidy above this level would trigger multilateral examination—and to award compensation to the country whose exports were displaced.

¹²² For India, the major test for classifying a subsidy as actionable or not should rest on whether it creates trade distortions or eliminates them. The Indian proposal maintained that since developing countries experience imperfect markets, from underdeveloped infrastructures to the high cost of inputs, they should be allowed to subsidize.

¹²³ Australia recommended both increased and expanded disciplines on present subsidies. Australia also suggested another category of prohibited subsidies. An overall subsidy ceiling would be set for individual products, beyond which corrective measures could be applied once examined by the contracting parties. This new category of subsidies that breach the limit could have countervailing measures imposed without an injury test and could be applied to third-country markets.

¹²⁴ Bangladesh supported the Indian view that subsidies form an integral part of the economic development programs of least developed countries, whose right to grant or maintain the support aids should continue.

¹²⁵ New Zealand suggested that on the tariffs schedules, countries should describe the other duties and charges (ODCs), in addition to ordinary customs duties levied on imports. Adding ODCs to each bound tariff rate would then give the total charges levied on bound items. Possible problems with the plan were its practicality and possible legal implications. It may be difficult to identify the rates of old ODCs levied at the time of the original tariff concession while the legal ramifications of failing to record a bound ODC or a faulty recording were unclear.

limited to a maximum of 0.15 percent and would be applied to all imports. The funds collected would, in general, be directed to workers with some assistance provided to firms and industries.

The EC and the United States both tabled proposals on state trading (article XVII) in October 1989. The European approach would involve tightening up notification requirements,¹²⁶ including counter notifications, and establishing a mechanism for joint review by the Contracting Parties of the notifications. Under the U.S. plan, a working party would be established to clarify definitions and conduct comprehensive reviews of notifications.

The group provisionally accepted a draft decision in December to record ODCs maintained on bound tariffs in the tariff schedules under article II:1(b). The decision will remain provisional pending the outcome of the Uruguay Round with the legal text composed at a later date.

In December, a joint communication¹²⁷ suggested changing article XXVIII¹²⁸ by devising new criteria for determining suppliers' rights¹²⁹ and for the wider distribution of such rights among smaller trading countries. The proposal also provided for the payment of compensation in the absence of past trade flows, the granting of rights for compensatory concessions, and the treatment of tariff rate quotas and preferential trade.

On articles XII, XIV, XV, and XVIII which relate to balance-of-payments (BOP) problems, the United States and Canada provided a joint proposal aimed at improving the operation of these articles.¹³⁰ Peru recommended that developing countries should continue to have legitimate recourse to article XVIII:B for BOP reasons.¹³¹

¹²⁶ Under art. XVII, a contracting party who has established a state trading enterprise should notify the Contracting Parties of the products which are imported or exported under the program.

¹²⁷ Argentina, Canada, Colombia, Czechoslovakia, Hong Kong, Hungary, Korea, Mexico, New Zealand, and Singapore.

¹²⁸ Article XXVIII provides for the negotiated rectification and modification of schedules of tariff concessions.

¹²⁹ Principal suppliers of a product have the right to participate in tariff renegotiations. An increasing tendency has resulted over the years for negotiating rights to become concentrated in the hands of large suppliers accompanied by an inability of small suppliers to protect their interests in tariff negotiations due to a lack of such rights.

¹³⁰ The two countries recognized the right of countries to impose temporary trade restrictions when experiencing BOP difficulties. However, the proposal suggested a clarification of the criteria used for assessing trade restrictions applied for BOP purposes, guidelines for the kinds of actions countries facing BOP problems are entitled to take without a decision by the BOP committee; and strengthened disciplines and BOP committee procedures for countries who take measures in excess of those specified in the guidelines.

¹³¹ GATT, *NUR*, No. 33, Jan. 11, 1990.

The issues that will continue to be addressed in 1990 are balance-of-payment reform, state trading, and tariff negotiations. Other articles that may be reviewed are article XXIV (customs union), article XXV.5 (GATT waivers), and the protocol of provisional application.

Dispute settlement

Negotiations on dispute settlement aim to "ensure prompt and effective resolution of disputes . . . and to improve and strengthen the rules and procedures of the dispute settlement process."¹³² At the Montreal midterm review, trade ministers agreed on new procedures for streamlining the dispute settlement process.¹³³ Issues remaining to be resolved in the group are adoption and implementation of panel reports (how to ensure panel reports are adopted and then implemented), compensation procedures for the aggrieved party,¹³⁴ how to handle legally erroneous reports, and nonviolation complaints.¹³⁵

At the July meeting, the group reviewed the implementation of rulings, decisions, and recommendations under article XXIII:2¹³⁶ and the Swiss proposal on the use of arbitration as an option for settling trade disputes within the multilateral GATT framework. In September, the implementation of panel reports was considered. Several participants supported the granting of a 'reasonable delay' in implementing panel reports and the right of appeal to encourage the adoption of panel reports. Others felt that offending parties might delay indefinitely and hence discourage early implementation of panel reports.

Bangladesh suggested in December several measures in favor of the least-developed countries, including the establishment of a separate conciliation body to help settle disputes involving this group of countries. Although there was general support for the proposal, some participants stressed that dispute settlement rules should apply equally to all GATT members, but some flexibility might be granted to less

¹³² "The Uruguay Round - Decisions of 28 January 1987," GATT press release No. 1405, Feb. 5, 1987, p. 20.

¹³³ See section on "Dispute Settlement" earlier in this chapter on specific reforms.

¹³⁴ In the 1979 procedures, adopted after the Tokyo Round, if a country cannot change the practice found inconsistent in a panel report, it should offer compensation to the damaged country or agree to retaliation against its own imports until the law is changed.

¹³⁵ A nonviolation complaint is where the practice is not inconsistent with GATT but does cause injury. Nonviolation complaints are addressed in sections (b) and (c) of art. XXIII:1. There have been 13 such complaints out of 130 formal disputes under art. XXIII in the GATT from 1948 to 1988. GATT, *NUR*, No. 31, Oct. 16, 1989.

¹³⁶ If bilateral consultations fail to yield a mutually satisfactory solution, a dispute panel can be established under the terms of art. XXIII:2.

developed countries. The United States suggested some ideas for improving the panel process, namely changing the fixed pool of experts who serve on the panels, creating an appellate body to review panel reports, and the automatic adoption of reports. Several delegations reiterated the notion that the GATT dispute settlement process can be strengthened by refraining from unilateral action.¹³⁷

Few proposals had been tabled in 1989 on the remaining issues in the group. The chairman urged all participants to submit their substantive proposals by mid-1990.

Functioning of the GATT system

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

In Montreal, ministers agreed to authorize a Trade Policy Review Mechanism (TPRM) in which Contracting Parties would regularly examine individual members' national policies that affect the international trading environment.¹³⁸ Ministers also agreed to hold meetings of the Contracting Parties with ministerial-level involvement at least every 2 years. With regard to cooperation with international financial institutions, the ministers agreed only to call for continuing exchanges of information between senior officials of the GATT, the International Monetary Fund (IMF), and the World Bank.

In May, the group established a technical group to complete a draft format of the country-review system. In late June, the participants adopted the text of the format for the country review reports under the TPRM. Another aspect of the Montreal agreement requested GATT Director-General, Mr. Arthur Dunkel to pursue strengthened relationships with such international financial institutions as the World Bank and the IMF in an effort to achieve greater coherence in global economic policymaking. In November, the group discussed Dunkel's report which outlined two possible approaches for increased cooperation: strengthening the links between trade, financial and monetary policies—even though this is primarily a decision for governments at the international and national levels, the heads of the three institutions could keep each other informed of the

¹³⁷ GATT, *NUR*, No. 33, Jan. 11, 1990.

¹³⁸ See section on "Trade Policy Review Mechanism" earlier in this chapter for a discussion of the new review mechanism.

interrelationships between these policies—and increasing informal staff exchanges among the groups to ensure that IMF and World Bank staff are more fully aware of GATT rules and to better inform the GATT staff of the trade policy content of the IMF and World Bank programs.¹³⁹

The report also focused on how developing countries could better integrate trade liberalizing reforms with the economic and financial obligations they must undertake in order to receive loan packages from the IMF or World Bank. One idea was to grant developing countries 'negotiating credit' where countries which have undergone some trade liberalization as part of a loan package, could demand reciprocal measures from its trading partners. Developing countries could then offer the trade reforms as "bound" concessions during GATT negotiations. The main item on the agenda for 1990 is discussing how to expand cooperation between the GATT, the World Bank, and the IMF.

Trade-related aspects of intellectual property rights (TRIPs)

The objective of the negotiations on intellectual property rights (IPRs) is to promote effective and adequate protection and to ensure that such protection is not implemented in ways that may obstruct legitimate trade. The major chapters being discussed pertain to the minimum GATT principles that could be applied to TRIPs,¹⁴⁰ minimum standards for IPRs,¹⁴¹ and the enforcement of the minimum standards.¹⁴² A subset of both the standards and enforcement

¹³⁹ Participants discussed the possibility of establishing a Washington, DC GATT office to promote greater cooperation between the three international organizations.

¹⁴⁰ The participants are discussing whether certain GATT principles can be applied to intellectual property rights, such as national treatment, MFN, nondiscrimination, transparency, special and differential treatment, safeguards, dispute settlement, reciprocity, public interest, balance of rights, and obligations and exceptions.

¹⁴¹ The eight major intellectual property areas identified by industrial countries that need minimum standards are: patents, trademarks, copyright, semiconductor chip mask works (integrated circuits), trade secrets, industrial design, geographical indications, and neighboring rights. Standards are needed, according to several industrialized countries, because inadequate, excessive, and discriminatory protection of IPRs constitute a major distortion of and impediment to trade and should be dealt with in the framework of the GATT. (UNCTAD, *Uruguay Round Papers*, p. 187.) Estimates for U.S. losses because of inadequate and ineffective intellectual property protection range from \$43 to \$61 billion in 1986. (Carla Hills, Statement before the Subcommittee on Courts, Intellectual Property, and the Administration of Justice of the House Judiciary Committee on July 25, 1989, as reprinted in *Department of State Bulletin*, November 1989.)

¹⁴² Enforcement embodies two separate domains, internal and border. Internal enforcement would provide, at the domestic level, administrative and judicial procedures which owners of IPRs could access to enforce the rights granted them under minimum standards and norms. Border enforcement includes the same dispute

issues is the integration of the World Intellectual Property Organization (WIPO) into a GATT agreement on TRIPs. Developing countries maintain that WIPO provides adequate protection for IPRs.¹⁴³ Many developed countries desire "no legal interlocking between an agreement on TRIPs and the procedure provided for in other international organizations dealing with intellectual property."¹⁴⁴ Negotiators also plan to develop a framework of principles, rules, and disciplines covering trade in counterfeit goods.¹⁴⁵

In July,¹⁴⁶ the EC tabled a proposal on enforcement that suggested certain general principles to be adhered to, rules concerning judicial and administrative procedures and remedies, and obligations of customs authorities for direct border intervention. Many delegations believe an agreement in intellectual property should not require fundamental changes in national legal systems.

In September, India announced its acceptance of trade-related aspects of IPRs being negotiated in the Uruguay Round.¹⁴⁷ Canada also tabled a proposal suggesting the use of national treatment as the guideline for border enforcement. However, international enforce-

¹⁴²—Continued

settlement procedures as internal, except they apply to imported, exported, and transported infringing goods. Enforcement at the border and internally is aimed at effectively preventing and remedying the infringement of intellectual property rights as well as a safeguard against giving rise to legitimate trade. GATT, *NUR*, No. 30, Aug. 3, 1989. Balanced against the rights of the intellectual property owner is the need to minimize the effects of border and internal enforcement on legitimate trade. Developing countries maintain they need access to technological and scientific advancements to assist in their development. The proposed enforcement measures would also imply a substantial administrative and financial burden for the developing countries. UNCTAD, *Uruguay Round Paper*, p. 199.

¹⁴³ UNCTAD, p. 177.

¹⁴⁴ GATT, *NUR*, No. 33, Jan. 11, p. 14.

¹⁴⁵ Participants in the Tokyo Round were not able to reach a consensus on a commercial counterfeiting code. In 1982, the GATT ministerial declaration directed the GATT Council to examine the issue of counterfeit goods and determine whether action under the auspices of the GATT would be appropriate in promulgating rules to regulate trade of counterfeit goods. See USITC, *Operation of the Trade Agreements Program*, 31st Report, 1979, USITC Publication 1121, 1981 and USITC, *Operation of the Trade Agreements Program*, 34th Report, 1982, USITC Publication 1414, 1983.

¹⁴⁶ At the outset of the meeting, several participants expressed concern about the establishment by the United States of "watch lists" under the "special 301" provisions on intellectual property introduced in the U.S. Omnibus Trade and Competitiveness Act of 1988. They stressed the possible negative effects of pursuing such an approach on the multilateral negotiations. GATT, *NUR*, No. 30, Aug. 3, 1989.

¹⁴⁷ India had maintained that the World Intellectual Property Organization (WIPO) had responsibility over TRIPs, and not GATT. WIPO is the United Nations agency that traditionally enforces matters of copyright and counterfeit. India argued that concepts like MFN and national treatment could not be applied to intellectual property rights since these obligations were related to goods and not to the rights of persons, as in intellectual property conventions. (Under the General Agreement, imported goods receive treatment no less

ment of rules on TRIPs should not become unnecessary obstacles to legitimate trade.¹⁴⁸

Four proposals presented in the late November meeting of the negotiating group pertained to minimum standards.¹⁴⁹ Twelve new proposals were tabled in the December

¹⁴⁷—Continued

favorable than that accorded to domestically produced goods while the international agreements ensure that foreign nationals are not treated less favorably than nationals.) On the other hand, transparency could have some application while special and differential treatment was valid for developing countries. Some delegations noted that national treatment could be relevant in a TRIPs agreement since there already was a panel report that determined national procedures for the enforcement of intellectual property rights contrary to article III (national treatment). (The dispute concerned the complaint by the EC on the U.S. section 337 action. The panel was established in October 1987 and finally adopted in October, 1989. See "Dispute Settlement" section in this chapter for more information.)

For border enforcement, India's proposal stated that any agreement on TRIPs that emerged from the Uruguay Round should provide for both administrative and civil remedies for abuses, and where necessary, penalties under criminal law. However, India maintained that internal enforcement—each country's internal administration of these rights—is not related to international trade, thus has nothing to do with GATT. Principles that would be applied to internal enforcement under India's plan were natural justice and fair play; provisional remedies with compensation awarded where no infringement was found; national treatment for foreign owners of IPRs; no obligation on governments to initiate enforcement proceedings or to allocate additional resources to establish separate machinery for enforcement. India asserted that GATT should not become involved in national legislation on intellectual property rights.

On counterfeit trade, India outlined possible elements for an agreement which included suspending customs clearance of suspect goods for a limited time until an investigation upholds their legitimacy and the forfeiture of infringing goods and subsequent disposal in a nonprejudicial manner. The submission stressed that any framework should discourage trade in counterfeit goods but the measures should not become trade barriers themselves.

In February 1990, the new Government of India accused the predecessor government of yielding to pressure from the United States and other developed countries on the question of an intellectual property rights agreement in GATT, and has pledged to return India to its original position of refusing to discuss the issue in the Uruguay Round. India and less developed countries such as Brazil had resisted pressure from the developed countries to include intellectual property discussions within the framework of GATT, arguing that WIPO was a more appropriate forum for these talks. *World Intellectual Property Report*, vol. 4, February 1990, p. 41.

¹⁴⁸ Other elements of Canada's proposal included the following: (1) enforcement should be based on a most-favored nation/nondiscriminatory basis; (2) enforcement procedures should be fair, equitable, and transparent; (3) remedies should effectively stop or prevent the infringement of intellectual property and can take the form of civil penalties and sometimes criminal penalties in cases of repeated infringement of trademarks and copyrights; (4) interim procedures should be established to allow customs services to detain goods that infringe upon trademarks and copyrights; and (5) enforcement should be subject to GATT dispute settlement procedures.

¹⁴⁹ New Zealand advocated a set of minimum standards that could be incorporated easily into domestic legislation but still reduce trade distortion. New Zealand

meeting.¹⁵⁰ During 1989, 14 proposals from 28 countries were submitted on the question of standards and norms and nine proposals from 23 countries addressed the question of enforcement of IPRs. A number of other proposals dealt with other aspects of intellectual property.

¹⁴⁹—Continued

also recommended that an agreement should be as effective as the international intellectual property conventions, in particular the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works. According to New Zealand, these conventions provide adequate protection for copyright, neighboring rights and industrial designs and models. The New Zealand submission recommended that patents and trade marks be addressed in a new agreement which would be based on the common GATT principles—transparency, national treatment, and MFN—plus dispute settlement procedures, enforcement provisions, safeguards, and trade in counterfeit goods.

Canada's proposal on standards underlined the importance of maintaining a balance between complex standards—which would involve the harmonization of domestic intellectual property legislation—and general ones—which would be impractical and make dispute settlement impossible. Canada suggested the eight intellectual property areas under discussion should adhere to the common GATT principles also under discussion (see above.) Also, parties to an agreement should comply with the substantive obligations of the Paris and Berne Conventions.

Korea emphasized the need for a balance between protection and use of IPRs. The Korean submission recommended full consideration be given to existing international arrangements and public policy objectives of each national system. Transitional measures and transfer of technology should be allowed while each country is adjusting its domestic regulations. Korea stressed that unilateral or bilateral actions should be avoided during the Uruguay Round negotiations. Korea also suggested standards for seven of the eight IPR areas, excluding trade secrets. For enforcement procedures, the optimum method of protecting IPRs varies according to a country's administrative and cultural background, therefore the guidelines should be general.

The last proposal presented was Peru's. It set out guidelines designed to achieve a balance between IPRs and the developing countries' objectives for development and transfer of technology. For patents, the Peruvian communication recommended that certain sectors or products should be excluded from patentability since they are essential for the welfare of the population. Peru further argued that restrictive business practices should not be imposed on licensees by patent or trade mark owners, nor should trade secrets be discussed in the group since the subject was outside the group's mandate. Urgent multilateral action was needed, according to the South American country, to curb trade in counterfeit goods, to benefit legitimate trade, and to protect consumers.

¹⁵⁰ The EC and Austria tabled papers on dispute settlement. The EC reiterated the importance of a multilateral dispute settlement process which discouraged GATT members from taking unilateral action. If a member did resort to unilateral action, the Europeans suggested possible sanctions, such as the suspension by a contracting party of a concession or another obligation. Many participants have stressed the importance of an efficient dispute settlement mechanism while others believe that basic GATT procedures provide an adequate basis for settling disputes.

Austria, the EC, and Hungary all addressed transitional arrangements in an agreement on IPRs. All three countries advocated the need for some type of transitional period to make the necessary changes to national legislation and recognized that developing countries may need longer transitional time frames. Hungary suggested a transitional period lasting until the

Trade-related investment measures (TRIMs)

The group's mandate is to examine GATT articles that could apply to trade restrictive and distorting effects of investment measures and to develop means to avoid their adverse effects on trade. The major issues in the negotiations on trade-related investment measures (TRIMs) are the applicability of the Punta del Este mandate¹⁵¹ and which specific TRIMs should be disciplined or prohibited.

A growing convergence seems to be emerging that six core TRIMs are trade-related, i.e. do have a direct link between government policies and trade, and are trade-distorting and restrictive. These investment requirements are export performance,¹⁵² local content,¹⁵³ trade

balancing,¹⁵⁴ manufacturing,¹⁵⁵ domestic sales,¹⁵⁶ and product mandating.¹⁵⁷ Most developed countries support the notion of prohibiting these six core TRIMs. Even though a number of developing countries have acknowledged that they argue that some of the above TRIMs are trade-distorting, they argue that the measures should be maintained for development purposes and to counter restrictive business practices of transnational corporations.¹⁵⁸ Other participants rejected the prohibition of these TRIMs because such a prohibition, they argued, would intrude too much into national investment policy-making. They also maintained that development considerations had so far been inadequately taken into account in the group's work.

Other measures being discussed in this negotiating group are local equity requirements,¹⁵⁹ licensing requirements,¹⁶⁰ technology transfer,¹⁶¹ remittance and exchange restrictions,¹⁶² manufacturing limitations,¹⁶³ and investment incentives.¹⁶⁴ In these areas, the developing countries argue that the link between trade and investment is somewhat tenuous.¹⁶⁵

¹⁵⁰—Continued
year 2000 with each country able to determine its transition schedule within this time frame. However, many developing countries feel that a time-limited transitional period would not be sufficiently flexible and that there was a need to build flexibility into the standards themselves.

Hong Kong submitted two papers to the group, one which proposed specific standards to be covered by an agreement, including trade secrets, and another on the enforcement of intellectual property rights, providing for internal as well as border measures. Brazil spelled out its views on the application of basic GATT and WIPO principles and emphasized the circumstances when each would operate. Brazil's communication also suggested detailed standards on patents, trade marks, and copyrights, including the need for governments to have freedom in some key areas to determine standards in the light of national circumstances and the need to elaborate on the obligations as well as the rights of intellectual property owners. The Brazilian paper stated that internal enforcement of IPRs is strictly a matter of competence of domestic legislation, and that the difficulties of developing countries in this area should be recognized. Brazil also felt that border measures should be made available only under certain circumstances.

Australia and the Nordic countries put forward recommendations on enforcement—covering civil, administrative, and criminal procedures as well as provisional procedures—which would allow prompt action to be taken, whether judicial or administrative, both internally and at the border. Switzerland detailed its views on appropriate international standards for the protection of proprietary information, including trade secrets. Japan revised its previous communication on nonvoluntary licenses for patents. On behalf of the least developed countries, Bangladesh sought special treatment, in particular to ensure the effective transfer of technologies for those countries.

¹⁵¹ Some industrialized countries believe the mandate should have included all investment effects and not just trade-related investment effects. On the other hand, developing countries insist the mandate only refers to direct trade-related effects.

¹⁵² Such requirements typically oblige an investor to export a fixed percentage of production, a minimum quantity or value of goods, or (like a trade-balancing requirement) some proportion of the investment's import balance.

¹⁵³ Such requirements typically oblige an investor to produce or purchase from local sources some percentage or absolute amount of the value of the investor's production.

¹⁵⁴ Trade-balancing requirements typically restrain an investor from importing more than equivalent amount or some proportion of exports. The investor may be obliged to earn through exports all foreign exchange necessary for the purchase of imported goods or components.

¹⁵⁵ Manufacturing requirements typically oblige an investor to produce a component, product or product line that the investor may not have originally intended to produce in the host country.

¹⁵⁶ These requirements impose on the foreign investor an obligation to sell in the domestic market at prices below those in the world market.

¹⁵⁷ Such requirements typically oblige the investor to earmark a specific product for export.

¹⁵⁸ GATT, *NUR*, No. 31, Oct. 16, 1989.

¹⁵⁹ Local equity requirements typically specify that a certain percentage of the equity of a company created by foreign investment be held or controlled by local investors.

¹⁶⁰ An investor is compelled to permit the production, use or sale of a designated product or technology. Licensing requirements are tied in with technology transfers.

¹⁶¹ Technology transfer requirements oblige the foreign investor to adopt the production or processing techniques that incorporate more advanced or different kinds of technology than the firm would otherwise transfer. Investment transfers, though, are different from services transfers. In services, transfers usually refer to training, know-how, and expertise.

¹⁶² Limitation of the outflow of profits and other remittances is mainly aimed at reducing pressures on the balance of payments of host countries.

¹⁶³ The limitations generally prohibit an investor from producing certain goods. Often the goods have been reserved for local manufacturers.

¹⁶⁴ Investment incentives are government measures designed to influence an investment by increasing the profit occurring to it or decreasing the risks attached to it.

¹⁶⁵ In particular, developing countries do not believe that there is any convincing evidence that investment performance requirements have significant effects on world trade. UNCTAD, *Uruguay Round Papers*.

Two proposals were considered at the July meeting. The United States proposed drafting a comprehensive agreement on TRIMs to eliminate or minimize their trade effects and to provide relief from such effects when they occur.¹⁶⁶ The Swiss submission proposed the establishment of disciplines on TRIMs according to their typical trade effects in specific trade or macroeconomic circumstances.¹⁶⁷

During the discussions on the United States and Swiss proposals, opposing views were expressed over the need for a thorough examination of various TRIMs to see whether the General Agreement provided sufficient disciplines. Mexico proposed that the group adopt a testing procedure on pilot TRIMs to gain a better understanding of the issues and the problems in this field.¹⁶⁸

In September 1989, Mexico elaborated on its suggestion made at the previous meeting to "test" or systematically analyze two pilot TRIMs (export requirements and local equity requirements) to identify their trade effects. It argued that this procedure will help streamline the work of the group. Some participants said the procedure may not be practical in view of the limited time available to the group.

Also in September, India called on the group to focus on those investment measures whose adverse trade effects—in terms of trade restriction or distortion—are direct and significant. It maintained that the prohibition of certain investment measures is alien to the GATT framework.¹⁶⁹ Japan proposed the prohibition of

trade-restrictive or -distorting TRIMs and those that are inconsistent with GATT provisions.¹⁷⁰

Two new proposals were tabled in the November meeting. The EC emphasized that the negotiations should not affect national investment policies and that any new rules should be built on existing GATT provisions and principles.¹⁷¹ The Nordic countries also stipulated the sovereign right of countries to formulate investment policies.¹⁷² Six proposals were tabled during 1989 on TRIMs. The group will continue to work toward a framework agreement by July 1990.

Natural resource-based products

Tariffs, NTMs, and tariff escalation affecting trade in processed and semiprocessed natural resource products is the focus of this negotiating group. The group agreed that its discussions would cover products in three sectors: fisheries, forestry, and nonferrous metals and minerals. The group has also recognized the extent to which natural resource-based products are simultaneously affected by work in other negotiating groups.

¹⁶⁶—Continued

limitations, technology transfer, and licensing requirements. Performance requirements on domestic sales and product mandating may have some trade effects, but not to the extent that would warrant consideration in the group, according to India. The performance requirements which, in India's view, could have some direct trade effects are export performance requirements, local content/local manufacturing requirements, and trade-balancing requirements. However, India argued that the development dimension of these measures far outweighs their trade effects and the measures are needed to counter restrictive business practices of transnational corporations. India further maintained that development considerations should be integrated an agreement. Finally, India claimed that the investment measures used by developing countries are in conformity with the spirit and philosophy of the General Agreement.

¹⁷⁰ In the prohibition category, the Japanese plan included local content requirements, export performance, trade balancing, domestic sales, technology transfer, manufacturing and product mandating. Actionable TRIMs would be subjected to the general disciplines of nondiscrimination and transparency. A "TRIMs Committee" would be established to monitor the reduction or elimination of TRIMs. In addition, some exceptions would be granted for developing countries for limited periods.

¹⁷¹ The EC paper identified eight TRIMs as trade-distorting: local content requirements, manufacturing requirements, domestic sales, trade balancing, exchange restrictions, product mandating, manufacturing limitations, and export performance. For TRIMs which are not directly trade-related, the EC paper suggested that participants avoid causing trade distortions when implementing these measures.

¹⁷² Under their modulated approach, two main types of TRIMs—local content and export performance—would be gradually eliminated. A case-by-case approach would then be used for the other TRIMs, utilizing the normal GATT dispute settlement procedures. A TRIMs committee would be established to conduct regular reviews of regulations and practices by GATT members in this area.

¹⁶⁶ The proposal would establish two categories of TRIMs. Measures would be prohibited if they inherently produce adverse trade effects. Measures would be allowed but disciplined if they are not always trade distorting. (The type of discipline suggested was a commitment to use TRIMs only on a nondiscriminatory basis and in ways that do not produce adverse trade effects.) The discipline would apply to all participants, regardless of the level of economic development, but the United States considered the possibility of allowing individual developing countries defined, time limited derogations from certain disciplines.

¹⁶⁷ Three categories of discipline would be established: prohibited, permitted, or actionable. Negotiations would determine the typical measures and conditions for the first two classifications, using the criterion of whether the measures affected the investment decision only (in which case they would be permitted) or the business behavior of the investor during the production process (in which case they would be deemed inherently trade distorting and prohibited). Those measures and conditions where no agreement is reached during negotiations would be classified as actionable and would be subject to complaint and countermeasures by affected parties, based on normal GATT rules, disciplines and procedures. A committee would be established to refer additional measures for future classification.

¹⁶⁸ GATT, *NUR*, No. 30, Aug. 3, 1989.

¹⁶⁹ India regarded the following investment measures as not trade-related, i.e. did not have any direct or significant adverse trade effects: local equity requirements, remittance restrictions, exchange restrictions, investment incentives, manufacturing

In July, the United States and Australia called for the addition of energy-related products to the three categories already agreed for negotiations.¹⁷³ The United States submitted another proposal in November that suggested that fish and forestry products should be negotiated in the agriculture group, and tariffs, nontariff measures, and subsidies on natural resource-based products should be dealt with in those respective negotiating groups.¹⁷⁴ Japan, the Nordic countries, and Hungary supported the U.S. plan while the EC, Chile, and Australia pointed to trade problems specific to this sector and urged the group to stick to its negotiating mandate.

Two proposals were received and presented in the December meeting.¹⁷⁵ At yearend, no agreement existed on procedures for reducing tariffs and nontariff measures on natural resource-based products.¹⁷⁶

Textiles and clothing

Textiles and clothing negotiations in the Uruguay Round are intended to develop a means to integrate eventually this sector into the GATT. The mandate for the textiles group includes both the phase out of the Multifibre Arrangement (MFA) and the strengthening of GATT rules and disciplines. Discussions in the group revolve around (1) scope—what issues are being discussed;¹⁷⁷ (2) modality;¹⁷⁸ and (3) transition.¹⁷⁹

¹⁷³ The United States noted that while the GATT had not traditionally dealt with energy issues, trade problems in the energy sector had become more evident, particularly those related to market access and subsidies. It also suggested that the group, while taking a complementary role with respect to the general market-access groups, should begin exploring principles to govern trade in natural resource-based products. The end result could take the form of a code or an elaboration of GATT articles. The Australian paper suggested establishing disciplines to control government support in the coal industry.

¹⁷⁴ The U.S. delegation also recommended that participants conduct a full review, in early 1990, of the progress in other groups to determine whether substantive negotiations would be required in the group itself.

¹⁷⁵ Australia stressed the importance of this area to itself and many other countries. The Australian proposal suggested at least a one-third overall reduction in trade barriers to natural resource products and recommended a timetable to accelerate work in the group. A number of participants felt the proposal was premature since there was no agreement yet on negotiating approaches in the Tariffs and Nontariff measures groups. Bangladesh proposed special treatment for natural resource-based products for least developed countries.

¹⁷⁶ In late March 1990, the group agreed to procedures similar to the Tariffs negotiating group. The agreement came after the EC allowed for the inclusion of coal subsidies in the discussions. *Financial Times*, Mar. 22, 1990.

¹⁷⁷ Developing countries assert the mandate only encompasses the Multifibre Arrangement, while many industrial countries interpret the mandate to include the MFA plus other measures that are inconsistent with GATT.

¹⁷⁸ The steps involved for phasing out the MFA will need to be determined.

In June, the group considered a further submission¹⁸⁰ by the International Textiles and Clothing Bureau (ITCB).¹⁸¹

The group in July considered two new proposals, one from the EC and one from Switzerland. The EC submission outlined a general framework for a transition towards the integration of this sector into a strengthened GATT.¹⁸² Several delegations did express concern over the EC's introduction of a new provisional safeguard regime for the textile sector.¹⁸³ Switzerland suggested three different approaches for the progressive elimination of MFA restrictions.¹⁸⁴

In a statement presented to the group in September, the United States stressed the need to ensure that any agreed upon integration process should address all trade-distorting measures and be based on real improvements in the GATT rules and disciplines affecting the sector.¹⁸⁵ In

¹⁷⁹ The mechanics of the transition, the time frame, treatment of transitional safeguards need to be determined if textiles are reintegrated into GATT.

¹⁸⁰ The proposal offered a series of complementary approaches for phasing out restrictions under the MFA starting either by fibre type and degree of processing or by product groups and supplier countries. Restrictions on reimports of outward processing traffic would be abolished and the growth and flexibility provisions in existing quotas would be progressively increased. The proposal also stated that no further restrictions should be imposed in the sector during the phase out of the MFA.

¹⁸¹ The ITCB is the main spokesman for textiles-exporting developing countries. The ITCB formed about 4 years ago as an United Nations agency to coordinate developing countries's concerns in the textiles area. The ITCB has small secretariat, is recognized by Swiss government, and holds regular meetings. The major spokesperson is Indonesia. The member countries are Argentina, Bangladesh, Brazil, Colombia, China, Egypt, India, Indonesia, Jamaica, Hong Kong, Korea, Macao, Mexico, Pakistan, Peru, Sri Lanka, Turkey, Uruguay, and Yugoslavia.

¹⁸² The EC emphasized that the framework must include the progressive elimination of existing restrictions and the implementation of strengthened GATT rules and disciplines. While the arrangement would be progressive, the number, duration, and content of the steps needed for the gradual liberalization of the sector would be negotiated. The EC also proposed a transitional textile safeguard mechanism to avoid the disruption of markets during the continuing restructuring of the industry. The specific GATT rules that the EC maintained should be strengthened are derogations for balance-of-payment difficulties and infant industry reasons, antidumping and countervailing actions, access to raw materials, protection of intellectual property, and a revised and improved permanent safeguard mechanism.

¹⁸³ GATT, *NUR*, No. 31, Oct. 16, 1989.

¹⁸⁴ The first two envisaged the gradual elimination of restrictions or the transformation of restrictions into global quotas, tariffs or tariff quotas that would then be progressively reduced. A third approach would be to allow governments to choose the appropriate methods for eliminating MFA restrictions, according to the market conditions in their own country. Switzerland, like the EC, called for the strengthening of GATT rules and disciplines, pertaining to safeguards, subsidies and countervailing measures, and intellectual property.

¹⁸⁵ The U.S. communication classified trade-distorting measures into six categories, which should all be modified and integrated into GATT: (1) measures taken under a formal, multilaterally-agreed derogation, such as measures adopted under the MFA or

addition, the United States, like the EC and Switzerland, maintained that there must be some parallel between the negotiations on integration modalities and those on the strengthening of GATT rules that may affect the textiles sector. This ideal of a synchronized or parallel approach between negotiations on textiles and those on other GATT disciplines was widely criticized. However, other participants felt it was logical to consider the progress made in the negotiating groups dealing with matters of interest for textiles, in particular safeguards. Most countries believe reintegration will lead to greater market openness and healthier competition.

In late October, India tabled a proposal outlining the necessary steps to phase out the restrictions in the textiles and clothing sector under the MFA.¹⁸⁶ Some exporting countries supported the Indian proposal as concrete and feasible. On the other hand, the EC and the United States declared that the proposal lacked proper balance and did not take into account the interests of importing countries, including strengthened GATT rules and disciplines. Five new proposals were tabled in the mid-December meeting.¹⁸⁷ At the end of 1989, the group was

¹⁸⁶—Continued

the VRAs concluded with non-MFA countries; (2) measures taken outside GATT by countries participating in the Uruguay Round; (3) measures taken by non-GATT members participating in the Round (i.e., China); (4) safeguard actions or measures to protect infant industries or for balance-of-payment reasons; (5) measures, which, while not necessarily inconsistent with GATT, are not subject to its disciplines (for example, unbound tariffs); and (6) preferential measures not notified, justified, or approved by GATT.

¹⁸⁶ It called first for a freeze from the beginning of 1990 on new trade restrictions in this sector. After the current Protocol of Extension of the Multifibre Arrangement expires on July 31, 1991, India suggested that the integration process begin immediately with the elimination of certain types of restrictions. The remaining quotas should be phased out by July 31, 1996. India, stressing the importance of textiles and clothing exports for many developing countries, warned that for these participants the very success of the round would depend on results in this negotiating area.

¹⁸⁷ The United States suggested two alternative approaches for the transition of the sector; one, a system of global-type quotas, or two, a system of global-type tariff rate quotas, perhaps allocated by country. Several participants cited the practical difficulties either approach would involve while others objected to the introduction of a new set of restrictions. The Nordic countries' proposal attempted to strike a balance between the interests of the exporting and importing countries. The ASEAN countries presented their plan for a complete phasing out of MFA restrictions by the year 2000. The ITCB elaborated the broad approach they have proposed in previous meetings. A number of developing-country exporters supported the similar plans presented by the Nordic countries, the ITCB, and the ASEAN group, especially the focus on the MFA restrictions, the phasing out of the restrictions upon the expiry of the MFA in July 1991, the immediate elimination of restrictions on several textiles and clothing products at the start of the phase out process, and that the strengthening of GATT rules be dealt with mainly in the other relevant groups. Bangladesh reiterated its call for special and differential treatment for the least-developed countries.

still discussing the modality of reintegrating textiles into the GATT.¹⁸⁸

Regular Gatt Activities and Work of Committees

Standing committees of the GATT attended to their regular responsibilities in 1989, as described below. Some committees continued to be less active this year because of the demands of Uruguay Round activities on the resources of the secretariat and country delegations. In some instances, the Uruguay Round negotiating groups are addressing activities that certain standing committees would normally undertake. For example, since the work of the Committee on Trade and Agriculture is subsumed by the Uruguay Round negotiating group on agriculture, it did not meet in 1987, 1988, or 1989. Also, the Consultative Group of 18 (CG-18),¹⁸⁹ which operates like a steering committee of the GATT, did not meet in 1988 or 1989 because its function is currently supplanted by Uruguay Round negotiations.

The Annual Session of the Contracting Parties, held on December 4-5 was brief, with most delegations reaffirming their commitment to the success of the Uruguay Round. The major points made during the general debate were—

- Growth in world trade had been significant but was distributed unevenly. In particular, a large number of developing countries had poor trade performance, low commodity prices,

¹⁸⁸ In February 1990, the United States and Japan presented their proposals. The U.S. proposal calls for a 10-year transition period starting Jan. 1, 1992 with three possible alternatives—global quotas, tariff rate quotas, and MFA-based transition. The global quota limit would initially consist of specific quota allocations for countries with whom the United States already has bilateral agreements and a nonselective "global basket" that would expand to provide growth. The country allocations would be determined by taking an average of the last 3 years of imports, with each country's allowance not exceeding 15 percent of the total. Countries would be free to transfer country-specific quotas among themselves.

The Japanese submission recommends the end of all restrictions under the present MFA by July 31, 1991, except for bilateral agreements negotiated under article 4 of the MFA which are generally less restrictive than bilateral agreements negotiated under article 3. Japan's proposal provided for special transition measures, which, when invoked, would be subject to consultations with the exporting countries and an appraisal by a new multilateral surveillance board. The Japanese proposal was generally more favorably received, especially by many of the developing country suppliers, than the U.S. plan. GATT, *NUR*, No. 34, Feb. 23, 1990.

¹⁸⁹ The group discusses formative issues and assists the Contracting Parties in assessing formulation and implementation of GATT policies. The CG-18 was established on a temporary basis in 1975 and was made permanent in 1979. Its membership, consisting of both developed and developing country members, rotates annually.

sluggish economic growth, and external debt problems.

- Some major trading countries are increasingly resorting to unilateral decisions on retaliation measures. Such actions undermined the GATT system.

The chairman of the Contracting Parties also noted the increased tendency to implement protective measures such as antidumping through misuse of GATT rules. The recent changes in Eastern Europe prompted Poland to request renegotiation of its terms of accession to GATT. Czechoslovakia asked for termination of the suspension of GATT obligations between the United States and Czechoslovakia.¹⁹⁰ Routine business was also conducted at the meeting with the adoption of the annual reports of the Committee on Trade and Development, the Tokyo Round Code Committees and Councils, and the Committee on Balance-of-Payments. The report of the Working Group on Export of Domestically Prohibited Goods was noted and officers for 1990 were elected.¹⁹¹

Tariff Concessions

The Committee on Tariff Concessions, mandated by the Tokyo Round of Multilateral Trade Negotiations, was established in 1980. The Committee manages the gradual reduction of tariffs and oversees maintenance of GATT tariff schedules.¹⁹² It also provides a forum for discussion on any tariff-related concerns. As part of this mandate, the Committee is overseeing the GATT article XXVIII (amendment of tariff schedules) negotiations associated with the implementation of the new tariff nomenclature known as the Harmonized Commodity Description and Coding System (the Harmonized System).¹⁹³

On January 1, 1988, the Harmonized System (HS) officially entered into force. In its annual report to the council in November 1989, this committee reported that 60 GATT Contracting Parties (of which the United States is one) had adopted the HS and that these parties represented more than 95 percent of Contracting Parties' trade.

Several waivers have also been accepted as a result of the HS. Contracting Parties may obtain a waiver from their tariff concession obligations

¹⁹⁰ In 1951, the U.S. Congress required the suspension of certain trading advantages, e.g. Most-favored-nation treatment, accorded to Czechoslovakia. See ch. 1 for more information on the recent changes in Eastern Europe.

¹⁹¹ GATT, *GATT Focus*, No. 67, Dec. 1989, pp. 1-2.

¹⁹² *GATT Activities 1986*, Geneva, June 1986, pp. 23-24.

¹⁹³ Developed by the Customs Cooperation Council in Brussels, the Harmonized System unifies and standardizes the nomenclature used in the classification of traded goods for duty and statistical purposes.

under article II of the General Agreement in order to implement the HS pending the completion of the required article XXVIII renegotiations.¹⁹⁴

The committee continued its ongoing efforts related to the Harmonized System data base and the compilation of looseleaf schedules of GATT tariff concessions.¹⁹⁵ As of November 1989, 63 Contracting Parties (the EC is counted as 1 member), had looseleaf schedules, with 45 being circulated and 18 approved.

Trade and Development

The Committee on Trade and Development (CTD) is responsible for examining issues of interest to developing countries in the area of international trade. Under this mandate, the Committee monitors developments in international trade and reports on the effects of these developments on developing countries' economies. Also, the Committee oversees implementation of the provisions of part IV of GATT and monitors the operation of the "enabling clause."¹⁹⁶

During 1989, the Committee met in June and in November to discuss several issues regarding the trade of developing countries. Members reviewed developments in the Uruguay Round as well as recent developments in international trade. The implementation of part IV and the enabling clause were also reviewed. Other items on the Committee's agenda included an assessment of technical assistance activities to developing countries related to the Uruguay Round and work done by the Subcommittee on the Trade of the Least Developed Countries¹⁹⁷ in

¹⁹⁴ The countries granted a waiver were Indonesia, Bangladesh, Israel, Malaysia, Mexico, Sri Lanka, and Yugoslavia.

¹⁹⁵ GATT members view the data base, in conjunction with the tariff study file, as an important asset in the Uruguay Round negotiations.

¹⁹⁶ Pt. IV, added in 1969, and the "enabling clause," negotiated during the 1979 Tokyo Round, allow special consideration of interests of developing countries. The enabling clause allows developing countries to receive differential and more favorable treatment from other GATT members with regard to the following (1) tariffs accorded under the Generalized System of Preferences; (2) nontariff measures (NTMs) governed by GATT codes; (3) tariffs and, under certain conditions, NTMs among developing countries under regional or global trade arrangements; and (4) measures applied to the least developed countries in particular. The enabling clause also provides for adherence by developing countries to the obligations of GATT membership that is commensurate with each country's level of economic development.

¹⁹⁷ The term "least developed countries" refers to those countries that are the least developed of the developing countries. The Subcommittee on Trade of the Least Developed Countries concentrates primarily on the following three issues: (1) expansion and diversification of the trade of least developed countries, (2) strengthening of technical cooperation regarding trade, and (3) integration of these countries into the GATT trading system. The Subcommittee has also hosted a series of consultations between the interested least developed countries and their trading partners.

relation to the Uruguay Round. Another topic of discussion was the need to establish ways and means for countries to receive credit for trade liberalization measures adopted unilaterally or as part of programs undertaken through arrangements with international financial institutions. In this connection it was stated that countries have been reluctant to undertake such liberalization measures when multilateral negotiations were not underway as they would then be unable to use such measures to obtain concessions from trading partners. The committee reviewed notifications on GSP schemes made by Austria, Czechoslovakia, Finland, and Norway. It also received reports from the member states of the Latin American Integration Association, the ASEAN Preferential Trading Arrangements, and the Global System of Trade Preferences Among Developing Countries (GSTP).

In reviewing technical assistance activities, representatives of developing countries noted the usefulness of technical assistance activities in helping to improve their participation in negotiations. A program of technical assistance by the United Nations Conference on Trade and Development (UNCTAD) had been started in 1987. This program included convening regional seminars and roundtables (over 50 of which were held between July 1988 and November 1989) to provide technical assistance; issue-related information on such topics as agriculture, textiles, services, antidumping, TRIPS, and TRIMS; and data on trade and trade barriers to participants. Organizations including the United Nations Development Program, and the U.N. Food and Agricultural Organization, and individual countries such as West Germany and Norway also provided technical assistance to developing countries.

Balance-of-Payments Restrictions

Under certain articles of the General Agreement, countries may erect temporary import barriers when experiencing payments imbalances. Although quantitative restrictions are generally prohibited by GATT, exemptions under articles XII and XVIII¹⁹⁸ can be applied in conjunction with consultations with the Committee on Balance of Payments Import

¹⁹⁸ Art. XII provides for the implementation of import restrictions by contracting parties in order to safeguard the balance-of-payments position. Such measures taken by them to "forestall. . . or to stop a serious decline in its monetary reserves" or in the case of low monetary reserves "to achieve a reasonable rate of increase in its reserves" are to be maintained only to the extent that the conditions justify their application and are to be progressively relaxed. In addition, unnecessary damage to the interest of other contracting parties is to be avoided. Art. XVIII provides for the terms under which developing countries may take these and other measures for the purposes of development in exception to normal obligations under the General Agreement.

Restrictions.¹⁹⁹ In accordance with procedures and decisions adopted by the Contracting Parties, the Committee regularly holds consultations with countries invoking such restrictions for the duration of the measures.²⁰⁰ The Committee monitors the restrictions and the country's progress in moving toward liberalization.²⁰¹ All countries whose trade may be affected by import restrictions may participate in the consultations.²⁰²

Both full consultations and consultations under simplified procedures, known as miniconsultations, may be undertaken. In 1989, the Committee conducted consultations with Israel, Peru, Ghana, Brazil, Sri Lanka, Colombia, Korea, Pakistan, and Egypt. It concluded that Ghana has phased out all of its trade restrictions for balance-of-payments reasons and would not need further consultations. Full consultations were not needed for Colombia because its trade policies will be reviewed by the new Trade Policy Review Mechanism in the Spring of 1990. Additionally, Korea had agreed to disinvoke GATT article XVIII:B by January 1, 1990. Korea has initiated a 5-year liberalization program and plans to eliminate all remaining restrictions by July 1, 1997.²⁰³

GATT Integrated Data Base

In November 1987, the Council authorized the Secretariat to begin work on the Integrated Data Base (IDB). The design of the system has been adopted in reference to the precise nature of the trade, tariff, and quantitative restrictions data to be maintained by the Secretariat.²⁰⁴ As of

¹⁹⁹ In December 1989, the United States and Canada tabled a proposal for revising the balance-of-payments articles.

²⁰⁰ Declaration on Trade Measures Taken for Balance-of-Payments Purposes, adopted by the Contracting Parties on Nov. 28, 1979. GATT, *Basic Instruments and Selected Documents*, Supp. 26th, p. 205.

²⁰¹ *GATT Activities 1986*: Geneva, June 1986, p. 52. The Committee's work is based on the Declaration on Trade Measures Taken for Balance-of-Payments adopted by the Contracting Parties on Nov. 28, 1979. GATT, *Basic Instruments and Selected Documents*, Supp. 26, p. 205.

²⁰² Several countries have notified such restrictions since 1979 and engaged in regular consultations concerning their application. Over the past 10 years consultations have been conducted with Argentina, Bangladesh, Brazil, Colombia, Egypt, Ghana, Greece, Hungary, India, Israel, Italy, Korea, Nigeria, Pakistan, Peru, the Philippines, Portugal, Sri Lanka, Tunisia, Turkey, and Yugoslavia. Greece, Hungary, Italy, and Portugal have succeeded in phasing out their balance-of-payments measures and are no longer subject to committee consultation.

²⁰³ For further information related to this see the section on "Dispute Settlement" concerning Korean beef restrictions later in this chapter.

²⁰⁴ The data base will play an integral part as a source of information in the tariff and nontariff measures negotiations in the Uruguay Round.

May 1989, 36 countries ²⁰⁵ (with the EC countries represented as one member) had indicated their intention of participating in the system.²⁰⁶ Trade thus covered by the IDB would represent 94 percent of total trade of GATT contracting parties. The United States, the EC, and Japan had made submissions to the IDB. Countries that reported that they expected to submit data by the end of 1989 were Argentina, Austria, Canada, Finland, Hong Kong, Malaysia, Mexico, Norway, Poland, Sweden, Switzerland, and Yugoslavia.²⁰⁷

Exports of Domestically Prohibited Goods

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

In July, the Council agreed to establish a Working Group on the Export of Domestically Prohibited Goods. The group will consider the need for new disciplines to regulate export of goods that may be barred for sale in the domestic market of the producing country on the grounds that they are dangerous to human health or safety but are nevertheless exported. It will also examine the discipline that could apply to products that are severely restricted or controlled in the domestic markets of the producing countries and will cover trade-related aspects of disposal of toxic wastes. The group, whose membership is open to all contracting parties, is to complete its work by September 1990.²⁰⁸

Textiles

GATT-related interest in textiles during 1989 was focused primarily on Uruguay Round

²⁰⁵ The countries are Argentina, Australia, Brazil, Canada, Chile, Colombia, Czechoslovakia, EC (12 countries), Finland, Hong Kong, Hungary, Iceland, India, Jamaica, Japan, Korea, Mexico, New Zealand, Norway, Poland, Sweden, Switzerland, Turkey, United States, and Uruguay.

²⁰⁶ U.S. Department of State, telegram, Geneva, Message Reference No. 04048, May 12, 1989.

²⁰⁷ Ibid.

²⁰⁸ GATT, *Focus*, No. 64, August-September 1989, p. 13.

negotiations, particularly developments in the Textiles and Clothing Negotiating Group.²⁰⁹ The Committee also conducted its mandatory annual review of the operation of the Arrangement Regarding International Trade in Textiles, also called the MFA.²¹⁰ As part of its review, the Committee considered reports on the activities of the Textiles Surveillance Body (TSB).²¹¹ Additionally, the committee decided to increase the TSB from 8 to 10 members beginning on August 1, 1989 and to continue the 1986 Protocol of Extension of the MFA through July 31, 1991.²¹² In its report the TSB noted that while some countries had reduced barriers to textile trade under the MFA since 1986, other countries have expanded MFA sanctioned restraints. Its report concluded that the MFA's objectives of reducing barriers and the progressive liberalization of world trade had not yet been achieved.

Actions Under Articles of the General Agreement

Emergency Actions on Imports (art. XIX)

Article XIX of the General Agreement, also known as the "escape clause," allows GATT members to escape temporarily from their negotiated GATT commitments and impose emergency, restrictive trade measures when actual or threatened serious injury to a domestic industry is demonstrated.²¹³ A country exercising article XIX is required to notify the GATT and consult with affected exporting countries to arrange compensation. The incentive to negotiate stems from the right of affected countries to suspend unilaterally "substantially equivalent concessions or other obligations."

In 1989 several article XIX actions were notified or in effect as a result of previous notifications (see table 1). During 1989, the EC invoked article XIX for imports of certain types of processed cherries. Countervailing duties were applied to those imports that did not observe the minimum prices established in EC Regulation No. 1989/89, effective July 13, 1989. On January 1, 1989, Chile terminated article XIX actions on sugar, wheat, and edible vegetable oils imports.

²⁰⁹ Activities of this group are discussed in the previous section of this report on the Uruguay Round.

²¹⁰ For a discussion of the MFA see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, pp. 1-7 to 1-12.

²¹¹ The role of the TSB is to supervise the implementation of the MFA.

²¹² GATT, *Focus*, No. 62, June 1989, p. 10.

²¹³ Since art. XIX provides that a concession may be suspended, withdrawn, or modified only "to the extent and for such time as may be necessary to prevent or remedy" the injury, the suspensions are of a temporary nature.

Table 1
Article XIX actions in effect as of Dec. 31, 1989

<i>Implementing country</i>	<i>Type of Product</i>	<i>Date Notified¹</i>
Australia	Filament lamps	July 1983
Canada	Leather footwear	July 1982
Canada	Nonleather footwear	November 1981
Canada	Yellow onions	October 1982
Canada	Beef and veal	January 1985
Chile	Vegetable and oilseed oils	December 1985
European Community	Dried grapes	November 1982
European Community	Morello cherries	July 1985
European Community	Sweet potatoes	May 1986
European Community	Digital quartz watches	May 1984
European Community	Squid	July 1987
European Community	Urea	January 1987
European Community	Steel	January 1988
European Community	Refrigerators and freezers	May 1988
European Community	Processed cherries	July 1989
South Africa	Optical fiber and bundles	October 1987
South Africa	Footwear	March 1988
United States	Specialty steel	July 1983

¹ Date of distribution of notification.

Source: GATT.

Dispute Settlement (articles XXII and XXIII)

When a member country fails to respect a tariff concession or other obligation, or takes any action that nullifies or impairs a GATT benefit, or engages in a trade practice inconsistent with GATT provisions, the General Agreement allows affected members to seek redress through the dispute settlement procedures of articles XXII and XXIII. More general in nature, article XXII provides for bilateral consultations on any matter affecting the operation of the General Agreement. If article XXII discussions do not resolve an issue, use of article XXIII:1 elevates the dispute to a more advanced stage of consultations.²¹⁴

If bilateral consultations fail to yield a mutually satisfactory solution, the matter may be referred to the GATT under article XXIII:2. At this point, the usual procedure is to refer the dispute to a panel.²¹⁵ The panel reports its findings to the GATT Council where the decision is made, on behalf of the Contracting Parties, whether or not to adopt the report and its recommendations.²¹⁶ If an adopted recommenda-

tion calling for elimination of a GATT-inconsistent practice is ignored, the complaining country may request the Contracting Parties to authorize it to suspend "appropriate" concessions vis-a-vis the offending country. However, such authorization is rarely requested.²¹⁷

In April 1989, the GATT Council adopted new dispute-settlement procedures to streamline the process.²¹⁸ These procedures were a direct result of Ministerial decisions adopted as a result of the midterm review of the Uruguay Round Trade Negotiations Committee. Reforms were enacted in the following areas: (1) time limits on stages of the process—consultations within 30 days once requested at a GATT Council meeting, 60 days for consultations, work of the panel should end within 6 months, and the whole process should not exceed 15 months;²¹⁹

²¹⁶—Continued

recommendations to the disputing parties. Bilateral settlement among parties to a dispute is possible at every phase of the process, up until final adoption of a panel report by the Council.

²¹⁷ According to the final paragraph of art. XXIII, after such suspension by the complainant, the offending country also has the right (within 60 days) to withdraw from the GATT.

²¹⁸ GATT, *GATT Focus*, No. 62, June 1989, p. 1.

²¹⁹ When a contracting party complains to the GATT Council that another country's practices are harmful or nullify a previous concession, the two countries must enter into consultations. The new procedures established definite time limits for the stages of a dispute. The country that had the complaint filed against it must respond to the request for consultations in 10 days and enter consultations in 30 days. If it does not respond or enter into consultations, the complaining country can request the establishment of a dispute panel at the next GATT Council meeting. (The term "establishment" is used to refer to the formal approval of the panel request. A panel can only be established with a consensus of all contracting parties.) In cases of urgency (for perishable foods, for example), consultations are to occur within

²¹⁴ Under art. XXIII:1, the affected country makes "written representation or proposals to the other contracting party or parties" concerned. When thus approached, a GATT member is required to give "sympathetic consideration to the representations or proposals made to it."

²¹⁵ The panel is composed of persons selected from the delegations of contracting parties not engaged in the dispute and sometimes of another individual chosen from a roster of candidates compiled by GATT members. The panel members are expected to act as disinterested mediators and not as representatives of their governments.

²¹⁶ Panel reports normally contain suggested remedies that the Contracting Parties may choose to adopt as

(2) expedited selection of dispute settlement panel members;²²⁰ (3) use of standard terms of reference (mandate of panel);²²¹ (4) harmonization of procedures where more than one country levels a complaint (multiple complaints);²²² and (5) improved surveillance of implementation of panel reports by the GATT

²¹⁹—Continued

ten days from date of request of consultations. If the consultations fail to provide a settlement within 30 days, the complaining party may request the establishment of a panel.

If the two countries do enter bilateral consultations, but no settlement is reached in 60 days, the complaining party can request the establishment of a panel. With the new procedures, a panel is automatically established, at the latest by the second Council meeting, unless decided otherwise. International Trade Administration, U.S. Department of Commerce, (*Uruguay Round Update*, May 1989, p. 5.) This is a significant advance over old methods, in that the establishment of panel could be blocked indefinitely or bilateral consultations could drag on for years. (See *Review of the Effectiveness of Trade Dispute Settlement Under the GATT and the Tokyo Round Agreements*, USITC 1793, December 1985, p. 57. See also "An Unofficial Description of How a GATT Panel Works and Does Not," *Journal of International Arbitration*, 4, 1987, p. 93.)

Other time limits imposed by the new procedures refer to the amount of time a working panel has for providing its report and the overall time limit for the total process. A working panel is to provide its report to the Council within 6 months, or within 3 months in cases of urgency. In no case should the period from the establishment of the panel to the submission of the report to the contracting parties exceed 9 months. The overall process, from the time a request is made to Council to the time the Council makes a decision on the panel report, should not exceed 15 months. No time limit was specified on how long the Council has to decide on the working party report, except that discussion of the report will not commence prior to 30 days of date of issuance of report. Additionally, no time limits were established on when a country has to adopt a panel report, except that "delaying of the process of dispute settlement shall be avoided." (GATT, *NUR*, No. 24, April 24, 1989.)

²²⁰ Previously, the establishment of a panel could be delayed over the selection of members on the panel. Under the new procedures, this will no longer be the case. If there is no agreement within 20 days on the composition of the panel by the two disputing parties, either party can request the GATT director-general, in consultation with the chairman of the Council, to appoint the panelists deemed most appropriate. (See *Review of the Effectiveness of Trade Dispute Settlement Under the GATT and the Tokyo Round Agreements*, USITC 1793, December 1985, p. 57. See also "An Unofficial Description of How a GATT Panel Works and Does Not," *Journal of International Arbitration*, vol. 4 (1987), p. 93.)

²²¹ The Council now may authorize the chairman to draw up the terms of reference of the panel in consultation with the parties. Previously, the establishment of a panel could be delayed by disagreements on the standard terms of reference.

²²² A single panel, whenever feasible, may be established to examine complaints brought by more than one contracting party on a single matter. Organization of the single panel shall ensure that the rights of the parties to the dispute are in no way impaired under the single panel. Furthermore, written submissions of each complaint shall be made available to all complainants, and individual complainants can be present when another complainant presents its view to the panel. This practice, formally not often used in GATT, is a recent phenomenon, i.e. the Korean beef dispute wherein United States, Australia, and New Zealand, all complained about Korea's restriction on beef. See section in this chapter on "Dispute settlement."

Council once they are adopted.²²³ Overall, the new procedures streamlined the process such that if there is no bilateral resolution of a dispute after a certain time period, a panel will be automatically established. Under the prior procedures, delays could prevent a panel from being established.

Consultations

During 1989, GATT members held article XXII consultations, which are relatively informal, on a variety of issues.²²⁴ Article XXIII:1 consultations are the next and more formal step in the dispute settlement process. Some of the article XXIII:1 consultations in 1989 that had not reached the panel stage concerned complaints by the EC, Canada, and the United States. In September 1989 Canada requested consultations with the EC regarding EC subsidies for producers and processors of oilseeds and requested consultations with the United States regarding the countervailing duty on U.S. imports of pork. The EC requested consultations with the United States regarding its determinations under sections 304 and 305 of the Trade Act of 1974 with respect to the EC's subsidies for oilseeds. The United States had requested consultations with Finland in September 1989 on import restrictions for apples and pears, but this request was subsequently withdrawn.

²²³ One recurrent problem of the dispute panel settlement procedure is how to ensure the implementation of an adopted panel report. The panel report does not dictate to the offending country the necessary changes that should be made, rather it makes recommendations and indicates the GATT-illegal or inconsistent practices. Therefore, no formal procedures are set up to ensure that the panel report is implemented once it is adopted. The new procedures state that prompt compliance with the panel rulings is essential in order to ensure effective resolution of disputes. Now, the panel reports not implemented will be put on the agenda of the Council 6 months after the adoption of the report and shall remain on the Council's agenda until the issue is resolved. Furthermore, 10 days prior to each Council meeting, the contracting party concerned will provide the Council with a written status report of its progress in the implementation of the panel ruling. The offending country's implementation plan and the projected time frame for the eventual compliance is then discussed in the Council meeting.

²²⁴ One issue of note concerns the EC's TV broadcast directive. In September 1989, the United States informed the Council that it had requested consultations with Austria, Luxembourg, the Netherlands, Norway, Spain, Sweden, Switzerland, and the United Kingdom. These countries had signed the European Convention on Transfrontier Television, which encourages the use by signatories of European produced television programming. The United States maintained that under art. X of the convention the countries would be obligated to violate GATT. The EC Commission did not agree to consultations in September since it doubted the U. S. complaint was relevant to the General Agreement since broadcasting is a service. The Commission advised the United States to follow-up its request in writing. GATT, *GATT Focus*, No. 66, November 1989, p. 3.

Canadian Restrictions on Ice Cream and Yogurt.—In December 1988, the United States requested a panel regarding certain quantitative restrictions imposed by Canada on imports of ice cream and yogurt.²²⁵ The United States argued that the Canadian measures were inconsistent with GATT article XI general prohibition against quotas. Canada maintained that the quotas were justified under article XI:2(c) that allows quantitative restrictions on imports of agricultural products to enforce government measures that protect similar domestic products. A panel was established in April 1989, and submitted its report to the contracting parties in September 1989. The panel concluded that the Canadian restrictions were inconsistent with article XI:2 for “like products” and “in any form” because the ice cream and yogurt covered by the restrictions did not compete directly with raw milk nor were they likely to render ineffective the Canadian program for raw milk.²²⁶ Canada requested more time to study the report.

Norwegian Restrictions on Apple and Pear Imports.—In March 1988, the United States requested a panel on Norway’s restrictions on the imports of apples and pears. The United States argued that the restrictions, implemented through seasonal import licensing, violate GATT article XI that prohibits the imposition of quotas.²²⁷ Norway maintained that the import restrictions were established through a licensing scheme initially established under a royal decree issued in 1958,²²⁸ and that the decree was covered by the Protocol of Provisional Application of 1947. The panel report was presented to the Council in May 1989. The panel concluded that, among other factors, the decree gave the King discretion on whether to prohibit imports and did not make

restrictions on apples and pears mandatory.²²⁹ Consequently, the panel concluded that the current restrictions on imports of apples and pears were not covered by the existing legislation clause of the protocol. It recommended that the Contracting Parties request that Norway bring the restrictions in question into conformity with its GATT obligations. At the Council meeting on June 22, 1989, the panel report was adopted. At that meeting, Norway pointed out that it allowed adoption of the report because of the importance it attached to the GATT dispute-settlement system.²³⁰

Korean Restrictions on Beef Imports.—Following a request by the United States, the Council established a panel in May 1988 to consider Korea’s import restrictions on bovine meat.²³¹ In May the Council decided to establish a concurrent panel on the same issue as requested by Australia. A third panel on this matter was established in September at the request of New Zealand (see below). The United States, Australia, and New Zealand argued that the Korean ban on imports of beef violated GATT article XI:1 (prohibition of quotas), nullified and impaired the benefit of tariff concessions under article II, and could not be justified under article XVIII for balance-of-payments (BOP) reasons. Korea argued that its import restriction system (including beef) was implemented for BOP concerns. Also, Korea contended that since the measures were subject to special review procedures under article XVIII:b²³², they should not be challenged under article XXIII (dispute settlement). The panel reports were submitted to the council in June 1989. In the reports, the panels concluded that the measures introduced in 1984–85 and amended in 1988 were

²²⁵ In March 1988, Canada introduced a measure that required import permits for these products. Although Canada had not announced a level of imports to be granted permits, the United States alleged that it was only granting permits based on past performance. *GATT, GATT Focus*, No. 59, January/February 1989, p. 3.

²²⁶ The United States urged adoption of the report stating that it supported conclusions of past panels regarding the “narrow scope of exceptions” to the GATT prohibition of restrictions on imports. Canada commented that the panel’s findings raised the question of whether any national dairy program could use the exceptions under art. XI. Canada also pointed out the inconsistency in the United States using its waiver on agricultural products to limit imports of ice cream and yogurt while simultaneously challenging restrictions of other GATT members without waivers. *GATT, GATT Focus*, No. 66, November 1989, p. 2.

²²⁷ The Norwegian restrictions generally took effect from the beginning of the domestic harvest season and remained in effect until domestic supplies were sold.

²²⁸ Norway’s argument included noting that the decree was implemented by a 1934 act that preceded the beginning of GATT.

²²⁹ The protocol of Provisional Application states that GATT members will apply part II of the General Agreement “to the fullest extent not inconsistent with existing legislation.” The issue before the panel was to determine whether the royal decree was authorized by existing legislation and therefore not subject to art. XI:1. To be eligible as existing legislation, an act must be legislation in a formal sense, predate the protocol, and be mandatory.

²³⁰ Norway did state that it would be difficult technically and politically to bring the measures into conformity with the GATT. *GATT, GATT Focus*, No. 63, June 1989, p. 3.

²³¹ The United States alleged that under Korea’s beef import-licensing system no import licenses had been granted since 1984 except for certain types of beef for use in hotels and that from May 1985 to August 1988 even the hotel-related imports were denied. See also “Enforcement of Trade Agreements and Response to Unfair Foreign Practices” section of ch. 5 of this report.

²³² By December 1987 the prevailing view of the BOP Committee was that Korea’s economic situation and outlook could no longer justify the maintenance of import restrictions for BOP reasons. The committee recommended establishing a timetable to phase out such restrictions.

implemented to protect the Korean cattle industry and not for balance of payments reasons and were inconsistent with article XI.²³³ The panels further rejected Korea's argument that a measure undertaken for balance of payments purposes could not be subject to a complaint under article XXIII. The panels recommended that Korea eliminate or bring into GATT conformity the restrictions on beef imports introduced in 1984/85; that Korea hold consultations with Australia, New Zealand, the United States, and other interested contracting parties to work out a timetable to eliminate the import restrictions on beef justified since 1967 for balance of payments reasons; and that Korea report on such consultations within 3 months after the council's adoption of the panel reports. In November Korea, agreed not to block adoption of the reports,²³⁴ but cautioned that, because of the political and economic problems related to its cattle industry, meeting the panel's recommended deadline for reaching a solution could be difficult. The council adopted the three panel reports at the November 1989 Council meeting.

EC Subsidies on Oilseeds and Related Animal-feed Proteins.—In June 1988, upon a request from the United States, the council established a panel on EC payments and subsidies paid to processors and producers of oilseeds and related animal-feed proteins. The United States argued that the EC program was inconsistent with GATT article III provisions for national treatment and that the measures nullify and impair trade concessions in violation of GATT article II. The EC contended that payment of subsidies exclusively to domestic producers did not violate article III provisions for national treatment and that disciplines on subsidies were entirely laid down in article XVI and were not overridden by article III. The terms of reference and composition of the panel were announced in June 1988. The panel report was presented to the council and adopted on January 25, 1990. The panel concluded that the EC payments to seed processors were inconsistent with article III:4 and that the EC should bring its regulations into conformity with the GATT; the subsidy schemes had impaired the EC's tariff concessions on oilseeds and that the impairment should be eliminated; and the contracting parties should take no further action under article XXIII:2 until the EC has reasonable time to adjust its regulations including elimination of the impairment to the tariff concession.²³⁵

²³³ GATT, *GATT Focus*, No. 63, pp. 4-5.

²³⁴ GATT, *GATT Focus*, No. 67, December 1989, p. 3.

²³⁵ The panel report was presented to the Council and adopted on Jan. 25, 1990. The panel concluded that the EC payments to seed processors were inconsistent with article III:4 and that the EC should bring its regulations into conformity with the GATT. In addition, the panel found that the subsidy schemes had impaired the EC's tariff concessions on oilseeds and recommended that the impairment should be eliminated. Additionally

EC Restrictions on Apple Imports.—In 1988, at the request of the United States the Council set up a panel on EC apple import restrictions.²³⁶ The United States argued that the action was inconsistent with GATT article XI that prohibits quotas and that it nullified the benefit of tariff concessions on apples. The EC argued that the measures were a justified use of the exceptions to article XI and had been administered in full accordance with articles XIII and X.²³⁷ A panel was established in September 1988. During 1988, Chile also requested and obtained a panel on the EC apple restrictions (see below). At its meeting in June 1989, the council adopted the panel reports on both the U.S. and Chilean complaints.²³⁸ The panel reports concluded that the measures did not meet the criteria for exceptions under article XI and that the administration of the quotas had been discriminatory and therefore contrary to article XIII. (As the restrictions were terminated in August 1988, the panel report contained no recommendations.)

EC Restrictions on Exports of Copper Scrap.—In June 1989, the United States requested that the council set up a panel to examine the EC's export quotas on copper scrap and copper alloy scrap.²³⁹ The United States alleged that the quotas contravened article XI:1 which prohibits export quantitative restrictions. The EC stated that it had no copper resources and was wholly dependent on outside sources. The EC further maintained that lifting the export controls considering the then current world market would lead to an outflow of the metal from the Community. The council agreed to establish a panel in July 1989. The composition of the panel was announced in September 28, 1989.²⁴⁰

Canadian Measures on Exports of Unprocessed Salmon and Herring.—The council established a panel in April 1987 to consider a U.S. complaint about Canada's ban on the export of unprocessed herring and salmon.²⁴¹ The report

²³⁶—Continued

the report urged the contracting parties to take no further action under article XXIII:2 until the EC has reasonable time to adjust its regulations including elimination of the impairment to the tariff concession. GATT, *GATT Focus*, No. 68, February 1990, p. 3.

²³⁷ The EC regulation took effect in April 1988 and provided that no licenses for import of U.S. apples would be issued until August 1988. EC Regulation no. 1040, Apr. 20, 1988. The action established a fixed total quota of 521,731 metric tons, mostly allocated among five countries (Argentina, Chile, South Africa, New Zealand, and Australia) with a small portion of the quota left for all other countries.

²³⁸ GATT, *GATT Focus*, No. 62, June 1989, p. 8.

²³⁹ GATT, *GATT Focus*, No. 63, July 1989, p. 2.

²⁴⁰ Ibid, p. 9.

²⁴¹ By February 1990, bilateral consultations between the United States and the EC successfully resolved the dispute.

²⁴¹ See also the "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

of the panel was presented to the Contracting Parties in December 1987. The Contracting Parties referred the report to the council for consideration. At the March 1988 council meeting, Canada agreed to adopt the panel report. The report concluded that Canada's prohibitions were contrary to article XI:1 and were without justification under the exceptions provided in articles XI:2 or XX(g). The report urged the Contracting Parties to recommend that Canada bring its measures into conformity with GATT rules.²⁴² The report also noted that the Canadian measures were not necessary for the application of quality-control standards, since Canada prohibited the export of such products regardless of whether or not they met Canadian standards.²⁴³ In March 1989, Canada noted that the USTR had determined that Canada's ban on exports of salmon and herring was an unfair trade practice under section 304 of the U.S. Trade Act. This announcement by the USTR was accompanied by a list of Canadian products that could be subject to retaliation. Canada argued that the action was not authorized by the Contracting Parties and that the U.S. action was unjustified since Canada was ready to implement the panel's findings.²⁴⁴ The United States responded that it had not taken any action and the bilateral consultations with Canada had not been fruitful. The matter was again considered by the council in April. In May Canada informed the council that it had begun to implement the panel report's recommendations by removing export prohibitions on unprocessed salmon and herring. In addition, Canada stated that it was instituting GATT-consistent landing requirements whereby foreign buyers would have access to fish caught in Canadian waters.

Panels examining U.S. measures

Complaint by Brazil on Retaliatory U.S. Tariff Increases.—In October 1988, the United States increased duties on imports from Brazil of several products.²⁴⁵ In December, Brazil requested the council to establish a panel to examine its allegation that the U.S. measures nullified and impaired Brazilian rights of most-favored-nation treatment and maintenance of tariff concessions under GATT articles I and II. Brazil claimed the unilateral action (taken by the United States under the authority of section 301 of U.S. trade laws) lacked any legal foundation in GATT rules. The United States argued that the action followed 2 years of "fruitless" discussions with Brazil regarding

²⁴² GATT, Report of the Panel, "Canada—Measures Affecting Exports of Unprocessed Herring and Salmon." Doc. no. L/6268, Nov. 20, 1987. Adopted March 1988.

²⁴³ GATT, *GATT Focus*, No. 54, April/May 1988, p. 2.

²⁴⁴ GATT, *GATT Focus*, No. 62, May 1989, p. 5.

²⁴⁵ These products included nonbenzenoid drugs, paper products, and consumer electronics. See also "Enforcement of Trade Agreements and Response to Unfair Foreign Practices" section of ch. 5 of this report.

inadequate protection of intellectual property rights for pharmaceutical and chemical products. In September 1989, the council established a panel to examine the complaint.²⁴⁶

Complaint by Australia on the Sugar Import Regime.—In September 1988, the council agreed to Australia's request for a panel to examine U.S. restrictions on sugar imports. Australia argued that the U.S. sugar import restrictions were not consistent with GATT article XI which prohibits the use of quotas. Australia also alleged that the quotas, in effect since 1982, have become increasingly restrictive. The United States argued that the restrictions were part of a tariff concession first negotiated under the Annency Round of 1949 and that this provision was consistent with article II:b that permits contracting parties to subject tariff concessions to "the terms, conditions or qualifications" set forth in their Schedule of Concessions. The United States further stated that these terms, conditions or qualifications were an integral part of the GATT and therefore could not be challenged or overruled by another part or provision of the General Agreement.²⁴⁷ In June 1989, the panel report was presented to the council. The panel rejected the U.S. sugar quota program as inconsistent with article XI's prohibition of quantitative restrictions and with article II's schedule of concessions. The panel recommended that the contracting parties request that the United States either eliminate these restrictions or bring them into conformity with the General Agreement. The Council adopted the report in June 1989.²⁴⁸

Complaint by the EC on the U.S. Waiver on Sugar.—During 1988, the EC held article XXIII:2 consultations with the United States concerning the waiver granted to the United States in 1955 for certain agricultural products under section 22 of the Agricultural Adjustment Act of 1933.²⁴⁹ The EC argued that the waiver was not permanent and thus the maintenance of the program for more than 30 years was an infringement of the GATT. The United States asserted that it has put both the sugar import program and the section 22 waiver on the table in the Uruguay Round. The council considered the matter in December 1988 and in February, March, May, and June 1989. In June the Council

²⁴⁶ GATT 1/6606, P. 27.

²⁴⁷ GATT, *GATT Focus*, No. 63, July 1989, p. 2.

²⁴⁸ The United States warned that the panel's conclusions could have implications for other GATT members and that the report had serious implications for the U.S. sugar industry that would have to be reviewed by the Congress and private industry. However, in light of the panel's clear ruling, the United States stated it would agree to the adoption of the report. GATT, *GATT Focus*, No. 63, July 1989, p. 2.

²⁴⁹ The United States uses sec. 22 to regulate imports of agricultural products that would interfere with domestic support programs.

agreed to establish a panel and the terms of reference and composition thereof.²⁵⁰

Complaint by the EC on Section 337 Action.—In July 1987, the EC requested that a panel be established to examine the GATT compatibility of the U.S. application of section 337 after consultations with the United States on the matter failed to resolve the dispute. The EC argued that application of certain procedures under section 337 of the Tariff Act of 1930 violated article III national treatment provisions of the GATT because imported goods were subjected to different procedures and standards than domestically produced goods. In October 1987, a panel was established which began meeting in February 1988. In February 1989, the panel presented its report to the council.²⁵¹ The panel concluded that certain section 337 procedures were discriminatory in that imported products that allegedly violate a U.S. patent are afforded treatment less favorable than products produced in the United States that are similarly challenged. The panel also found that most section 337 procedures were not “necessary” for the enforcement of U.S. patent rights and thus could not be justified under article XX. The panel recommended that the Contracting Parties request that the United States bring the contested procedures into conformity with GATT obligations. At the November Council meeting, the United States said that it would not block the council’s adoption of the report, but cautioned that only an act of Congress could change section 337 procedures and stated that until such time as laws changing section 337 procedures were enacted, the President’s procedures in reviewing section 337 orders would not change.²⁵²

Complaints by Canada and the EC on the Customs User Fee.—In November 1986, Canada requested article XXIII:1 consultations on U.S. customs user fees, which became effective on December 1, 1986, as part of the Omnibus Budget Reconciliation Act of 1986.²⁵³ In March 1987, the Council considered requests by the EC and Canada to establish a panel. The parties had agreed to the panel members and its terms of reference by May 1987. In November 1987, the report of the panel was completed and circulated to the parties. The report was adopted at the February 1988 council meeting. The panel found that the U.S. fee caused amounts to be levied that were in excess of the “cost of services rendered” as required under GATT articles

²⁵⁰ See above concerning the complaint by Australia on the U.S. sugar import regime.

²⁵¹ GATT, *GATT Focus*, No. 60, March/April 1989, p. 3.

²⁵² GATT, *GATT Focus*, No. 67, December 1989, p. 3.

²⁵³ Canada argued that the imposition of the fees on an ad valorem basis does not correspond to the cost of providing the service of processing the import of a product.

II:2(c) and VIII:1(a). The panel suggested a recommendation that the United States bring the fee into conformity with GATT obligations.²⁵⁴ No action was taken by the United States during 1988. In 1989, the U.S. Congress began work on legislation to bring the disputed fees into compliance with the GATT.

EC Complaint against Japan on the U.S./Japan Semiconductor Arrangement.—In March 1987, the EC requested that the council establish a panel to examine the arrangement between the United States and Japan on trade in semiconductors.²⁵⁵ The United States is not a party to the case, but was, however, given special third-party status. In April 1987, the council agreed to establish a panel and negotiations on the terms of reference and members of the panel were completed in June 1987. In April 1988, the panel report was presented to the council and in May the council agreed to adopt the report which found that certain aspects of Japanese implementation of the semiconductor agreement were inconsistent with article XI:1 but did not find evidence of discrimination in favor of U.S. products. The panel recommended that Japan amend its measures relating to semiconductor exports to bring them into conformity with the GATT, while noting that Japan had already changed certain of its export procedures.²⁵⁶ In December 1988, the EC informed the Council that Japan had not yet completed steps to modify its practices.²⁵⁷ Japan informed the Council during its March 1989 meeting of the measures it had taken to comply with the panel recommendations. The Japanese representative stated that Japan had begun collecting information on export prices of semiconductors after the exports had been shipped and thus the control would be “a posteriori.” Further, the Demand and Supply Committee had been abolished.²⁵⁸

Follow-Up on Complaints by Canada, the EC, and Mexico Regarding U.S. Superfund Reauthorization.—In November 1986, the EC and Canada requested article XXII:1 consultations with the United States on internal taxes on petroleum, petroleum products, and chemical derivatives and Mexico requested

²⁵⁴ GATT, Report of the Panel, “United States Customs User Fee,” Doc. No. 6264, Nov. 25, 1987, Adopted Feb. 1988.

²⁵⁵ In August 1987, the EC and the United States held consultations under art. XXIII:1 concerning certain aspects of the U.S./Japan semiconductor agreement. No panel has been requested.

²⁵⁶ GATT, Report of the Panel, “Japan—Trade in Semiconductors,” Doc. No. 6309, Mar. 24, 1988, adopted April 1988.

²⁵⁷ See also the “Enforcement of Trade Agreements and Response to Unfair Foreign Practices” section of ch. 5 of this report.

²⁵⁸ *GATT Focus*, No. 60, March/April 1989, p. 6.

further information on the legislation.²⁵⁹ In February 1987, the council agreed to establish a panel on the matter and by June 1987 it adopted the panel report. The panel concluded that the tax on petroleum was inconsistent with article III:2 and that the Contracting Parties should recommend that the United States bring the measure into conformity with GATT obligations. However, the panel did not find that the tax on "certain imported substances" was inconsistent with GATT rules.²⁶⁰

In March 1988, the EC requested authorization to retaliate by suspending the application of concessions vis-a-vis the United States. In December the EC informed the council that consultations were underway with the United States regarding compensation.²⁶¹ In April, Canada informed the council of its intention to submit a request under article XXIII:2 for authority to suspend the application of concessions to the United States. At the June 1989 council meeting, Canada informed the council that it had published a list containing 30 U.S. products that would be affected by a 2.5-percent tariff surcharge if the United States did not implement the Superfund panel report. Canada sought permission to retaliate against the United States at the November council meeting. In late November 1989, the U.S. Congress passed legislation setting a single tax rate for both imported and domestic oil.²⁶²

*Followup on the Nicaraguan Complaint against the U.S. Trade Embargo*²⁶³.—In July 1985, Nicaragua requested the formation of a panel on the U.S. imposition of a trade embargo against Nicaragua.²⁶⁴ The panel report was considered at the council meeting in early November 1986, and the council chairman agreed to discuss the report with the parties. However the discussions yielded no positive results. Nicaragua continued to raise the issue in the council throughout 1987, and the Chairman continued to attempt to hold consultations among the parties. In November 1987, Nicaragua

²⁵⁹ The complaint concerned the "Superfund Reauthorization and Amendments Act of 1986," particularly the increased tax on petroleum with a differential between 8.2 cents per barrel for domestic oil and 11.7 cents per barrel on imported petroleum products. The EC argued that the tax differential discriminates against imported products and is therefore contrary to GATT art. III, which deals with national treatment.

²⁶⁰ GATT, Report of the Panel, "United States Taxes on Petroleum and certain Imported Substances," Doc. No. L/6175, June 5, 1987, adopted June 1987.

²⁶¹ GATT, *GATT Focus*, No. 59, January/February 1989, p. 4.

²⁶² *Financial Times*, Nov. 29, 1989, p. 7.

²⁶³ Effective May 7, 1985, the President banned all trade with Nicaragua (Executive Order No. 12513, May 1, 1985) and justified this measure under art. XXI (national security exemption) of the GATT.

²⁶⁴ The Council agreed in October 1985 to establish a panel with the U.S. understanding that the role of the panel would not entail any judgment on the validity of the use of national security exceptions (art. XXI).

complained to the council of the continued imposition of the trade embargo for an additional 6 months. With no change in the U.S. position forthcoming, Nicaragua continued to raise the issue from time to time in council meetings during 1988 and 1989.

Cases among other countries

Australian Complaint on Korean Beef Import Restrictions.—In April 1988, Australia requested a dispute settlement panel regarding Korea's import ban on beef that was implemented through a restrictive import-licensing system.²⁶⁵ Australia noted that in 1983, the year preceding the institution of the ban, Korea had been its third-largest market for beef exports. The council agreed to establish a panel in May. By September 1988, the panel had been formed. The findings of this panel, along with panels examining comparable complaints by the United States and New Zealand, are discussed under the preceding section of this report on panels requested by the United States.

New Zealand Complaint on Korean Beef Import Restrictions.—New Zealand requested the establishment of a panel on Korea's beef import restrictions in June 1988.²⁶⁶ New Zealand reported that prior to the institution of the import ban, Korea had been its second-largest export market for beef. New Zealand argued that the measures violated GATT provisions regarding the use of quotas and import licensing. The council agreed to establish a panel in September and authorized the council Chairman to begin consultations on the composition of the panel. The panel was formed and the findings of this panel, along with panels examining comparable complaints by the United States and Australia are discussed under the preceding section of this report on panels requested by the United States.

Canadian Complaint on Japanese Tariffs on Lumber.—In March 1988, Canada requested a panel on Japan's restrictions on the importation of spruce-pine-fir dimension lumber. Canada argued that the 8-percent tariff Japan was applying to this lumber was inconsistent with GATT article I because imports of other types of wood that constitute "like products"²⁶⁷ enter Japan at a zero rate of duty. The Council agreed to establish a panel and by June 1988 the disputing parties had agreed upon the terms of reference and composition of the panel. In April 1989, the panel submitted its report to the parties. The panel noted that dimension lumber was not a term used in internationally agreed customs classifications, and that, in fact, the use of this term in Japan was introduced by

²⁶⁵ See the previously mentioned case brought by the United States on the same matter.

²⁶⁶ See the above-mentioned cases brought by the United States and Australia on the same matter.

²⁶⁷ Under the meaning of GATT article I:1.

Canada and the United States in promoting use of lumber from those countries for home construction in Japan. Since the GATT left wide discretion to countries to classify goods and national tariff structures, challenges to other parties' tariff differentiation as regarding like-products provisions of article I:1 would have to show that such differentiation was used as a means of discrimination in international trade. The panel concluded that Japan's distinction of dimension lumber in its tariff structure was not in violation of article I:1. Canada expressed disappointment at this outcome and concern that adoption of the panel's conclusions might seriously limit the ability of GATT members to address discrimination between like products.²⁶⁸ Although Canada, along with several other countries, expressed reservations over the panel findings, the council adopted the report in July 1989.²⁶⁹

Japanese Complaint on EC Regulations on Imports of Parts and Components.—In May 1988, Japan raised concern about the adoption by the EC in June 1987 of antidumping regulations applied against local EC production that made use of imported parts.²⁷⁰ Japan argued that the EC measures did not fulfill the requirements of GATT article VI and that they were aimed at "obliging firms to use parts originating in the EC" thus resulting in discrimination against imports.²⁷¹ In September 1988, Japan informed the Council that consultations under article XXIII:1 with the EC were ongoing. In October the council agreed to Japan's request to establish a panel and in May 1989 the parties agreed to the composition of the panel and terms of reference.²⁷²

Chilean Complaint on the EC's Import Licensing of Dessert Apples.—In March 1988, Chile raised its concern at the council regarding the EC's establishment of a system to grant import licenses for dessert apples.²⁷³ Chile argued that the EC measure violated, among other things, GATT articles I, II, XI, and XIII as well as part IV and provisions on import licensing. At Chile's request, a panel was established and by

²⁶⁸ GATT, *GATT Focus*, No. 62, June 1989, p. 7.

²⁶⁹ GATT, *GATT Focus*, No. 64, August/September 1989, p. 13.

²⁷⁰ The measure is intended to ensure that imports of parts and components do not become a means to circumvent antidumping duties on finished products. The measure was implemented under EC Council Regulation No. 1761/87, June 22, 1987 and later incorporated in Council Regulation No. 2423/88, July 11, 1988.

²⁷¹ GATT, *GATT Focus*, No. 58, November/December 1988, p. 9.

²⁷² In March 1990, the GATT Council adopted the panel report, which ruled that EC antidumping duties on so called "screwdriver assembly" products were not consistent with article III (national treatment) and article XX (general exceptions). The panel recommended that the EC bring its application of the regulation into conformity with the General Agreement. GATT, *GATT Focus*, No. 7, May/June 1990.

²⁷³ See above for details of the U.S. dispute regarding the EC import-licensing system for apples.

August 1988 the panel members and terms of reference were completed and the panel began meeting. The panel report and its conclusion are further discussed in the section dealing with the U.S. complaint earlier in this report.

Followup on EC Complaint on Japanese Measures Affecting Imported Wines and Alcoholic Beverages.—In July 1986, the EC requested consultations with Japan about the level of customs duties, structure of the liquor tax system, and labeling practices affecting wines and alcoholic beverages. Canada also joined in the consultations. In February 1987, the council agreed to establish a panel. The panel concluded that Japanese taxes on certain imported alcoholic beverages were inconsistent with article III:1 and 2 regarding discrimination against imported products. Further, the panel found that taxes on certain liquors were applied in a manner that afforded protection to domestic producers. At the same time, the panel did not find that Japanese labeling practices on liquor bottles were inconsistent with its GATT obligations. The panel recommendation, adopted by the Contracting Parties, suggested that Japan bring its taxes on certain alcoholic beverages into conformity with GATT obligations. During 1988, the council conducted a follow up on the implementation by Japan of the panel report. Japan reported that revision of the liquor tax would require a decision by the Diet, and that the legislative process would take time. At the council meeting in March 1989, Japan informed the council that the Japanese Diet had amended the law on taxation of alcoholic beverages, eliminating the ad valorem tax hitherto applied to brandies and whiskeys, wines, and certain alcoholic beverages, the "classification system" for such beverages, and the taxation based on dry extract content. Japan said that it had reduced the differences existing in the specific taxes for soshu and whiskeys and brandies. Finland, Sweden, and the EC stated that the panel's recommendations had not been fully implemented as the possibility still existed for discrimination on the taxation of imported and domestic alcoholic beverages.²⁷⁴

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

The GATT permits regional trading arrangements among countries that agree to abolish trade barriers between each other under article XXIV of the General Agreement as an exception to the general rule of MFN treatment. This exception recognizes the value of "closer integration of national economies through freer trade." These country groupings must meet certain rules that are meant to ensure that the arrangements facilitate trade without causing

²⁷⁴ GATT, *GATT Focus*, No. 60, March/April 1989, p. 6.

harm to trade with outside countries.²⁷⁵ Therefore, the GATT normally sets up working parties to examine trade aspects of newly formed customs unions or free-trade areas and requires the members of such arrangements to report on its functioning on a biannual basis.

In October 1987, Canada and the United States informed the Council of the free-trade arrangement concluded between them on October 3, 1987. The agreement was signed on January 2, 1988, and became effective on January 2, 1989. A working party to examine the effects of the agreement was authorized at the Council meeting in February 1989, and its terms of reference and chairman were announced at the council meeting in April.

Australia submitted the biennial report on the Australia/New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) to the council in February 1989. This report covered the period October 1, 1986 to September 31, 1988.

Negotiations on Modification of Schedules (art. XXVIII)

Article XXVIII provides the mechanism by which a contracting party may modify or withdraw tariff concessions. The contracting party wishing to take this action must enter into negotiations not only with the contracting parties primarily concerned, but also with other contracting parties having a substantial interest in the concession. The article is based on the principle of balanced compensation through compensatory adjustment in the tariffs on other products.²⁷⁶ Its provisions are also used when a tariff rate is adjusted, or a product is reclassified for administrative or judicial reasons. Contracting parties wishing to take recourse to the provisions of article XXVIII must notify the GATT and submit a request to the council for authorization to enter into negotiations.

In recent years a number of negotiations on the adjustments to GATT tariff schedules have been undertaken in conjunction with adoption of the Harmonized System tariff nomenclature. Article XXVIII is the vehicle for negotiations on compensation due as a result of changes in GATT-bound tariff rates affected by conversion to the Harmonized System. The Harmonized System was adopted in January 1988.²⁷⁷ Among

²⁷⁵ GATT, *GATT Activities 1986*, Geneva: June 1987, p. 64.

²⁷⁶ Art. XXVIII states that "in such negotiations and agreement, which may include provisions for compensatory adjustment with respect to other products, the contracting parties concerned shall endeavor to maintain a general level of reciprocal and mutually advantageous concessions not less favorable to trade than that provided for in this Agreement prior to such negotiations."

²⁷⁷ See the section of this chapter on Committee on Tariff Concessions for more information concerning the HS.

the countries completing HS renegotiation under article XXVIII are Brazil, Turkey, Indonesia, Bangladesh, Israel, Malaysia, Mexico, Morocco, Sri Lanka, and Yugoslavia.

Accessions to the GATT (arts. XXVI and XXXIII)

Article XXXIII contains the normal procedures for accession under which the Contracting Parties may accept the accession of a new member by a two-thirds majority vote.²⁷⁸ Article XXVI provides for accession under simple procedures for former territories applying the GATT rules on a de facto basis.²⁷⁹ During 1989, several applications to the GATT were under consideration.²⁸⁰ Accession requests of Bulgaria, El Salvador, Tunisia, China, Algeria, Honduras, Guatemala, Paraguay, Venezuela, and Nepal were under consideration at the end of the year. At its November meeting the council adopted Costa Rica's Protocol of Accession. Its membership will become effective 30 days after ratification of the protocol by its Legislative Assembly.²⁸¹

In 1989, Bolivia became the 97th Contracting Party to the GATT. A full list of GATT members, as of December 31, 1989 is presented in the following tabulation:

²⁷⁸ The process of accession under art. XXXIII can be complex and time consuming. Application sets off a series of negotiations in which the applicant offers trade concessions to existing contracting parties as an "entry price" for joining the GATT. Normally, a working party is established to study the country's request and information on its trade patterns and the administration of its trade regime. Although unilateral tariff concessions have been the most traditional form of entry concessions, countries joining the GATT in recent years have frequently been asked to make nontariff concessions such as paring down export subsidies, or refraining from dumping practices. Once accepted, however, new members would be on equal footing with other members in negotiating new agreements and mutual tariff reductions in the Uruguay Round.

²⁷⁹ Art. XXVI states that "if any of the customs territories . . . possesses or acquires full autonomy in the conduct of its external relations . . . such territory shall, upon sponsorship through a declaration by the responsible contracting party establishing the fact, be deemed a contracting party." Nations not in this category must accede under the procedures of art. XXXIII.

²⁸⁰ The Uruguay Round sparked significant interest in seeking accession to the GATT by nonmember countries. For example, during 1987, Botswana, Antigua and Barbuda, and Morocco acceded to the GATT.

In the Tokyo Round, allowance was made for countries that were not contracting parties to participate in negotiations. However, part 1, section F of the Ministerial Declaration of the Uruguay Round essentially limits participation in these negotiations to contracting parties or countries that have applied for accession to the GATT as of a certain date. A copy of the Ministerial Declaration is contained in app. A of *Operation of the Trade Agreements Program, 38th Report, 1986*, USITC Publication 1995, July 1987.

²⁸¹ GATT, *GATT Focus*, No. 67, December 1989, p. 2.

Contracting Parties to the GATT (97, plus 1 provisional accession)

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

¹ New member in 1989.

² Provisional accession.

Countries to whose territories the GATT has been applied and that now, as independent states, maintain a de facto application of the GATT pending final decisions as to their future commercial policy (28)

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

Trade Policy Review Mechanism

At the midterm Montreal meeting in December 1988, the contracting Parties agreed to establish a Trade Policy Review Mechanism (TPRM) that would regularly examine individual country's national policies which affect the international trading environment. The objective of these reviews is to promote closer adherence to GATT principles through greater transparency and understanding of the trade policies and practices of the contracting parties. However, the participants agreed that the review mechanism should not be a basis for the enforcement of specific GATT obligations or substitute for dispute settlement procedures. Both the GATT Secretariat²⁸² and the country under

²⁸² Within the Secretariat, the review process will be conducted by the TPRM division, which was set up in May 1989. Compilation of reports will require the gathering of information, preparing of questions for the country under review, visiting said country, providing a first draft for country comments, and circulating the final draft to all contracting parties. GATT personnel will use various sources of information—such as GATT

review²⁸³ will prepare separate reports. A special GATT council meeting will be held to review the

²⁸²—Continued

documents, United Nations trade data, the GATT Tariff Study set up during the Tokyo Round, information from the GATT integrated data base which includes both tariffs and nontariff measures, official publications, and press or academic studies—to compile its report. Once a first draft is ready, a 1-week visit to various government officials is scheduled. Four weeks before the special Council meeting, the report is distributed to all contracting parties. Essentially, the process takes 4 months to complete.

²⁸³ Under the TPRM, each country will submit a report on its trade policies. The report will cover such topics as the objectives of national trade policies; a description of the import and export system; and the country's trade policy framework; including domestic trade laws and foreign trade agreements. Background information will be provided to permit other countries to assess the trade policies in the context of wider economic needs and the external environment. An "illustrative" list of trade measures is also to be included, e.g., quantitative restriction, variable levies, rules of origin, government procurement rules, safeguard actions, technical barriers, and antidumping actions. Deadlines are set up between the country and GATT officials to ensure the timely submission of the report. Before the

reports and to question the countries under review.²⁸⁴

In December 1989, the United States, Australia,²⁸⁵ and Morocco²⁸⁶ underwent the first in a series of trade policy reviews.²⁸⁷

²⁸³—Continued

final submission, the country sends a copy of its report to the GATT TPRM division to ensure that there are no glaring inconsistencies between the GATT report and the Country report. The country under review sends its final report to the GATT TPRM division 4 weeks before the special GATT Council meeting.

²⁸⁴ On the day of the Council meeting, introductory remarks are made by chairman and the particular contracting parties under review. The discussants, acting in personal capacities, make some general observations and pose specific questions to the delegation of the country under review (other contracting parties can submit questions to the discussants for deliberation during the meeting). Other delegations can present their own views and ask questions. The response by the contracting party under review is followed by the Council Chairman's summary of the discussions. All proceedings of the meeting, the GATT report, and the country report will be published promptly after the review.

²⁸⁵ Australia is one of the original signatories of the GATT but has not signed the Tokyo Round Codes on Standards or Government Procurement. Australia experienced high indebtedness and substantial current account deficits in the early 1980s, and has thus instituted several reforms. Previously, the Australian economy had protected domestic industries from international competition. Both the country report and the secretariat report discussed the reforms undertaken by Australia. The reform package, announced in May 1988, aimed to reduce tariff levels and subsidies (bounties), to dismantle quantitative restrictions, to decrease the use of import relief measures such as antidumping and countervailing, to reform regulations pertaining to certain agriculture products, including wheat, and to enact taxation reform. The GATT members lauded Australia's efforts to liberalize and open its market and to improve the transparency of Australian trading practices. However, several practices were noted by the GATT countries. Australia is a federation with six state governments and six territories. These state governments have some trade-related powers, including the administration of health regulations and standards and selected taxes. Some states also offer assistance to industries operating in their states, usually in the form of budgetary assistance. Some of the reforms that the federal government has implemented have not been followed by the states, therefore GATT members are concerned about the ability of the federal government to change the traditional protectionist policies. Other concerns disclosed were: the relatively low level of bound tariffs (currently only 20 percent of tariffs are bound); the frequent recourse to antidumping measures; the discretionary element in customs and valuation procedures; the uneven pattern of assistance to industries and agriculture; the lack of transparency in the import measures of government procurement, offsets policies, local content requirements, standards, and health, quarantine, and safety requirements; the still high protection of the textiles, clothing and footwear, automobiles, telecommunications, and the dairy industries; and the tendency for assistance in areas that are of particular interests to developing countries. Members urged Australia to continue their reform efforts and to continue it beyond the current program. (Sources: *Trade Policy Review Mechanism: Australia and Report by the Secretariat and Concluding Remarks by the Chairman*, Dec. 12, 1989.)

²⁸⁶ Morocco was the first developing country to volunteer to have its trade regime reviewed under the new TPRM system. Morocco joined GATT in mid-1987, after experiencing a balance-of-payments crisis in 1983. Formally, Morocco had a centrally planned and managed economy that protected its domestic industries

Under the review system, four members of GATT—the United States, Japan, the EC, and Canada—will be examined every 2 years. The next 16 countries, determined by their share of world trade, will be analyzed every 4 years, and the remaining contracting parties will be examined every 6 years. Developing countries can receive technical assistance from the Technical Cooperation Division of GATT for the preparation of their country reports. Least developed countries may obtain extensions if they encounter difficulties while preparing these reports.

GATT country review of U.S. trade policies

The report prepared by the United States mainly described the U.S. trade policy regime and underscored the U.S. commitment to the Uruguay Round as the "first priority of U.S. trade policy."²⁸⁸ Other information included an

²⁸⁸—Continued

and employed an import substitution regime. At the time of the 1983 debt crisis, the Moroccan constitutional monarchy decided to implement a major structural adjustment of the economy. Specific programs adopted included the reduction of price controls, the reduction of tariffs from 400 percent to 45 percent, the promotion of privatization, the reform of the tax system, the easing of restrictions on foreign investment, the implementation of prudent fiscal, monetary and exchange rate policies. During the review in December 1989, the GATT members recognized that Morocco had a limited export base and was vulnerable to changes in the external trading environment. They praised Morocco's extensive liberalization efforts in face of substantial financial difficulties and obstacles to trade. Many members pointed out that many of Morocco's exports were subject to trade barriers, especially textiles (Morocco is not a member of the Multifibre Arrangement) and agriculture. (Morocco's main trading partner is the European Community; the country does have preferential agreements with the EC, along with bilateral agreements with several African nations, the Soviet Union, many Eastern European countries, and several Arab nations.) Under the structural adjustment program, Morocco reduced the number of products subject to import licensing to less than 13 percent of all items on their tariff schedule, abolished import prohibitions, and bound nearly 30 percent of its tariffs. Several members did point out that there still existed some high tariffs in certain sectors, that Morocco utilized a complex array of other trade measures such as reference prices, state trading in certain products, sanitary and health regulations, and government procurement practices which limit the amount of foreign purchases by the public sector. On the whole, members of the Council commended Morocco for its trade liberalization measures in the face of financial difficulties, and encouraged Morocco to continue its reforms, possibly in the area of increased transparency, reduction of tariffs, and the expansion of bound tariffs. (Sources: *Trade Policy Review Mechanism: Kingdom of Morocco and Report by the Secretariat and Concluding Remarks by the Chairman*, Dec. 13, 1989.)

²⁸⁷ The schedule for 1990 calls for Sweden and Colombia to be reviewed in early June. Canada, Hong Kong, Japan and New Zealand will prepare reports for a late July GATT Council review session. The countries examined in late fall will be Hungary, Indonesia, and the EC. These countries volunteered to be reviewed in the first year of operation. A schedule for 1991 has not been determined yet.

²⁸⁸ All the reports can be obtained from the GATT or its special selling agents. The report prepared by the United States is titled *Trade Policy Review Mechanism: United States of America* and the report by the

explanation of the "Super 301" and "Special 301" provisions under the U.S. Omnibus Trade and Competitiveness Act of 1988 (hereafter, 1988 Trade Act); a list of Section 301 cases;²⁸⁹ the bilateral and preferential trade agreements of the United States; statistical tables of U.S. quantitative restrictions (QRs), antidumping and countervailing actions, subsidy programs, imports, and exports. The U.S. restrictions under section 22 of the Agricultural Adjustment Act were listed along with descriptions of a number of trade policy instruments used by the United States.²⁹⁰ Also provided was a summary of the responsibilities and institutions involved with the administration of trade policies in the United States.²⁹¹

The Secretariat's report covered many of the same issues as the U.S. report and emphasized the importance of the United States to the world trading system. The United States is the world's largest single economy and the world's largest import market. However, the report expressed concern over the "question of consistency between its [the United States's] efforts to seek improvements"²⁹² in the rules and disciplines of the General Agreement and other instances (e.g. bilateral and unilateral initiatives), which are outside of the GATT and promote U.S. trading interests. One U.S. unilateral measure mentioned in the report was section 301 of the 1974 Trade Act. The dispute with the EC over the use of hormones and the dispute with Brazil over

Brazil's alleged failure to honor U.S. pharmaceutical patents were cited in the report of the Secretariat as recent illustrations of the retaliatory feature of section 301. Other measures cited that showed the United States' "lack of commitment"²⁹³ to multilateral rules and procedures were the increased use of antidumping and countervailing duty actions to counteract allegedly unfair imports and the simultaneous use of different trade remedy laws. For example, several diverse trade remedy actions, such as antidumping and countervailing duties, section 337 patent infringement investigations, section 201 import relief investigations, antitrust proceedings, and voluntary restraint arrangements have been invoked by the United States in recent years in response to some Japanese and Korean electronics and other imports and Hong Kong textiles and clothing imports. These actions were seen as causing "trade-inhibiting uncertainty"²⁹⁴ due to the lengthy and costly legal procedures involved in responding to these measures. In addition, the GATT report examined the recent bilateral and regional accords with Canada and Israel, the Caribbean Basin Initiative, and the United States-Mexico Framework Agreement.²⁹⁵

The Secretariat's report also noted that not only does the United States have the world's largest single economy, it is relatively open, with a low incidence of both tariffs and nontariff measures. However, certain sectors²⁹⁶ enjoy "relatively high levels of protection."²⁹⁷ Even though the United States does not normally maintain domestic support policies for specific sectors, various exceptions were noted: agricultural support through the 1985 Food Security Act, government assistance for research and technology in manufacturing industries,²⁹⁸ preferential government procurement policies,²⁹⁹ and general support to firms and workers under the Trade Adjustment Assistance programs.

The report praised the U.S. administration for successfully defusing domestic pressures for increasing trade restrictions. For example, in

²⁸⁹ Ibid., p. 144.

²⁹⁴ Ibid., p. 143.

²⁹⁵ Chairman Dunkel reported that participants were especially concerned that the recent bilateral actions by the United States signaled a change in U.S. trade policy. Seemingly, the recent bilateral actions could arguably point to a drift away from the most-favored-nation principle of the GATT. The United States is seen as the guiding force behind the GATT. *Concluding Remarks by the Chairman*, Dec. 14, 1989, p. 1.

²⁹⁶ These sectors are: sugar, dairy, and several other agricultural products, textiles, clothing, steel, machine tools, automobiles, glass, and semiconductors.

²⁹⁷ GATT Secretariat, *Trade Policy Review Mechanism: United States of America, Report by the Secretariat*, December 1989, p. 140.

²⁹⁸ The Department of Defense provides support for defense industries while the sectors of machine tools, semiconductors and aerospace also receive government assistance.

²⁹⁹ The report noted that only about 10 percent of U.S. Government procurement practices are covered by the GATT's Government Procurement Code.

²⁹⁰—Continued

Secretariat is *Trade Policy Review Mechanism: United States of America, Report by the Secretariat*.

²⁸⁹ Investigations of allegations of unfair trade practices by foreign countries against U.S. products are authorized under "Section 301" (ch. 1 of title III of the Trade Act of 1974). The trade act of 1988 strengthened section 301 and introduced "Super 301" and "Special 301" provisions. See discussion of Super 301 in ch. 1.

²⁹⁰ Various trade policy measures employed by the United States are tariffs, nontariffs barriers, tariff quotas, rules of origin, government procurement policies, technical barriers, export financing and restrictions, and safeguard actions.

²⁹¹ The institutions are: the United States Trade Representative; U.S. Departments of Agriculture, Labor, Treasury, and State; the U.S. International Trade Commission, the Export-Import Bank of the United States, and the U.S. International Development Cooperation Council. Policy coordination is achieved through two tiers of committees which the USTR administers and chairs. The Trade Policy Staff Committee (TPSC) consists of senior civil-servant-level representatives who develop recommendations for trade policy. The TPSC is supported by more than 60 specialized subcommittees. If the TPSC can not reach interagency consensus on an issue or if particularly significant policy questions are under consideration, the issue(s) are referred to the Trade Policy Review Group (TPRG). The TPRG is chaired by the Deputy USTR and is comprised of the Under Secretaries of each institution involved in the trade policy process. The Economic Policy Council (EPC), which is chaired by the President with the Treasury Secretary serving as the chairman pro tempore, provides Cabinet-level review to resolve agency disagreements.

²⁹² GATT Secretariat, *Trade Policy Review Mechanism: United States of America, Report by the Secretariat*, December 1989, p. 146.

1984, President Reagan denied section 201 import relief to the copper industry; in 1985, the President denied import relief to the nonrubber footwear industry. Finally, the 1988 Trade Act did not contain as many protectionist elements as were contained in the original versions of the bill. However, the secretariat report noted that the U.S. trade and current account deficits and problems with sectoral adjustment have combined to intensify pressures for increased protection. The number of sectors receiving protection and the restrictive actions under sector arrangements have increased in recent years.³⁰⁰

At the council meeting on December 14, GATT members recognized that the United States market was generally open, with few quantitative restrictions other than agriculture, textiles, and clothing, and with relatively few subsidies outside the agricultural sector. Even though the U.S. trade system is based on a structure of laws, agencies, and public hearings which permit open discussion, several members declared that its very complexity reduced this openness of trade policy formulation and administration. Along with expressing concern over the issues raised in the Secretariat's report, some participants remarked that non-trade criteria sometimes determined trade policies; examples cited covered such areas as the Generalized System of Preferences (GSP) and MFN treatment.³⁰¹

After the discussion by the GATT members, Deputy USTR Rufus Yerxa reiterated the importance of the trade policy review system. After a brief overview of the U.S. trade regime, Ambassador Yerxa addressed some of the specific trade issues contained in the Secretariat's report. He emphasized the United States' commitment to maintaining "an open and fair" multilateral trading system.³⁰² He countered the various concerns expressed over the apparent lack of U.S. commitment to the multilateral system with several explanations. In response to the increased use of antidumping and countervailing actions, the U.S. representative stated that the average level of antidumping duties assessed on dumped or subsidized goods was only 1.2 percent in 1987, 3.7 percent in 1988, and 1.84 percent for the first half of 1989. Furthermore, the ad valorem effect of antidumping and countervailing duties in this time period on overall U.S. imports was less than one-hundredth of one percent.

³⁰⁰ Examples cited were the 1981 voluntary export restraints by Japan for passenger cars, the 1986 VRAs with Japan and Taiwan for machine tools, the 1986 arrangement with Japan for semiconductors, the 1987 orderly marketing arrangement with China for tungsten products, the ongoing Multifibre Arrangement, and the recently extended steel agreement.

³⁰¹ GATT, *GATT Focus*, No. 68, Feb. 1990, pp. 15-16.

³⁰² Statement by Ambassador Rufus H. Yerxa, before the GATT Council on Dec. 14, 1989 on the Trade Policy Review of the United States.

As for the protection of various sectors—textiles, steel, sugar, and footwear—Ambassador Yerxa declared that the United States is "by far the largest per capita importer [of these products] than either Japan or the EC."³⁰³ He also pointed out that there are some restrictions the United States does not use, like variable border charges, price controls, and prior authorization to import. In addition, the United States maintains few import-licensing provisions and local content requirements. He defended the U.S.'s various bilateral and preferential trading agreements as being "fully consistent with both the spirit and the letter" of the General Agreement and as "important components of trade liberalization."³⁰⁴

By citing data from the GATT Tariff Study (1986 basis), the U.S. official pointed out that the United States maintained the lowest tariffs of the world's major trading nations. The U.S. weighted average tariffs on industrial products (excluding petroleum) are 5 percent with agricultural tariffs at 3.3 percent for an overall average level below 4 percent. In comparison, the weighted average agricultural tariff levels for most other developed countries range from 6.5 percent to 10 percent. Additionally, nearly 100 percent of the U.S.'s industrial tariffs and 90 percent of agricultural tariffs are bound and can not be increased without compensating trading partners.

Ambassador Yerxa did admit that the United States maintains relatively high tariffs in some sectors.³⁰⁵ Imports in these areas are high, and reducing the tariffs would "cause us great domestic difficulty," conceded the ambassador.³⁰⁶ In agriculture, the United States is the world's largest importer of these products, but does sustain fees or QRs under the section 22 waiver for dairy products, cotton, peanuts, and sugar. In addition, the U.S. meat import law could potentially affect the volume of trade. Nevertheless, the United States is willing to work toward substantially and progressively reducing all countries' levels of protection in agriculture, Yerxa declared.

The ambassador took exception to a few assertions in the Secretariat's report. He argued that the new steel VRAs are different from previous VRAs in that they are only in place for 2 1/2 years and will not be renewed. In addition, yearly quota increases are tied to other countries' commitments to eliminate trade-distorting practices. He disagreed that the automobile and semiconductor sectors enjoyed "relatively high levels of protection." U.S. tariffs on auto

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ The sectors are textiles and apparel, footwear, glass products, machine tools, certain chemicals, and some agricultural products.

³⁰⁶ Statement by Ambassador Rufus H. Yerxa, before the GATT Council on Dec. 14, 1989, on the Trade Policy Review of the United States.

imports are 2.5 percent. In Canada, the EC, and Switzerland, duties average around 9 and 10 percent, while Australia is proposing to reduce its rates to 35 percent. In Mexico, they are 20 percent, while in India, they are nearly 100 percent; and Brazil has the so-called "Law of Similar" that virtually prevents automobiles from being imported. Also, the United States does not have any nontariff barriers in this sector. There are no local content requirements or even local content "incentives." In reference to the VRAs with Japan, he stated that the United States in 1985 did not ask Japan to continue the restraints although Japan continues to do so.

For semiconductors, the ambassador declared that the U.S. rate of duty on semiconductors is zero. The United States is one of the world's largest markets, with imports accounting for at least 40 percent of the \$20 billion market in 1988. With specific reference to the United States-Japan semiconductor arrangement, Yerxa claimed that the arrangement was trade liberalizing. Japan had agreed to endeavor to further open its market to foreign semiconductor manufacturers.

Ambassador Yerxa did announce that the United States was "pleased to be one of the participants" in the trade policy review process. He praised the new TPRM division of the GATT Secretariat for "its thorough attempt at describing the U.S. trade policies and practices." He stated his belief that the TPRM will enhance transparency of all the contracting parties' trade regimes and will improve countries' trade policies and their obligations to the GATT.

Implementation of the Tokyo Round Agreements

The following section describes the implementation and operation of the nine Tokyo Round agreements and arrangements (informally referred to as the Tokyo Round codes) during 1989,³⁰⁷ as carried out by their respective administrative committees or councils.³⁰⁸ Six of these agreements establish rules of conduct governing the use of NTMs (subsidies and countervailing duties, government procurement, standards, import licensing procedures, customs

³⁰⁷ The Tokyo Round agreements, published in GATT, *Basic Instruments and Selected Documents*, Supp. 26, pp. 8-188, entered into force on Jan. 1, 1980, except for those on government procurement and on customs valuation, which entered into force 1 year later. The Customs Valuation Agreement, however, was implemented earlier (July 1, 1980), by the United States and the EC.

³⁰⁸ The Committees or Councils, composed of the signatories of each code, are charged with overseeing implementation of code provisions and meet 2 or more times a year on a regular basis. Meetings may also be convened in special sessions to address a particular problem raised by a member. The committees address questions on interpretation of code provisions and code-related disputes among signatories.

valuation and antidumping), and three are sectoral agreements (civil aircraft, bovine meat, and dairy products). GATT members are not required to join the codes, and not all have chosen to do so. For this reason, code signatories have assessed the record of operation of the agreements since their entry into force and focused on ways to improve their operation and encourage more GATT members to accede. The current status of participation in each of the agreements, as of yearend, is shown in table 2.

Code on Subsidies and Countervailing Duties

The Code on Subsidies and Countervailing Duties (CVD), also referred to as the Subsidies Code, elaborates upon provisions of the General Agreement concerning the use of subsidies and countervailing duties. It sets guidelines for resort to these measures and establishes agreed upon rights and obligations to ensure that subsidy practices of one party to the agreement do not injure the trading interests of another party and that countervailing measures do not unjustifiably impede trade.³⁰⁹ During 1989, no new signatories acceded to the code; however, membership dropped to 24 signatories in September 1989 when Spain's withdrawal from the code became effective. (Spain's withdrawal was related to its joining the EC, which is a signatory).³¹⁰

Each year, the Committee on Subsidies and Countervailing Measures reviews national legislation, reports on countervail actions, and notifications on subsidy programs submitted by signatories. In 1989, the committee also addressed some dispute settlement matters raised by signatories. It discussed but was still unable to adopt several outstanding reports of dispute settlement panels while conciliation efforts over a complaint by Brazil concerning a U.S. countervailing duty action moved into another stage. Activities of the Code's Group of Experts on the Calculation of a Subsidy remained suspended this year.

³⁰⁹ If one signatory's subsidized exports cause material injury to another signatory's domestic industry, the injured party may either impose countervailing duties to offset the margin of subsidy or request that the exporting country eliminate or limit the effect of the subsidy. The code also allows a signatory to seek redress for cases in which another signatory's subsidized exports displace its exports in third-country markets.

³¹⁰ See table 2 for a full listing of this Code's membership. In 1987, Spain and Portugal withdrew as individual members and are now members under the auspices of the EC.

Table 2
Signatories to the Tokyo Round agreements: Status as of Dec. 31, 1989

(Accepted (A); signed, acceptance pending (S); provisional acceptance (P); new member 1989(*))

Countries	Stand-ards	Gov't procure-ment	Subsi-dies	Bovine meats	Dairy prod-ucts	Customs valu-ation	Import licen-sing	Civil air-craft	Anti-dump-ing
Contracting Parties:									
Argentina	A ¹			A	A	A ¹	S		
Australia				A ¹	A	A	A	A	A
Austria	A	A	A	A		A	A	A	A
Belgium	A							A	
Belize				P					
Botswana						A			
Brazil	A		A	A		A			A
Canada	A	A	A	A		A	A	A	A
Chile	A		A				A		
Colombia				A					
Cyprus						A*			
Czechoslovakia	A					A	A		A
Denmark	A							A	
Egypt	A		A	A	S		A	A	A
EC ²	A	A	A	A	A	A	A	A	A
Finland	A	A	A	A	A	A	A		A
France	A							S	
Greece	S								
Hong Kong ³	A	A	A			A	A		A
Hungary	A			A	A	A	A		A
India	A		A			A	A		A
Indonesia			A ¹						
Ireland	A							A	
Israel		A	A ¹						
Italy	A							A	
Japan	A	A	A	A	A	A	A	A	A
Korea	A		A			A			A
Lesotho						A ¹			
Luxembourg	A							A	
Malawi						A ¹			
Mexico	A					A ¹	A		A
Netherlands	A							A	
New Zealand	A		A ¹	A	A	A	A		A
Nigeria				A			A		
Norway	A	A	A	A	A	A	A	A	A
Pakistan	A		A				A		A
Philippines	A		A ¹				A ¹		
Poland				A	A		A		A
Portugal	A							A	
Romania	A			A	A	A	A	A	A
Rwanda	S								
Singapore	A	A					A		A
South Africa				A	A	A	A		
Spain	A							A	A
Sweden	A	A	A	A	A	A	A	A	A
Switzerland	A	A	A	A	A	A	A	A	A
Tunisia ⁴	A			A					
Turkey			A			A ¹			
United Kingdom	A							A	
United States	A	A	A	A	A	A	A	A	A
Uruguay			A	A	A				
West Germany	A							A	
Yugoslavia	A		S	A		A	A		A
Zimbabwe						A ¹			
Noncontracting Parties:									
Bulgaria				A	A				
Guatemala				A ¹					
Paraguay				P					
Total signatories	39	12	24	27	16	28	27	22	25

¹ Reservation, condition, declaration, or any combination.

² The EC is a signatory to all the agreements. Because the Standards Agreement and the Civil Aircraft Agreement cover matters that go beyond the authority of the EC, each of the EC member States is also a signatory to these Agreements.

³ Hong Kong, which had been applying several of the Codes under the auspices of the United Kingdom, changed its status under the Codes in 1986 and is now a signatory in its individual capacity.

⁴ Provisional accession to the GATT.

Source: The GATT.

Dispute Settlement³¹¹

During 1989, the committee discussed dispute settlement matters at several of its meetings and also engaged in conciliation efforts. It continued to review the four as yet unadopted reports of dispute settlement panels. Two outstanding reports, one on EC wheat flour subsidies and one on EC pasta subsidies, were submitted to the committee in 1983.³¹² The other two reports concern the U.S. definition of industry for wine and grape products,³¹³ submitted in 1986, and Canadian countervailing duties on beef imports, submitted in late 1987.³¹⁴ None of the outstanding panel reports were adopted by the committee during 1989.

The Chairman of the Committee held informal consultations with the signatories directly involved in the above disputes with a view to restoring confidence in the dispute settlement procedures. However, no solutions to the disputes were found.

³¹¹ A dispute may be brought for settlement under the Subsidies Code when the issues involved are covered by the code and when parties to the dispute are code signatories. Under code dispute settlement procedures, a signatory whose exports are affected may request consultations with the exporting country. If consultations do not yield a mutually acceptable solution, conciliation by the Code Committee is available. If conciliation also fails, the committee sets up a panel upon the request of either party, and draws on the panel's findings to make recommendations to the disputing parties. Finally, if the Committee determines that its recommendations have not been implemented within a reasonable period of time, it may authorize the injured party to take countermeasures.

³¹² Panel reports on EC export subsidies on wheat flour and on pasta products were submitted to the Committee in 1983 but are still pending. The United States indirectly addressed the issue of pasta subsidies by raising the tariffs on certain pasta products in retaliation for EC blockage of adoption of the panel report on citrus preferences in July 1985. See the discussion of the EC citrus preferences in *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, June 1986, p. 243. For a detailed discussion of wheat flour and pasta disputes, see the USITC, *Operation of the Trade Agreements Program*, 34th Report, 1982, USITC Publication 1414, pp. 23-25.

³¹³ A panel report on the U.S. definition of industry concerning wine and grape products, completed in March 1986, also awaits adoption. In February 1985, the committee established a panel to investigate the dispute concerning an EC complaint that certain provisions of the U.S. Trade and Tariff Act of 1984 contravened the code. The complaint questioned the U.S. definition of industry for wine and grape products under which grape growers were temporarily granted standing, as part of the wine-producing industry, to file petitions with the USITC alleging injury or threat of injury resulting from dumped or subsidized wine imports.

³¹⁴ The EC first complained about the Canadian action on imports of boneless manufactured or processed beef from the EC in August 1986. In October 1986, the committee established a panel whose report was considered twice in 1987 and twice in 1988. Canada argued that injury to cattle producers, not only beef processors, must be taken into consideration in arriving at the countervailing duty determination while the panel report referred to the use of "objective criteria" as called for in the code to arrive at a definition of industry in this and other instances. For more information on the dispute, see *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, July 1989, p. 40.

Since conciliation efforts were unable to resolve Brazil's complaint over the collection of countervailing duties by the United States on nonrubber footwear imported from Brazil, the Committee agreed in October 1988 to establish a dispute settlement panel. Selection of the panel members was completed by January 1989. In October 1989, the panel submitted its report to the committee. Brazil requested, and the committee agreed, to a postponement of consideration of the report until the April 1990 meeting.

Notification and Review

Through Committee review of notifications, signatories can examine each others' subsidy programs and raise questions regarding consistency with the agreement.³¹⁵ Under the exercise in which signatories submit national CVD laws for examination by the committee, 22 of the 24 members have thus far presented their legislation. During 1989, the committee examined the legislation of Australia³¹⁶ and New Zealand.³¹⁷ The committee received notifications of amendments in countervailing duty laws and regulations from Brazil,³¹⁸ Korea,³¹⁹ Turkey,³²⁰ and the United States.³²¹ It concluded its examination of the Australian notification, and agreed to discuss the notifications of Brazil, Korea, Turkey, the United States, and New Zealand at subsequent meetings.

Signatories are also required to submit semiannual reports on all CVD actions. These reports were discussed by the Committee, and members exchanged information on cases of particular interest. For the first half of 1989, several signatories notified that they had taken no countervailing duty actions. These consisted of Austria, Brazil, Chile, EC, Egypt, Finland, Hong Kong, India, Indonesia, Israel, Japan, Korea, New Zealand, Norway, Sweden, Switzerland, Turkey, and Yugoslavia. Actions under countervailing duty proceedings were notified by Australia, Canada, and the United States. For the second half of 1989, countervailing duty actions were notified by the same three countries. The following countries notified the Committee that no countervailing duty action was taken from July 1 through December 31, 1989: Austria, EC,

³¹⁵ GATT art. XVI:1 requires all GATT members to respond once every 3 years to a questionnaire regarding the host country's subsidy programs and to update these notifications in the intervening years.

³¹⁶ Antidumping Authority Act 1988, Customs Legislation Amendment Act 1988, and Customs Tariff Amendment Act 1988.

³¹⁷ Part VA (revised) of the Customs Act 1966.

³¹⁸ Decree No. 93.962 of Jan. 22, 1987.

³¹⁹ Article 13 of the Customs Act and Article 4-13 of the Presidential Decree of the Customs Act.

³²⁰ Law on the prevention of unfair competition in importation.

³²¹ Title VII of the Tariff Act of 1930 as amended by part 2 of subtitle C of title 1 of the Trade and Competitiveness Act of 1988 and the revised countervailing duty regulations.

Finland, Hong Kong, India, Israel, Korea, New Zealand, Norway, Pakistan, Sweden, Switzerland, Turkey, and Yugoslavia. A summary of semiannual reports on CVD actions taken in 1989 appears in appendix table A-8, except for the report of the United States.³²²

Group of Experts on the Calculation of a Subsidy

The Group of Experts is charged with resolving signatories' differing interpretations on the calculation of the amount of a subsidy. The Group of Experts remains inactive in 1989 due to the demands of the Uruguay Round on several of its members.³²³ Thus, no new draft guidelines were produced this year.

Government Procurement Code

The Government Procurement Code entered its ninth year of operation in 1989.³²⁴ The code was designed to eliminate one of several nontariff barriers to market access for companies competing abroad. The code requires signatories to allow suppliers from other signatories to compete for government contracts on conditions no less favorable than those accorded domestic suppliers. It also establishes common and more transparent procedures for providing information on proposed government purchases, opening and awarding bids, and settling disputes.³²⁵

The Committee on Government Procurement, which administers the code, met in formal session three times in 1989 and four times in its Informal Working Group on Negotiations.³²⁶ As in 1988,

³²² U.S. CVD actions are discussed and listed separately in ch. 5.

³²³ In June 1987, the committee agreed to suspend the activities of the Group. The committee agreed that the group would reconvene as necessary.

³²⁴ The 12 signatories to the agreement are listed in table 2-2.

³²⁵ Most governments employ procurement practices that limit foreign competition. art. III of the GATT specifically states that GATT rules restricting the use of internal regulations as barriers to trade do not apply to "procurements by governmental agencies of products purchased for government purposes." This exclusion allows GATT signatories to discriminate against foreign suppliers or products in buying products for their own use. Countries that sign the Agreement on Government Procurement agree not to discriminate against other signatories in procurements by specific government agencies (referred to as code-covered entities) under certain conditions, notably when such contracts are for the supply of goods and related services and fall above a value threshold of 130,000 Special Drawing Rights. For further detail see United States International Trade Commission, *Effects of Greater Economic Integration Within the European Community on the United States*, USITC Publication 2204, July 1989, pp. 14-15 and 15-10 and the *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, p. 71.

³²⁶ The Informal Working Group was established in 1985 to redraft proposals to the Code. Its mandate was expanded in 1987 to include all issues under negotiation. The group met in January, March, June, and October 1989.

the primary focus of the committee's work was on phase 2 of the renegotiation of the agreement as required in article IX:6(b).³²⁷ The Committee also reviewed statistical reports, discussed problems in implementation and administrative matters, conducted the third major review of article III, and cases brought under article IX:5(a) and article VII:14.

The current phase of the renegotiations, which began in 1987, aims to expand the Code's coverage. This phase consists of two main elements: one on the expansion of the code to the so-called excluded sectors of water, energy, transportation, and telecommunications equipment, and the second on expanding the code to cover services contracts. In 1989, the major issue discussed was which types of entities not presently covered by the code should be on the table for the code-broadening exercise. Signatories to the code appeared to be in agreement that the current coverage of the Code should be expanded to include the broadest possible range of procurements. Various options for achieving that goal were put forth, including expansion of the Code to subfederal level procurement, to sectors previously not covered (such as telecommunications, energy, transportation, and water), and to entities controlled by the government which perform monopoly-type public utility functions in the marketplace.

A meeting in January 1989 resulted in a decision on the negotiating modalities for the final talks leading to Code expansion. A text entitled "Techniques and Modalities of Negotiations on Broadening" was developed by the Informal Working Group on Negotiations. The work undertaken at the June and October 1989 meetings was based on these techniques and modalities.

A framework for analyzing procurement that is not now covered was established. For the purpose of analysis, noncovered procurement was divided into four categories: (a) federal agency procurement; (b) state, regional, and local

³²⁷ Article IX:6(b) provides that no later than 3 years after the code enters into force, negotiations must be undertaken to broaden and improve the Agreement. The renegotiations, formally launched at the Committee's November 1983 meeting, had three main aims: (1) improving the Code's operation; (2) exploring the possibility of applying the Agreement to service and leasing contracts; and (3) broadening the Code, by covering additional entities, and/or by lowering the minimum contract amount, below which purchases are exempt (the threshold level).

The committee completed the first phase of renegotiations on Nov. 21, 1986. At that time, the committee formally decided to adopt a series of amendments to improve the functioning of the code, continue to work towards the coverage of service contracts under the code, and increase the number of entities and procurements covered by the code, particularly in the sectors of telecommunications, energy, and transportation. See also *Operation of the Trade Agreements Program*, 39th Report, 1987, USITC Publication 2095, pp. 2-21 and 2-22.

procurement; (c) procurement substantially controlled or influenced by the government (not otherwise falling into a or b); and (d) purely private company transactions. It was agreed that negotiations on expansion of the Code should focus on entities falling in categories (a) through (c), not (d). However, substantial debate about the dividing line between (c) and (d) was expressed. In the area of services contracts, a number of delegations submitted additional information on the procurement of services to clarify the applicability of the agreement to such contracts, and to identify any potential problems that might exist with application of the current procedures to procurement of services contracts.

The committee concluded the review of 1986 statistical reports and started the review of 1987 and discussed proposals to improve government procurement statistics. Both at the March and the October meetings, the committee continued the discussion of "a uniform classification system to be determined by the Committee" as required in article VI:10(b). A suggestion was made in 1989 that one possibility might be to report data on the basis of the United Nations Central Classification System. The Committee also continued the discussion of a uniform definition of origin. Both of these issues were scheduled to be discussed further in 1990.

The code currently requires parties to extend national and most-favored-nation treatment to the products and suppliers of signatories. However, it does not clearly define how to determine where a product or supplier is from. It has become apparent that signatories differ in the way they determine whether a bid is of a signatory country. Some signatories base such decisions on the location of the firm offering the product, others on the material content of the product, and others on the total value of signatory inputs into the product. For signatories using content-based rules, the basis for determinations about how research and development and other costs are allocated may have important implications for potential bidders. These differences not only affect the current reporting of actual levels of procurement by code signatories but also ultimately determine whether signatory suppliers are granted the procedural and other guarantees provided for in the Code.

The issue of enforcement and monitoring was discussed in 1989. Three delegations submitted information and suggestions about how to improve the Code's surveillance, monitoring and control mechanisms, including what has been referred to as a "bid protest mechanism." The possibility of requiring signatories to establish local redress mechanisms to ensure better enforcement on a day-to-day basis was also discussed.

The third major review of article III took place in 1989. One party, recalling that few

developing countries had acceded to the agreement in spite of provisions for special and differential treatment, noted that proposals tabled in the Uruguay Round had highlighted the problems of accession and had contained suggestions for examining the adequacy of the provisions of the article. It suggested that parties, in responding to entity offers from developing countries, pay greater attention to their development, financial and trade needs. One delegation advanced the idea of "transitional membership" to attract new members and promote gradual assumption of full code obligations.

Title VII of the United States Omnibus Trade and Competitiveness Act of 1988 was circulated at the March 1989 meeting and its emphasis and motivation explained.³²⁸ The representative of the United States said the focus of the provision was primarily on encouraging code coverage of areas currently outside the scope of the agreement, with the aim of increasing reciprocal, open and competitive procurement opportunities on a nondiscriminatory basis. The United States' intentions had never been other than to uphold obligations under the agreement and the act was consistent with the agreement, the U.S. delegate argued. The Buy-American provisions and other retaliatory measures provided for in the law would, the U.S. delegate explained, only take effect following submission of a USTR report on foreign discrimination.

Standards Code

The Standards Code, formally known as the Agreement on Technical Barriers to Trade (TBT), entered into force on January 1, 1980. The code's aim is to ensure that technical regulations and product standards³²⁹ do not create unnecessary obstacles to trade.³³⁰ The

³²⁸ Title VII of the Omnibus Trade and Competitiveness Act of 1988 requires the President to identify by April 1990 both signatory and non-signatory governments that discriminate (as identified by the act) against U.S. suppliers from whom the Federal Government purchases goods and services in "significant amounts." The law empowers the President to impose a full or partial ban on all Federal Government procurement if negotiations to eliminate discrimination are unsuccessful. No countries were named by this provision in 1990.

³²⁹ Compliance with a technical regulation is mandatory, and compliance with product standards is voluntary. Both technical regulation and standard are terms referring to a technical specification for a product, which includes any of the following: (a) the specification of the characteristics of a product, including, but not limited to, levels of quality, performance, safety or dimensions; (b) specifications related to the terminology, symbols, testing and test methods, packaging, or marking or labeling requirements applicable to a product; or, (c) administrative procedures related to the application of (a) or (b).

³³⁰ Signatory governments are required to ensure that technical regulations and standards are not prepared, adopted, or applied in such a way as to unnecessarily obstruct international trade. Whenever possible, standards are to be stated in terms of performance

code establishes international principles by which signatories are to conduct their standards-related activities, and establishes a committee composed of the signatories to oversee implementation and administration of the Agreement.³³¹

The Committee on Technical Barriers to Trade, which administers the Code, met four times in 1989 to discuss proposed improvements to the code and problems in implementation of the present code, to exchange information, and to take care of administrative matters.³³² The prime focus of the committee's attention in 1989 was strengthening and expanding the Standards Code in support of the Uruguay Round.³³³ The committee heard statements again in 1989 from the United States regarding the EC's animal hormone directive and its concern with the EC's blockage of the formation of a technical experts group.³³⁴ In November, the committee held its annual review of the operation and implementation of the agreement.

Fourteen proposals to amend and improve the Code had been introduced by December 5, 1989. They address four subject areas: transparency, second-tier obligations, regulations and standards drafted in terms of processes and production methods (PPMs), and conformity assessment procedures. At yearend 1989, all proposals were still under negotiation. By early 1990, proposals were to have been redrafted, if necessary, in the form of specific amendments to the standards code, with a view towards reaching substantial agreement by late July 1990. Consensus on moving forward appeared to be near at hand in the area of transparency and conformity assessment, though difficult practical issues remained to be ironed out. Less agreement was

evident on how to deal with second-level obligations and on the use and application of PPM-based regulations.

One of the principal issues discussed in 1989 was that of transparency, that is, ensuring that signatories receive adequate notice of each others' regulatory activities. The code provides for such notice, but requires notification of only technical regulations, not of "voluntary" standards.³³⁵ Five proposals to improve transparency had been introduced by yearend 1989.³³⁶ In 1989, the committee discussed how it could improve transparency under the relevant provisions of the agreement. Comments were made regarding the timing of notifications and the designation of an authority responsible for the implementation of the notifications procedures. The delegation of the United States introduced a revised proposal on improving transparency in bilateral standards-related agreements. Several parties called for the extension of notification procedures to standards-related agreements concluded between parties.

Four proposals discussed in 1989 address strengthening second-tier obligations.³³⁷ The Standards Code imposes direct legal obligations only on central government bodies. The standardization, testing, and certification activities of local government bodies and of nongovernmental bodies are only covered indirectly through the obligation of parties to "take such reasonable measures as may be available to them" to ensure that those bodies follow certain provisions of the agreement to which reference is made. This obligation has been called a "best effort" or "second level" obligation upon parties. The agreement neither contains a

³³⁰—Continued

characteristics, rather than specific designs. The agreement also seeks to open further national standards setting procedures to foreigners by allowing interested foreign parties time to comment on proposed standards, technical regulations, and certification systems that may affect trade.

³³¹ The 39 signatories to the code are listed in table 2.

³³² The meetings were held on Jan. 18, 1989; June 16, 1989; Sept. 19, 1989; and Nov. 23, 1989.

³³³ See United States International Trade Commission, *Operation of the Trade Agreements Program*, 39th Report, 1987, p. 2-23. Under the terms of the Punta del Este declaration, the Uruguay Round negotiating group on Multilateral Trade Negotiation Agreements and Arrangements, known as NG-8, was established to discuss possible expansion and amendment of the Tokyo Round agreements. The group relies on the Committee on Technical Barriers to Trade for technical expertise in this process. Signatories submitting proposals for improving the Standards Code have for the most part done so in both fora. *Third Triennial Report to the U.S. Congress on the Agreement on Technical Barriers to Trade—“Standards Code,”* January 1986 to December 1988 (March 1989 draft) [hereinafter *Third Triennial Report (Draft)*], p. 10.

³³⁴ See United States International Trade Commission, *Operation of the Trade Agreements Program*, 39th Report, 1987, pp. 2-23 and 4-7 to 4-8, and ch. 4 of this report for further details on this issue.

³³⁵ For specific comments on this topic, see USITC, *The Effects of Greater Economic Integration Within the European Community on the United States*, USITC Publication 2204, July 1989, pp. 6-18 and 6-20.

³³⁶ The five proposals on the table at yearend 1989 included one advanced by the United States regarding Improved Transparency in Bilateral Standards Related Agreements; one introduced by the Nordics which would incorporate into the Code recommendations previously agreed to by the Committee on the timing of notifications, functions of inquiry points and responsibilities for notification procedures; two introduced by Japan, *Transparency of the Operation of Certification Systems by Central Government Bodies*, which aims to go beyond existing obligations to require the publication of a "standard or anticipated processing period" for approval under a certification system operated by a central government body, and *Transparency in the Drafting Process of Standards and Certification Systems by Central Government Bodies* which would allow foreign interests to participate in the preliminary drafting of technical regulations, standards, or rules of certification systems; and one by India regarding languages for the exchange of documents.

³³⁷ The four proposals included one from the United States regarding the activities of regional standards bodies, two from the European Community dealing with local government bodies and nongovernment bodies, and one from India regarding notification of draft standards that differ significantly from international standards.

mechanism for information on these bodies' activities and of the degree to which they observe certain principles, nor a mechanism for monitoring whether parties comply with their obligation to take reasonable measures. Concern about the activities of such organizations has risen with the growing reliance of major governments on standards developed in the private sector and the significant role of regional organizations and state and local authorities in certain types of standards and regulatory activities. The United States has expressed particular concern about the activities of Europe's regional standards-making bodies, who have been charged by the EC with developing voluntary standards consistent with 1992-related technical regulations.³³⁸ The United States was viewed by some foreign officials, including those outside the EC, as having a responsibility to exert more meaningful influence over the activities of private and local government standards-drafting bodies to ensure that they are open to non-U.S. suppliers and follow international standards.³³⁹

Another concern discussed by the committee in 1989 pertained to PPMs, criteria which have often been resorted to by parties in establishing health and sanitary measures. PPMs specify how a product is made, rather than the final characteristics of a product. PPMs are referenced only in the dispute settlement provision of the code³⁴⁰ and are thus not expressly subject to the code's provisions relating to transparency and notification. The lack of clear coverage of PPMs by the code has made it difficult to resolve PPM-related disputes, and has, in the view of some Parties, resulted in the imposition of technical barriers to trade.³⁴¹ The inability of the United States and the EC to resolve the hormone dispute under the code led the United States to take unilateral action under section 301 of the Trade Act of 1974 when the EC placed the ban

³³⁸ For a discussion of this issue see, United States International Trade Commission, *Effects of Greater Economic Integration Within the European Community on the United States*, July 1989, Publication No. 2204 and first followup report, Publication No. 2268, March 1990.

³³⁹ All information in this paragraph is based on USITC staff interviews in Geneva, Jan. 12, 1990.

³⁴⁰ Art. 14.25. Although the Standards Code uses the term "process and production method," the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 2, used as the basis for definitions in the Code, does not define it. Instead, the ISO Guide uses the related term "code of practice." The Code's coverage of PPMs has been an issue from the time the Code was drafted.

³⁴¹ Two disputes have reached the Committee level of investigation involving PPMs under the Code: one involving the EC's directive for the spin chilling of poultry, brought by the United States in 1980, and the other involving the EC's ban of growth hormones in beef, also brought by the United States in 1987. The hormone case stemmed from a directive prohibiting the use of growth-promoting hormones in farm animals used for food production, with only a limited exception for certain therapeutic purposes. In the opinion of the United States, the directive was not based on scientific evidence and constituted an unjustifiable restriction to trade.

in effect on January 1, 1989.³⁴² By yearend, two proposals were being considered for dealing with PPMs, one advanced by the United States and the other by New Zealand.

The Committee continued its discussion of the proposals regarding the improvement, clarification and expansion of the agreement in the area of conformity assessment. The code's provisions do not require mutual recognition of test data generated by foreign laboratories; however, they do obligate parties to accord national treatment of products originating in the territories of other signatories. The nonacceptance of test data generated in one signatory by other parties has been the single most important issue for the U.S. Government and U.S. suppliers since the code's entry into force.³⁴³ Four proposals tabled in 1989 concerned conformity assessment procedures.

Antidumping Code

The Antidumping Code prescribes the proper conduct for antidumping investigations and the imposition of antidumping duties based on provisions of the General Agreement.³⁴⁴ It sets guidelines for the use of these measures and related practices such as retroactive application of

³⁴² See ch. 4, section on the European Community, for a discussion of the U.S. action. In terms of the history of the dispute in the Standards Code, in January 1987, the United States requested consultations with the EC under Art. 14.1, the Code's dispute settlement procedures. Several rounds of consultations yielded no satisfactory results. The United States then requested the Code Committee to investigate the matter. The EC maintained that the hormone ban is a regulation based on a PPM, which is not covered by the Code, except under article 14.25, a dispute settlement provision. The EC asserted that to invoke this provision the United States must prove that the EC intentionally circumvented the Code by using a PPM. The EC also opposed any dispute settlement under this article before a purely legal review of the circumvention issue. The United States rejected all of these arguments citing, among other reasons, the impossibility of proving intentionality and the lack of support for this interpretation in the negotiating history of the Code.

In July, the United States requested the formation of a technical experts group, which would examine the scientific aspects of the case. The EC blocked the request in the Code Committee, stating that what was required was an initial review of the Code's applicability to PPMs and, only afterwards, a review of technical matters in contrast to the Code's procedures. art. 14.9 provides that, if no mutually satisfactory solution has been reached by the Committee within three months of the request for Committee investigation, then "upon the request of any Party . . . the Committee shall establish a technical expert group."

³⁴³ *Third Triennial Report (Draft)*, p. 18.

³⁴⁴ The agreement, formally called The Agreement on Implementation of Article VI of the GATT, was negotiated during the Tokyo Round in 1973-79 as a replacement to the original Antidumping Agreement. The renegotiation was conducted to bring certain provisions, especially those concerning determination of injury, price undertakings, and the collection of antidumping duties, into line with similar provisions in the Agreement on Subsidies and Countervailing Duties also concluded in the Tokyo Round.

antidumping duties and price undertakings.³⁴⁵ The code also obligates developed countries to give special consideration to the developing countries before applying antidumping duties. During 1989, no new signatories acceded to the code, and therefore membership remains at 25.³⁴⁶

Committee Activities

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

Dispute Settlement

During 1989, the committee considered one request for conciliation under article 15:3 of the code and one request for bilateral consultations under article 15:2. In April, Finland requested conciliation for antidumping duties applied by Australia on imported Finnish power transformers. Hong Kong requested bilateral consultations in June with the EC concerning the imposition of definitive antidumping duties by the EC on video cassettes originating in Hong Kong.

At a special meeting in January, the committee established a panel in the dispute between Sweden and the United States. Sweden had requested conciliation in 1988 regarding the imposition by the United States of definitive antidumping duties on Swedish seamless stainless steel hollow products. The chairman of the committee announced in April that the composition and terms of reference of the panel were established.

In June, the terms of reference for the article XXIII:3 dispute panel³⁴⁷ involving certain regulations being implemented by the EC were announced.³⁴⁸ Japan had requested the EC to amend the regulation that provides for antidumping duties on imported parts and

³⁴⁵ In price undertakings, the exporter volunteers ". . . to revise its prices or to cease . . . [dumping] . . . so that the authorities are satisfied that the injurious effect of the dumping is eliminated."

³⁴⁶ See table 2 for a full listing of the code members.

³⁴⁷ See the "Dispute Settlement" section of "Actions Under the Articles of the General Agreement" earlier in this chapter. See also *Operation Trade Agreement Program*, 40th Report, USITC Publication 2208, July 1989.

³⁴⁸ EC Council Regulation No. 1761/87, June 22, 1987.

components used for assembly in the EC to ensure its consistency with the code and General Agreement.³⁴⁹

Notification and Review

The Committee discusses questions raised by members regarding the consistency of national legislation with the code's provisions and questions members raise regarding antidumping actions taken against their exports. During 1989, the committee received notification of amendments to antidumping laws or regulations from Brazil,³⁵⁰ Korea,³⁵¹ New Zealand,³⁵² and the United States.³⁵³ The Committee concluded its discussions of the antidumping regulations of Pakistan³⁵⁴ and New Zealand³⁵⁵ and continued discussions on the antidumping laws of Australia,³⁵⁶ the EC,³⁵⁷ and Mexico.³⁵⁸

Parties to the Code report antidumping actions to the Committee on a semiannual basis. During the first half of 1989, countries reporting that no antidumping actions were taken included Austria, Czechoslovakia, Egypt, Hong Kong, Hungary, India, Japan, Korea, Norway, Poland, Romania, Singapore, and Yugoslavia. Antidumping actions were reported by Australia, Brazil, Canada, the EC, Finland, New Zealand, Sweden, and the United States³⁵⁹ for the first half of 1989 and by Australia, Canada, the EC, Korea, Mexico, New Zealand, Sweden and the United States for the second half. Details of these actions are contained in appendix table A-9.

Ad Hoc Group on Implementation of the Code

At the April 1989 meeting, the ad hoc group agreed to a draft recommendation on the use of

³⁴⁹ In March 1990, the GATT panel upheld Japan's complaint that the EC was unfairly levying antidumping duties on Japanese manufactured products made in the EC with components mainly exported from Japan. *Journal of Commerce*, March 1990.

³⁵⁰ Customs Policy Resolution No. 00-1582.

³⁵¹ Amendments to the Presidential Decree implementing the antidumping duty provisions of the Korean Customs Act.

³⁵² Dumping and Countervailing Duties Act 1988.

³⁵³ Antidumping duty provisions of the Omnibus Trade and Competitiveness Act of 1988 and of the United States-Canada Free-Trade Agreement Implementation Act of 1988 and revised antidumping duty regulations (Department of Commerce).

³⁵⁴ Pakistani Ordinance No. III of 1983.

³⁵⁵ Customs Act of 1966, as amended, part VA.

³⁵⁶ Antidumping Authority Act 1988, Customs Legislation (Antidumping) Amendment Act 1988, and Customs Tariff (Antidumping) Amendment Act 1988.

³⁵⁷ Council Regulation No. 2423/88, Jul. 11, 1988 on protection against dumped or subsidized imports from countries not members of the EC and Commission Decision No 2424/88/ECSC, Jul. 29, 1988 on protection against dumped or subsidized imports from countries not members of the European Coal and Steel Community.

³⁵⁸ Foreign Trade Regulation Act Implementing Article 131 of the Constitution of the United Mexican States, Regulations Against Unfair International Trade Practices, and Decree Amending and Supplementing the Regulations Against Unfair International Trade Practices.

³⁵⁹ Actions undertaken by the United States are discussed and listed separately in ch. 5.

price undertakings³⁶⁰ in antidumping proceedings involving imports from developing countries. Also during 1989, the group continued its discussions of procedures for the revision and termination of price undertakings and Finland's communication regarding translation problems in antidumping duty investigations.

Customs Valuation Code

The Customs Valuation Code establishes a uniform system of rules to determine the customs value for imported goods.³⁶¹ The code provides detailed rules for determining the value of imported goods used as a basis for assessing ad valorem customs duties. The rules are designed to promote a fair, uniform, and neutral system of valuation and to preclude the use of arbitrary or fictitious values.³⁶² With greater uniformity of practices applied by signatories, exporters and importers are able to estimate more reliably how their goods will be valued by customs authorities. The total number of signatories to the code in 1989 rose to 28 with Cyprus³⁶³ signing the code on May 24, 1989.³⁶⁴

Committee Activities

During 1989, the Committee on Customs Valuation discussed various topics relating to the

³⁶⁰ An "undertaking" normally occurs when the investigating country accepts an offer by the exporter concerned to take unilateral price-related action so as to eliminate the injury caused by the imports. When an undertaking is accepted, the investigation is terminated without duties being imposed.

³⁶¹ The Customs Valuation Code, formally titled the Agreement on Implementation of Article VII, entered into force internationally on Jan. 1, 1981, although the United States and the EC agreed to implement the agreement on July 1, 1980.

³⁶² The Code establishes a primary method of valuation and a series of alternative methods to be applied in a prescribed sequence. First, the transaction value method is applied when the duty is levied on the price actually paid or payable for the goods with a limited number of adjustments. If the primary method is not feasible, the second alternative is to use the transaction value of an "identical" good sold to the same importing country. The third method uses the transaction value of a "similar" goods that is sold. If none of these methods are possible, other reasonable means consistent with the agreement may be used. A signatory to the agreement is permitted to determine customs value on either an f.o.b. (free-on-board) or c.i.f. (cost, insurance, and freight) basis. The United States uses f.o.b., and most other countries use c.i.f.

³⁶³ Cyprus did not provoke any of the special provisions available to developing countries in the agreement.

³⁶⁴ See table 2 for a full listing of this Code's membership. Of the Code's 28 signatories, 22 (counting the EC member countries as 1 unit) are currently applying the agreement and the remainder have delayed application under the provisions of art. 21:1 of the agreement. Those now applying the Agreement include Australia, Austria, Botswana, Brazil, Canada, Cyprus, Czechoslovakia, the EC, Finland, Hong Kong, Hungary, India, Japan, Korea, New Zealand, Norway, Romania, South Africa, Sweden, Switzerland, the United States, and Yugoslavia. Turkey ratified the agreement on January 13, 1989 but will delay the application for 5 years.

Code's operation. To promote transparency, the signatories must inform the Committee of changes in customs laws and regulations and in their administration. During 1989, the Committee examined the national implementing legislation of Argentina, Australia, India, and Korea. Technical assistance, to aid developing countries as they join and prepare for application of the agreement, is also a priority activity.

At the March meeting, the chairman of the committee announced that the GATT secretariat was considering arranging a workshop on the Customs Valuation Code in collaboration with the Customs Cooperation Council. The purpose of the workshop would be to stimulate interest in further accession of the code. However, several participants stated that the Technical Committee had the expertise for conducting such a workshop and not the GATT Secretariat.

Technical Committee

During 1989, the Technical Committee of the Customs Valuation Code Committee adopted several advisory opinions on technical matters. One adopted text maintained that currency conversion was not necessary for contracts with fixed exchange rates if the settlement price was quoted in the currency of importation. Four examples were added to the currency conversion advisory opinion to cover situations where invoices were expressed in the currencies of the country of importation or of exportation or of a third country. Two other opinions that were adopted concerned the application of certain articles of the agreement (article 1, paragraph 2 and article 8.1(b)). Finally, the Technical Committee adopted a commentary on the determination of commission or profit and general expenses for use in the deductive value method.

Agreement on Trade in Civil Aircraft

The Agreement on Trade in Civil Aircraft provides for duty-free treatment of identified civil aircraft, civil aircraft engines, and civil aircraft parts. The agreement also seeks to eliminate NTMs, such as the use of official export credits and certain government purchase policies. No new countries joined the code in 1989, leaving at 22 the total number of signatories.³⁶⁵

The Committee on Trade in Civil Aircraft held one regular meeting in 1989. Two topics dominated the agenda: mandatory offsets and bilateral U.S.-EC consultations on the interpretation of articles 4 and 6 of the Civil Aircraft Code.

In 1987, the United States requested information from the EC about possible

³⁶⁵ See table 2 for a full listing of this Code's membership.

mandatory offsets in Spain and Portugal and expressed its interpretation of article 4 of the code covering government-mandated offsets. The United States is seeking agreement among the code signatories that the use of mandatory offsets is inconsistent with article 4, which states that aircraft purchase decisions should be based on the commercial and technical merits of competing products. At the regular committee meeting in 1989, the EC indicated that it was not ready to reply to the United States and the matter was deferred to a future meeting.

The Committee also reviewed the status of bilateral consultations under way on the interpretation of articles 4 and 6. These discussions are taking place as a result of the U.S.-EC dispute over subsidization of Airbus Industrie.³⁶⁶ The United States alleges that the Airbus project is contrary to the obligations of the Airbus partner governments under the Civil Aircraft Code, specifically articles 4 and 6, which prohibit unfair inducements for potential purchasers and trade distorting subsidies, respectively. In 1987, the committee agreed that clarification of these articles would be discussed in regular ongoing sessions, as long as the discussion related to civil aviation in general rather than Airbus in particular. In 1989, no concrete results were achieved.

International Dairy Arrangement

The primary objectives of the GATT International Dairy Arrangement (IDA) are to expand and liberalize world trade in dairy products by improving international cooperation.³⁶⁷ Activities under the arrangement, which also includes protocols on certain milk powders, milk fat (including butter), and certain cheeses, are coordinated by the International Dairy Products Council.³⁶⁸ With no new members joining in 1989, 16 signatories (including the EC representing its member states) constituted the total membership of the IDA.³⁶⁹ The United States is no longer a member.³⁷⁰ During the council's two meetings in 1989, it undertook its tasks of evaluating the world market for dairy products,³⁷¹ assessing minimum export price

³⁶⁶ For a full discussion of the Airbus dispute, see ch. 4 section on the EC.

³⁶⁷ GATT, *Basic Instruments and Selected Documents*, supp. 26, p. 91.

³⁶⁸ The three protocols annexed to the Arrangement are the Protocol Regarding Certain Milk Powders, the Protocol Regarding Milk Fat, and the Protocol Regarding Certain Cheeses.

³⁶⁹ See table 2 for a full list of members.

³⁷⁰ For a discussion of the controversy over reduced-price sales of surplus butter stocks that led to U.S. withdrawal from the arrangement, effective Feb. 14, 1985, see *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC Publication 1725, p. 72.

³⁷¹ To accomplish this task, the Council normally considers such items as national policies, food aid, data regarding products, and reports of the Committees that oversee the three protocols.

levels, and reviewing the functioning of the Arrangement.³⁷²

With respect to market conditions the Council observed that the world market for dairy products remained strong in 1989 with increased supplies of milk being offset with increased demand.³⁷³ Intervention stocks of butter and skimmed milk powder were nonexistent in 1989³⁷⁴ and are not expected to grow in 1990 since the production of butter and skimmed milk powder has stabilized. In addition, the upward trend in both the production and international trade in cheese and whole milk powder continued in 1989. Prices in international markets continued on a stable course in 1989 after rising strongly in 1988.

Some participants expressed concern that the current market situation may prompt an expansion in milk production in light of ample feed supplies and technological progress. A danger exists whereby supplies might increase faster than a steady but limited growth of import demand and consumption, making it imperative that production not be stimulated through support or protection. The prevailing view of the group was that any agreement in milk and dairy products should be more responsive to international market signals with support and protection reduced in order to meet the objective of trade liberalization.

During the September 1989 price review, the council decided that the continued favorable market conditions warranted raising minimum export prices for certain dairy products. Effective September 20, 1989, minimum prices per ton were raised to \$1,200 from \$1,050 for skimmed milk powder and buttermilk powder, to \$1,250 from \$1,150 for whole milk powder, to \$1,500 from \$1,350 for certain cheeses, to \$1,350 from \$1,250 for butter, and to \$1,625 from \$1,500 for anhydrous milk fat.

Arrangement Regarding Bovine Meat

The Arrangement Regarding Bovine Meat promotes international cooperation towards expansion, liberalization, and stabilization of trade in meat and livestock.³⁷⁵ Total membership of the arrangement is 27 signatories representing 38 countries.³⁷⁷ The signatories include all major

³⁷² The Council concluded that the International Dairy Arrangement was functioning satisfactorily and had proved to be a valuable instrument in restoring and maintaining order in the international dairy market.

³⁷³ The GATT Secretariat prepares an annual report on the international dairy products market called *The World Market for Dairy Products 1989, Tenth Annual Report*.

³⁷⁴ The decline in available supplies has led to a reduction in food aid in the form of dairy products in 1988 and 1989. GATT, press release, No. 1470, Dec. 4, 1989.

³⁷⁵ Prices were last raised in September 1988.

³⁷⁶ GATT, *Basic Instruments and Selected Documents*, supp. 26, p. 84.

³⁷⁷ The EC is counted as one signatory representing its 12 member countries. See table 2 for a full listing of Code members.

beef exporting and importing countries, except the U.S.S.R. Under the arrangement, the signatories collect and distribute data on production and trade. They also consult on market conditions and discuss problems raised by members. The International Meat Council (IMC) is responsible for administration of the Arrangement. The Meat Market Analysis Group (MMAG) is a subsidiary body of the IMC that is responsible for reviewing the situation and outlook for the bovine meat market.

During 1989 the IMC met twice to consider ways to improve its effectiveness, the meat market conditions, and policy questions. In discussions regarding the functioning of the Arrangement, one decision made was to hold informal meeting(s) to examine possible procedural improvements. However, this informal exercise would not preclude the necessity of a more formal reexamination of the arrangement by the end of the Uruguay Round.³⁷⁸ In addition, the IMC decided to adapt article II of the arrangement (product coverage) to the commodity description and coding system utilized by the Harmonized System (HS). A large majority of the signatories have adopted the HS; however, for those who have not, the former version of article II will continue to apply until such time as the remaining participants adopt the HS.

The MMAG also convened twice in 1989 in meetings that preceded those of the IMC. The MMAG observed that the mid-1986 meat price recovery prompted by tight supplies and a growing demand had continued through 1988/89 and had expanded to cover most international and domestic markets.³⁷⁹ Key factors perceived as

³⁷⁸ Two proposals that had been under discussion since they were tabled in December 1985 were withdrawn in 1988 by reason of the efforts underway in the Uruguay Round, particularly negotiations within the Group on Agriculture. The proposals suggested the use of objective criteria or indicators for facilitating the IMC's responsibility for early detection of imbalances within world meat markets. The proposals stemmed from discussions of complaints by members, such as Argentina, New Zealand, and Uruguay, about perceived imbalances in the international meat market. In particular, these members claimed that EC subsidies, contrary to art. I of the Arrangement, had boosted the EC's market share, making it a major world supplier, and destabilized the world meat market. For further details, see the *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC Publication 1725 p. 73.

³⁷⁹ The GATT Secretariat publishes an annual report on the trends in production, consumption, and trade in bovine meat called *The International Markets for Meat 1989/190*.

contributing to this price trend were noted. Such factors included the growing retention of cattle herd, declining trade volume,³⁸⁰ increasing shipments to East Asia,³⁸¹ declining intervention stock levels in the EC, and declining production costs. One development which could sustain the favorable beef market is the recent trade liberalization in Eastern Europe which could "significantly raise meat shipments to that region."³⁸² Prospects for the continual upward trend in bovine meat market remain promising for 1990 and even into 1991.³⁸³

Agreement on Import Licensing Procedures

In 1989, the Committee on Import Licensing held three meetings—in March, September, and November. The Committee has held 25 regular meetings overall since the agreement entered into force.³⁸⁴ At the end of the year, there were 27 signatories, the same number as in 1988.³⁸⁵

At the March meeting, the committee continued its work program on the definition of "import licensing" and other matters relating to terminology. The committee also continued discussing the relationship of its work to the Uruguay Round. At the September meeting, two parties introduced a proposal for improving the agreement, which members generally welcomed as a positive contribution. A newly revised version of the proposal on improvement was introduced and discussed at the November meeting. At that time, the committee also carried out the biennial review of the agreement.

³⁸⁰ Trade volume decreased by nearly 6 percent or 3.5 million tons, which as the first volume decline in many years. GATT, press release, No. 1476, Feb. 15, 1990.

³⁸¹ Japan emerged as the world's second-largest importer of beef behind the United States as a result of its ongoing liberalization program. Korea resumed imports of beef after three GATT panel reports recommended the phasing out of Korean import restrictions. See the "Dispute Settlement" section of "Actions Under the Articles of the General Agreement" earlier in this chapter. See also section on Korea in ch. 4 of this report.

³⁸² GATT, press release, No. 1476, Feb. 15, 1990.

³⁸³ Ibid.

³⁸⁴ The Agreement on Import Licensing Procedures entered into force on Jan. 1, 1980, committing signatory governments to simplify procedures importers must follow to obtain licenses. Products traded internationally are sometimes subject to bureaucratic delays and additional costs as a result of cumbersome import-licensing systems. Such systems act therefore as barriers to international trade.

³⁸⁵ For a full listing of the signatories, see table 2.

Chapter 3

Trade Activities Outside the GATT

Introduction

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

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

Organization for Economic Cooperation and Development

The OECD is a forum for industrialized countries to consult and coordinate on a broad range of economic issues facing them.¹ Objectives of the organization are to (1) promote the financial stability and economic growth of members, (2) promote sound economic development of nonmembers, and (3) expand world trade on a multilateral, nondiscriminatory basis. Its decisions are not binding on individual members. The following section discusses the organization's main trade-related activities in 1989.

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

Ministerial Declaration

At their annual ministerial meeting, ministers representing the 24 member nations of the Organization for Economic Cooperation and Development (OECD) rejected unilateral trade policy measures and other attempts to manage trade and viewed such moves as a threat to the multilateral trading system. In a communique issued at the close of their 2-day Paris meeting, member countries said they "firmly reject the tendency towards unilateralism, bilateralism, sectoralism, and managed trade which threatens the multilateral system and undermines the Uruguay Round negotiations."

Although the declaration was agreed to by all member countries including the United States, and did not specifically mention any U.S. actions, the denunciation of unilateral trade policy measures was widely interpreted as criticism of recent U.S. actions taken under the so-called Super 301 provisions of the 1988 Trade Act.² A few days before the meeting, the United States had singled out Japan, Brazil, and India as "priority countries" under Super 301 for certain trading practices that the United States argues impede trade. Those countries could face U.S. sanctions against their exports for failure to phase out the measures. The United States defended its actions and said that it would use the leverage of its market to reach another of the communique's recommendations: strengthening the multilateral trading system.³

The ministers made several observations regarding the economic health of member countries. They stated that for continued, balanced growth in the United States, containing inflationary pressures and cutting the current account deficit remained priorities. For both Japan and West Germany, the ministers said that external adjustment, which had recently weakened, should be strengthened through sustained growth of domestic demand driven by "prudent but flexible" policies and structural reforms. Future economic developments in Japan envisioned by the ministers included improved market access for both goods and services, to contribute to "a strong expansion of imports."⁴

For the first time, the condition of the environment was a subject of attention by the ministers. They stated that "continuing environmental deterioration will threaten the achievement of sustainable economic development and an improved quality of life for all."⁵ The ministers said that OECD countries

² See, for example, "OECD Nations Offer Veiled Criticism of U.S. Policies," *The Washington Post*, June 2, 1989, p. F3. For a separate discussion of Super 301, see chapter 1 of this report.

³ Statement of U.S. Trade Representative Carla A. Hills at the OECD Ministerial meeting, May 31-June 1, 1989, p. 4.

⁴ OECD, press release, press/A (89) 26, Paris, June 1, 1989.

⁵ *Ibid.*

"bear a special responsibility" in confronting environmental problems. They identified several areas in which the organization will work for developing approaches to environmental problems.

As in previous years, agriculture appeared on the agenda of the OECD Ministerial meeting. The ministers endorsed a report prepared jointly by the Agriculture and Trade Committees. The report noted a decline in governmental assistance to the agriculture sector in 1988, but said that "the role of market signals in orienting agricultural production remains insufficient almost everywhere." According to OECD estimates, member countries spent approximately \$270 billion on agricultural support in 1988.

Finally, ministers encouraged continuation of the informal dialogue the organization began with Taiwan, Korea, Hong Kong, and Singapore last year on issues of common interest. They suggested that the discussions, which began by focusing on general economic policy issues, should continue with dialogue on more specific issues.

Agricultural Trade

The question of how to reform world agricultural trade has been a subject of OECD work for several years. The ministerial declarations of 1987 and 1988 provide the secretariat with a mandate to "monitor . . . reform of agricultural policies" among the 24 member countries of the organization. In May 1989, the Secretariat released its latest report on members' agricultural policies, in line with that mandate.

The OECD said that conditions improved in world agricultural markets in 1988 for a number of reasons. The organization said that prevailing market conditions in some commodity areas were favorable to producers, and government budgets, owing to a drought in North American cereals and the EC quota regarding dairy products. It noted that, among member countries, underlying trends in supply and demand favor surplus production in the majority of commodity areas. It called upon member governments, therefore, to use the present as a time to quicken the pace of agricultural reform.

Increased agricultural prices in 1988 were responsible for reduced public sector assistance to agriculture, the secretariat said. This condition provided governments with the chance to make changes in agricultural policies that could prevent assistance levels from returning to record levels in the future.

The measure of assistance to a sector used by the Organization is producer and consumer subsidy equivalents (PSEs and CSEs).⁶ In recent

years, the OECD has used PSEs and CSEs to measure the share of assistance in the value of each country's agricultural output on a commodity-by-commodity basis. The PSE declined, on average, for the entire membership, from 50 percent in 1987, to 45 percent in 1988. The OECD estimated that total transfers to the agricultural sector were \$270 billion in 1988, slightly lower than peak 1987 levels. The net PSE for the United States, according to the OECD, rose from 28 percent in 1984 to 43 percent in 1986, dropping to 34 percent in 1988.

Customs Cooperation Council

During 1989, the Customs Cooperation Council worked in a number of areas to achieve a greater degree of international simplification and harmonization of customs procedures. First, the Council through its Harmonized System Committee continued to administer the Harmonized Commodity Description and Coding System (HS), which entered into force internationally in 1988 and for the United States on January 1, 1989. In addition to aiding new contracting parties in HS implementation, the committee addressed numerous questions regarding the classification of goods in the nomenclature. It considered specific actions taken and issues raised by member countries; many of these related to products developed after the drafting of the pertinent HS chapter, while others involved the appropriate treatment of goods not easily distinguishable based on visible characteristics. This effort is intended not only to achieve a technologically current, administrable nomenclature system but also to attain as uniform an interpretive structure as possible.

Second, the committee began a systematic review of the entire nomenclature structure (much of which was drafted during the 1970s) to ascertain whether product categories should be redescribed, added, or eliminated. This work, which will continue over the next few years, will be conducted through the scheduled examination of particular groups of chapters; the first group under consideration comprised chapters 84, 85, and 90. These revisions are designed to help alleviate classification problems or ambiguities and to ensure that the nomenclature is kept

⁶ Both of the subsidy equivalents are designed to measure all policies that assist producers and consumers of agricultural commodities. The producer subsidy equivalent is defined as the payment that would be required to compensate farmers for the loss of income resulting from the removal of a given policy measure. The consumer subsidy equivalent corresponds to the implicit tax on consumption resulting from a given policy measure and to any subsidies to consumption. They are broader measures of assistance than nominal or effective rates of protection. See OECD, *National Policies and Agricultural Trade*, (Paris, 1987). For a discussion of previous work by the OECD estimating PSEs and CSEs of member countries, see USITC, *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, 1988, p. 3-2.

current, both technologically and commercially. Proposed modifications must eventually be approved by the council and submitted to the member countries for incorporation into their national tariffs.

Third, the Council continued in its broader capacity of promoting international simplification and harmonization of customs procedures and rules. The provision of assistance to developing countries, the acquisition and sharing of expertise in customs matters, and the involvement of Council personnel in other multinational bodies are significant areas of effort in that regard. Among these tasks has been a new project, aiding the contracting parties to the GATT in developing objective, predictable, and widely accepted criteria for determining the origin of goods in international trade. Because of its experience in administering the Kyoto Convention and preparing a compendium of standards used by many countries, as well as creating the tariff nomenclature, Council assistance is likely to play a significant role in the effort to develop international discipline governing country-of-origin schemes if not a harmonized international rule. Indeed, EC officials have on several occasions stated to U.S. officials participating in the Geneva working sessions that the Council should be given the entire authority to deal with origin rules. This matter, being addressed by the nontariff measures negotiating group and the subject of four proposals (including one by the United States), is of great importance to the trading community, because every shipment of goods must be assigned a country of origin and because origin findings underlie all country-specific trade measures. The Council may soon undertake an analysis of the HS nomenclature to assess whether it can be used as a basis for determining origin and whether certain product areas present special difficulties in this regard. In the case of goods processed or manufactured in a particular country but incorporating inputs of another country, such an origin rule would assign origin to the country of processing if the operations resulted in a change of tariff classification of the imported inputs.

Negotiation and Operation of International Commodity Agreements

The negotiation of international commodity agreements evolved out of the concern of both commodity producing and consuming nations over the disruptive effects of wide fluctuations in commodity prices. During the mid-1970s, the implementation of international commodity agreements was debated heavily, reflecting the importance of commodity trade to developing countries. Commodities policy continues to be at the forefront of North-South dialogue, and UNCTAD is the most active forum for discussion on the issue.

The following sections summarize the 1989 operation of international commodity agreements covering wheat, sugar, cocoa, and coffee, as well as the Integrated Program for Commodities (IPC) agreements on tropical timber, jute, and natural rubber.⁷ Three of the agreements (cocoa, coffee, and natural rubber) contain specific price-stabilization mechanisms designed to reduce fluctuations in prices, improve long-run producer earnings, and deliver a steady, adequate, and reasonably priced supply of the commodity to the consumer. The agreements provide for market intervention by a variety of means. Buying and selling of buffer stocks to moderate price swings is one prominent method, as well as assigning production and export quotas. In price-stabilization arrangements, the proposed price range must be compatible with the long-term market trend. In addition, the price-affecting mechanism must be sufficiently flexible to cause prices to move in both upward and downward directions. In contrast, the agreements covering wheat, sugar, tropical timber, and jute are not specifically designed to stabilize prices. Instead, they seek to promote research and market development of the respective commodities.

At the end of 1989, the United States was participating in six of the seven international commodity agreements: those covering wheat, sugar, coffee, tropical timber, jute, and natural rubber.⁸ The United States may enter into international commodity agreements through executive agreements, treaties requiring ratification by a two-thirds majority of the Senate, or specifically enacted legislation. A treaty is the customary route. In general practice, the U.S. Government has reservations on international price-stabilization mechanisms, based on concerns regarding long-term market distortions. It contends that world markets should be allowed to operate freely and without government interference. U.S. efforts are focused on promoting research and development funding rather than market intervention. However, the United States has shown that it is willing to consider participation in a commodity agreement if there is a demonstrated need in an economically sound market, and a balance between producer and consumer interests.

In 1989 several developments affected various commodities and accompanying agreements.

⁷ The commodity agreement covering tin has ceased to function for all practical purposes since the collapse of the price of tin in 1985. The Association of Tin Producing Countries (ATPC) has sought to impose discipline among tin producing countries through the imposition of export quotas among member nations. However two of the world's leading tin-producing countries, Brazil and China, have refused to join the ATPS and are not restrained by ATPC quotas. Further details on the background of these developments can be obtained by referring to *Operations of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208.

⁸ The United States does not participate in the international agreement governing cocoa.

Summer 1989 witnessed a deterioration of the International Coffee Organization (ICO) as the 1983 International Coffee Agreement was set to expire in September with no agreed replacement. A suspension of all export quotas caused coffee prices to fall about 50 percent to an 8-year low. However, in October 1989, responding to the price collapse, 41 importing countries including the U.S. and the EC, and 18 exporting countries decided to apply a 2-year extension to the 1983 Agreement. Forecasts for world overproduction of cocoa for the sixth season in a row were not met with a united front by the 41 members of the International Cocoa Agreement (ICCA). The year started with the Ivory Coast's sale of 400,000 tons of surplus cocoa to protect itself, the world's largest cocoa producer, from falling prices and compensate for export earning losses. By the end of the year, cocoa prices declined by 35 percent and the Ivory Coast abandoned its principles of refusing to sell below the breakeven level and guaranteeing a high price to farmers. Although a new International Natural Rubber Agreement (INRA) came into effect the last week of December 1988, rubber prices dropped by 22 percent in 1989 after 1988's 8-year high.

Wheat

The International Wheat Agreement (IWA), unlike many international commodity agreements, has no provisions for buffer stocks, intervention ranges, or export quotas. The activities of the IWA are allocated to two conventions, a Wheat Trade Convention and a Food Aid Convention. As part of its responsibilities, the IWA provides technical studies, food aid pledges by exporters and rich importers to assist needy developing nations, and information collection. The various functions of the IWA have been administered by the International Wheat Council, the only commodity agreement to which the United States is a signatory as an exporting nation.

The original IWA, negotiated in 1971, was extended eight times; the last extension was June 30, 1986. A new IWA was negotiated in 1986, with signatures affixed in June 1986. Both the Wheat Trade Convention and the Food Aid Convention of the IWA expire June 30, 1991.

While continuing all the functions and organizational structures of predecessor agreements, the latest IWA expanded the scope of research and reporting to include information on other grains, while maintaining its emphasis on wheat. It also increased the pledges under the Food Aid Convention. As with the earlier agreement, the new agreement does not provide the power to intervene in the world market to regulate supplies and prices. The principal difference between the older and the newer IWA was that the later agreement downplayed the language in the original IWA dealing with eventual price intervention, an activity the United States would strongly oppose.

In marketing year 1988/89,⁹ world consumption of wheat and wheat flour was virtually unchanged, declining to 530.5 million metric tons (mt) from 531.6 million mt the previous year. Total world production also declined marginally, from 501.7 million mt in 1987/88 to 500.8 million mt in 1988/89. Utilization exceeded production for two years, such that world stocks were drawn down from 146.5 million mt in 1987/88 to 116.8 million mt in 1988/89; the U.S. Department of Agriculture forecast for 1989/90 indicates a further drawdown of world stocks.¹⁰

Smaller crops in 1988/89 in the Soviet Union, Canada, and Australia accounted for about three-fourths of the world production drop. Weather was partly responsible, but lower world prices also played a role. During that period, the lower U.S. loan rates provided for by the Agriculture Act of 1985¹¹, no longer served to prop up world prices, consequently the total acreage planted to wheat by competitors was down about 6 percent.¹²

Between 1987/88 and 1988/89, world trade in wheat declined from 104.9 million mt to 97.8 million mt; total non-U.S. wheat trade declined by less than 2.5 percent, from 61.5 million mt to 60.0 million mt, whereas the trade in U.S. wheat declined from 43.4 million mt to 37.8 million mt, almost a 13-percent decline. The U.S. share of the world trade in wheat declined from 41.4 percent to 38.7 percent. Nevertheless, the U.S. share of the world wheat market has recovered from the 29-percent market share of 1985/86. The decline in the value of the dollar benefited U.S. wheat exports. In 1988/89, a large part of the dropoff in world trade is attributable to reduced imports by the Soviet Union.

The United States faced strong price competition in 1987/88 and 1988/89, particularly from the European Community (EC), and especially in North Africa, the Soviet Union, and Eastern Europe. Reduced global trade and an increase in EC exports meant that the Export Enhancement Program (EEP) and other Government programs continued to play an important role in maintaining U.S. market share.¹³

⁹ July 1988 through June 1989.

¹⁰ Data from U.S. Department of Agriculture, Economic Research Service, *Wheat, Situation and Outlook Report* (WS-281, May 1988).

¹¹ The Food Security Act of 1985 came at a time of large stock buildups and was designed to increase U.S. competitiveness in world markets while continuing to support farm income. It lowered loan rates, lowered grain stockpiles, and reduced the cost of farm programs.

¹² Analysis was adapted from the statement presented by Peter C. Myers, Deputy Secretary of Agriculture, to the U.S. Senate Committee on Agriculture, May 25, 1988.

¹³ The EEP program was devised to help exporters sell more grain in foreign markets by reducing the price of U.S. grain to foreign buyers. Exporters receive a bonus for each metric ton of grain sold in the selected foreign market which allows them to reduce the price. The EEP targets the markets of the European Community because of the EC export subsidies.

Despite reduced domestic supplies, the United States is expected to maintain market share in some important markets aided by the EEP. EEP sales in 1987/88 were for 25.5 million mt with an average bonus of \$33.68 per metric ton. In 1988/89, EEP sales declined to 20.2 million mt, with an average bonus of \$18.83 per mt. GSM-102 and 103 loan guarantee programs are also seen as having been important in maintaining U.S. market share in countries with limited foreign exchange reserves.

Sugar

The 1987 International Sugar Agreement (ISA) entered into force on January 1, 1988, following expiration of the 1984 ISA. The International Sugar Organization (ISO), located in London, administers the agreement. Concluded on September 11, 1987, the current ISA is scheduled to operate for 3 years, but may be renewed for 2 additional years. Like its predecessor agreement, the 1987 ISA is merely an administrative agreement—it does not contain economic provisions to control prices.¹⁴ The only

¹⁴ The 1977 ISA, predecessor to the 1984 ISA, contained a market stabilization mechanism which functioned through a system of buffer stocks and export quotas that were manipulated to dampen fluctuations in the free market price of sugar. The 1977 ISA was generally ineffective in controlling the free market price of sugar. This ineffectiveness was in large part the result of sugar's unique characteristics. Sugar is one of the most widely grown crops in the world, owing to the fact that identical refined sugar is obtained from tropically grown sugarcane and from temperately grown sugar beets. Individual countries also heavily regulate their production and trade in sugar. Relatively little sugar is traded on the so-called free market. The free market thus bears a disproportionate share of sugar shortages and surpluses, with price instability being the result. When crop failures reduce supplies, producing countries supply their domestic needs first, preferential arrangements second, and free-market demand last. The

change the 1987 ISA makes with regard to the previous agreement is the method of financing the ISO. Rather than an even split between importers and exporters, importers are liable for only 42.5 percent of the costs, with exporters accountable for the remaining 57.5 percent. This change was primarily made in order to more equally distribute the burden of payment between the two groups as more exporters than importers are signatories to the ISA.

The number of exporting signatories to the ISA grew from 34 to 38 in 1989. New exporting members are Austria, Bolivia, Colombia, and Mexico. Including importing countries, the Organization as of October 1989 consisted of 47 countries. Voting rights are assessed in proportion to each member's contribution to the administrative budget. In November 1988, U.S. voting rights were suspended for failure to pay its 1988 budget assessment in full. The United States has been in arrears in its payments to the ISO for several years due to the budgetary policies of the last administration. The total amount of the arrearage as of March 1990 was 28,465 Pounds sterling. In addition to losing its voting rights over the arrearage, the United States also lost its seat on the ISO Sugar Council, in which it was traditionally 1 of 10 representatives of importing sugar countries. The Council is the main policy-making body of the ISO.

The use of target prices was discontinued after 1984. Actual prices have remained below the 1982/84 target range. Table 3 presents the world market prices for 1984/89.

¹⁴—Continued
free market world price often soars as a result. Similarly, when there are bumper harvests, the free market becomes a distress market and prices plummet. Furthermore, since sugarcane requires about 20 months from planting to reach full production (which then is continued for several years), the price swings are usually extended (especially those on the down side).

Table 3
Raw sugar: Monthly world market prices, F.O.B., Caribbean ports, bulk basis (I.S.A.), 1984-89
(Cents per pound)

Period	1984	1985	1986	1987	1988	1989
January	6.97	3.61	4.84	6.49	9.67	9.65
February	6.63	3.70	5.56	7.38	8.43	10.54
March	6.43	3.83	7.04	7.56	8.52	11.54
April	6.00	3.42	8.33	6.68	8.54	12.16
May	5.61	2.88	7.67	6.73	8.90	11.98
June	5.52	2.78	6.34	6.44	10.57	12.64
July	4.54	3.18	5.55	6.10	14.02	13.99
August	4.05	4.39	5.57	5.62	11.15	14.00
September	4.10	5.12	4.68	5.82	10.16	14.13
October	4.65	5.01	5.39	6.65	10.28	N/A
November	4.36	5.48	5.95	7.33	10.84	N/A
December	3.55	5.32	5.71	8.30	11.22	N/A
Average	5.20	4.06	6.05	6.76	10.19	12.29

Source: Compiled from UNCTAD data.

Cocoa

The 1986 International Cocoa Agreement (ICCA),¹⁵ concluded in July 1986, replaced the 1980 agreement, which expired on September 30, 1986.¹⁶ In January 1987, the 1986 ICCA went into effect as the requisite number of cocoa producing and consuming member countries provisionally ratified the accord.¹⁷ Unlike the previous agreement, the world's largest producer of cocoa—the Ivory Coast—is a member of the 1986 ICCA. The agreement is scheduled to be in effect for 3 years; after that time it can be extended for an additional 3 years if a new agreement has not been developed. The United States has not been a member of any of the ICCAs for a variety of reasons. Most notably, the U.S. Government believes that buffer stock agreements generally do not work, that the agreements have been inadequately funded, and that unrealistic price ranges are specified in the agreements.

The basic mechanism of the 1986 ICCA is a 250,000-ton buffer stock (which includes 100,000 tons of cocoa carried over from the 1980 ICCA). The buffer stock is financed by a 1.4-cent per-pound-levy on member exports and on member imports from nonmembers. The ICCA provides for semiautomatic adjustment mechanisms and price reviews. Prices in the current ICCA are based on Special Drawing Rights (SDRs) to moderate the effects of currency fluctuations.¹⁸ The target price ranges¹⁹ of the ICCA follow:

	SDRs/ton	Approx. cents/lb.
Upper intervention price (must sell)	2,155	127
May sell price	2,100	123
Median price	1,820	107
May buy price	1,540	90
Lower intervention price (must buy)	1,485	87

Prices are reviewed annually and are adjusted automatically by 115 SDRs/ton, up or down, if they are not within the mandatory intervention levels and if the buffer stock manager has bought or sold 75,000 tons of cocoa within a 6-month period.

Cocoa prices under the agreement are determined by reference to a daily price and an indicator price expressed in SDRs per ton. The

¹⁵ The two Cs in the initials for the International Cocoa Agreement (ICCA) are used to distinguish it from the International Coffee Agreement (ICA).

¹⁶ The 1980 ICCA replaced the ICCA of 1975, and its predecessor, the ICCA of 1972.

¹⁷ Ratifications by countries accounting for 80 percent of world exports and 65 percent of world imports are needed for the agreement to enter into force.

¹⁸ For 1989, the average SDR exchange rate was 1.28 SDR/U.S. dollar.

¹⁹ As of April 1990.

daily price is the average daily quote for cocoa beans of the nearest three active futures trading months on the London Cocoa Terminal Market and on the New York Coffee, Sugar, and Cocoa Exchange at the time of the London daily close. The indicator price is the average of the daily prices over 10 consecutive market days.

The ICCA also includes a provision for a Withholding Scheme in case the buffer stock is unable to maintain prices within the designated range. Under the supervision of the buffer stock manager, the scheme provides for the withholding of a maximum of 120,000 tons of cocoa from the market by producers if the indicator price is at or below the lower intervention price for 5 or more consecutive days, or when either 80 percent of the maximum capacity of the buffer stock has been filled or the net financial resources of the buffer stock are only sufficient to purchase 30,000 tons of cocoa. The release of cocoa from the Withholding Scheme would begin when the indicator price has been at or above the median price for 10 consecutive market days. Buffer stock sales cannot resume until all cocoa has been released from the Withholding Scheme.

Coffee

The current International Coffee Agreement (ICA) entered into force provisionally in October 1983 and definitively on September 11, 1985. The United States participates in the ICA along with 74 other nations, including 50 producing countries that account for more than 99 percent of the coffee entering world trade. The present agreement is an extension (for 2 years) of the original 6-year agreement which was to expire on September 30, 1989. The International Coffee Organization (ICO) administers the ICA under rules and regulations established by the International Coffee Council (ICC).

Until July of 1989 when quotas were suspended, the terms of the ICA remained essentially unchanged from those of the previous year. The agreement provides for export quotas to stabilize prices but has no provision for a buffer stock. Each exporting member country is annually assigned a coffee export quota and is required to affix an ICA certificate of origin to coffee exports. Importing member countries are required to refuse any shipments from exporting countries not accompanied by valid ICA certificates.

U.S. Department of Agriculture (USDA) officials report that in return for consuming countries' acceptance of the formula for setting quotas favored by producer countries for the 1987/88 crop year,²⁰ producers accepted the consumers' formula for 1988/89. This formula moved quota distribution marginally closer to quotas based on current levels of production,

²⁰ Crop year begins on October 1.

stocks, and trade, and was favored by the United States. The global quota for crop year 1988/89 was set at 56 million bags (a bag is equivalent to 132 pounds) and was evenly allocated over the four quarters of the crop year. Each quarter was allocated 10.4 million bags of Arabicas (a coffee type) and 3.6 million bags of Robustas (a coffee type).²¹ Quota distribution between large and small producers was left unchanged from 1987/88 with large countries, entitled to a "basic" quota, receiving about 94 percent of the global quota. The remaining 6 percent was assigned to the smaller producers, which are exempt from quota cuts. Under the rules of the ICA quotas were allowed to be reduced a maximum of 3 million bags (to 53 million bags), during the 1988/89 crop year, compared with the 51.5-bag minimum in effect during 1987/88. Eighty-four percent of the global quota for 1988/89 was "fixed," based on exportable production (production less domestic consumption) and a percentage of exports to member countries for crop years 1981/82-1987/88, excluding the lowest year. Sixteen percent was "variable," based on verified stocks at the end of crop years 1987/88 or 1988/89. Quotas were allowed to be adjusted by coffee type (Arabica or Robusta) in 1988/89. Two quota increases took place in the first quarter of the 1988/89 year for Arabica coffees, as rising prices reflected a shortage of this type.

The ICA was scheduled to expire on September 30, 1989, and talks were held in

²¹ Coffee is the bean of a tropical or subtropical evergreen tree or shrub belonging to the genus *Coffea*, of which the most important commercial species are *C. arabica* (Arabica) and *C. robusta* (Robusta). Robustas, which generally compete in the world market with the lower grade arabicas, are generally blended with Arabicas and used in the production of soluble coffee.

November 1988, April 1989, and June 1989, between producer and consumer members of the ICA concerning basic framework changes to the ICA. According to USDA officials, the United States, the largest consumer member, wanted an end to sales by producers to nonmembers at discount prices and demanded that importers have access to the types and amounts of coffee required by the trade. Brazil, the largest producer, essentially sought an extension of the historic terms of the agreement (except for tighter controls over nonmember shipments). However, the talks resulted in a deadlock over framework changes and no agreement was reached.

On July 3, 1989, the ICC suspended export quotas, but elected to extend the ICA, without economic provisions, until September 30, 1991. Following the suspension and the resulting increased supply, coffee prices declined significantly. The ICO composite price reached a low of 61 cents per pound in October 1989, which was 47-percent less than the October 1988 average of \$1.14. USDA officials report that disagreement among ICA members over discount sales to nonmembers, market shares, and the problem of availability of the types and qualities of coffee required by consuming countries led to the suspension of quotas.

Table 4 indicates that during 1985-89, the average annual ICO composite indicator price (1979 basis) ranged from 92 cents per pound to \$1.71 per pound. In 1989, the monthly average composite indicator price ranged from a low of 61 cents per pound in October to a high of \$1.27 per pound in January, and averaged 92 cents per pound for the year.

Table 4
Green coffee: International Coffee Organization monthly average composite indicator prices, on the basis of the 1979 agreement, 1985-89

(Per pound)

Month	1985	1986	1987	1988	1989
January	\$1.35	\$2.04	\$1.18	\$1.15	\$1.27
February	1.33	1.91	1.16	1.21	1.18
March	1.32	2.04	1.01	1.18	1.17
April	1.32	1.92	1.04	1.16	1.18
May	1.32	1.77	1.11	1.16	1.16
June	1.31	1.54	1.02	1.19	1.05
July	1.21	1.49	.96	1.14	.77
August	1.20	1.54	.98	1.07	.69
September	1.19	1.81	1.05	1.14	.69
October	1.26	1.63	1.11	1.14	.61
November	1.41	1.49	1.16	1.14	.62
December	1.75	1.31	1.15	1.24	.62
Average	1.33	1.71	1.08	1.16	.92

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

Tropical Timber

The International Tropical Timber Agreement (ITTA) came into force on April 1, 1985, following 8 years of preparatory work and negotiations carried out under the aegis of UNCTAD. Since its entry into force, 18 producer countries and 23 consumer countries have signed the agreement. These countries account for over 95 percent of world trade in tropical timber.

The objectives of the ITTA²² reflect a recognition by member governments that tropical timber is a commodity that, unlike many others, is harvested from mostly virgin forests, is a product of highly fragile ecosystems, and is renewable, under certain conditions, only over a long time span. Broadleaved hardwood forests need minimally 30 to 50 years, and in many cases, up to 100 years, to produce harvestable logs, making management of this resource very different from that of other agricultural resources. Another unique feature of this commodity is that tropical forests not only yield valuable timber for export, but also play an important role in the protection of the planetary environment, and provide a life support system for the people who live in or near those forests. For these reasons, the ITTA seeks to ensure that the economic use of tropical timber is kept in balance with conservation of the resource and with environmental needs. It is the only international commodity agreement to include such objectives.

The ITTA is the third commodity agreement to be negotiated under the framework of UNCTAD's Integrated Program for Commodities. Its objectives are to provide an effective framework for cooperation and consultation between tropical timber-producing and consuming countries with a view to promoting and expansion and diversification of international trade in tropical timber and improving structural conditions in the tropical timber market. To these ends, the ITTA seeks to promote research and development aimed at improving forest management and wood utilization, improving market intelligence, encouraging increased and further processing of tropical timber in member producing countries, encouraging reforestation and forest management activities, improving marketing and distribution of tropical timber exports of producing members, and encouraging national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources and at maintaining the ecological balance in the regions concerned. Projects in these areas are financed from the internal UNCTAD accounts (the Second Account

²² For the purpose of the ITTA, "tropical timber" is defined as nonconiferous tropical wood for industrial uses which grows or is produced in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawnwood, veneer, and plywood.

of the Common Fund for Commodities), from regional and international financial institutions, and from voluntary contributions.

The International Tropical Timber Organization (ITTO) held its sixth and seventh sessions in 1989. During the seventh council session, held at the organization's headquarters in Yokohama, Japan during October and November 1989, the council agreed to two major initiatives. In an effort to determine what constitutes sustainable management, a working party of experts will meet in early 1990 to draft guidelines for judging best practices in forest management. Also, the council agreed to a pre-project to study the range of incentives available to promote sustainable management, incorporating a labeling proposal. The labeling proposal, sponsored by the United Kingdom, would offer labeling of tropical timber and timber products as a method of offering consumers an opportunity to select goods processed using wood from sustainably managed tropical forests. On the basis of recommendations by the three permanent committees of the ITTO, the council approved 11 projects; however, only 4 of the projects received funding. A U.S. initiative for a market study group was approved, but remains unfunded. Nine projects approved at earlier council sessions are still awaiting funding.

Jute

The International Jute Agreement (IJA) was originally adopted on October 1, 1982, under the auspices of the United Nations Conference on Trade and Development (UNCTAD). However, it did not begin operating until January 9, 1984, when the International Jute Organization (IJO), which administers the provisions of the IJA, was established. The agreement expired in January 1989, but was then reenacted and extended another 2 years until January 9, 1991. A new agreement that maintains the basic structure and focus of the 1982 agreement has been drafted. The agreement must now be ratified by the member states. Ratification guidelines have been discussed to avoid gaps between the current and the new agreements.

Forty-two importing countries, including the United States, and 5 exporting countries are currently members or signatories to the IJA. These countries account for more than 65 percent of the world's imports of jute and more than 95 percent of the world's exports. Several other countries and more than 20 organizations are allowed to attend IJA meetings as observers, but do not have voting privileges.

The primary objectives of the IJA are to enhance the competitiveness of jute and jute products and to maintain and increase existing markets as well as to develop new markets. Jute's position has been increasingly pressured by competition from manmade fibers.

World production of jute fiber increased slightly over the previous crop year during 1989-90. However, production in the past 2 years has been well below previous years. Production in 1989-90 was approximately 3.1 million mt, a 4-percent increase from the previous crop year, which had the lowest output since 1975-76. The major reason for the increase was because of more favorable weather conditions than in the previous crop year, when there was drought during the growing season as well as heavy flooding in some areas. Also there was an adequate supply of seed during planting season this past crop year. Production was projected to be higher, however insufficient rainfall during harvest time caused some retting (processing) problems, and prevented world production from increasing even more.

Developing countries provided approximately 98 percent of the world jute fiber production in crop year 1989/90, with India, the largest producer, accounting for 42 percent (1.3 million mt), Bangladesh 27 percent (0.8 million mt), and China 18 percent (0.5 million mt). Developed countries supplied about 2 percent of the world production with virtually all provided by the Soviet Union.

As with the jute fiber, developing countries accounted for the largest share of total world exports of jute products (i.e., yarns, fabrics, carpetbacking, bags, and sacks), supplying 91 percent (982,100 mt) of the total in crop year 1988/89. This was a 7-percent decline from the previous crop year of 1.1 million mt and an 18-percent decline from the last 5-year average of 1.2 million mt. The decline in world exports of jute products is mainly because some countries that previously imported these products have become increasing self-sufficient and now produce many jute products. Also, competition from manmade fibers as an alternative material has been increasing. Bangladesh, the largest exporter of jute products, provided 50 percent (487,300 mt) of total world exports of these products in crop year 1988/89, followed by India with 21 percent (203,700 mt), and Thailand with 11 percent (105,200 mt). India, the largest producer of jute products, and China produce more for domestic consumption than for the export market. Developed countries accounted for 9 percent (90,800 mt) of world exports of jute products with Western European countries providing the major share. The United States, second only to the Soviet Union in imports, is a major consumer of jute products. U.S. imports of such products were valued at approximately \$68 million in 1989 and accounted for, by quantity, about 10 percent of world trade. These imports consisted mostly of fabrics used as secondary carpet backing for producing tufted carpeting.

Natural Rubber

The International Natural Rubber Agreement 1979 (INRA 1979) came to a formal close at the 18th Session of the International Natural Rubber Council (Council) of the International Natural Rubber Organization (INRO), which was held on March 29-31, 1989, in Kuala Lumpur, Malaysia.²³ The 19th session of the Council, or the first session of the Council under INRA 1987, (which came into force provisionally on December 29, 1988) was also held in Kuala Lumpur on April 3-7, 1989. Renegotiation of the successor Agreement (INRA 1987) was concluded in March 1987 at the Fourth UN Conference on Natural Rubber convened by UNCTAD.

Prior to the adoption of INRA 1979 (the first INRA), rubber prices had traditionally displayed a considerable degree of instability in which strong rises (particularly in 1951, 1955, 1960, and 1973-74) were often followed by sharp and sudden declines. This behavior not only destabilized producers' incomes, but also contributed to inflation in the industrialized countries. In addition, this price fluctuation discouraged needed long-term investments in natural rubber production. This is particularly important to the United States which, as the world's largest consumer of natural rubber, has a substantial interest in assuring adequate future supplies of this commodity.

The Council at its 19th session was required under paragraph 1 of article 31 of INRA 1987 to review the reference price²⁴ for INRA 1987 which was initially fixed at 201.66 Malaysian/Singapore (M/S) cents per kilogram, or 91.5 M/S cents per pound.²⁵ This review of the reference price was required for two reasons, namely, substantial changes in market prices and in the buffer stock level.²⁶ First, the 6-month average of the daily

²³ For more details on the outcome of these negotiations, see USITC, *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, 1986, p. 159.

²⁴ The reference price is a midrange price level that is reflective of recent market prices. For more details on the reference price and other prices fixed by the INRA, see USITC, *Operation of the Trade Agreements Program*, 31st Report, 1979, USITC Publication 1121, 1980, p. 87; USITC, *Operation of the Trade Agreements Program*, 33rd Report, 1981, USITC Publication 1308, 1982, pp. 92-94; and, USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, pp. 63 and 64.

²⁵ Basically, this currency denominator is the average of the Malaysian sen and the Singapore cent at the prevailing rates of exchange. The exchange rate is about U.S. 44 cents per M/S dollar: Therefore, the reference price for INRA 1987 calculates to about 89 U.S. cents per kilogram or about 40 U.S. cents per pound.

²⁶ For more details on the buffer stock, see USITC, *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, 1986, p. 104; and, USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, pp. 3-15.

market indicator price (DMIP) for April 6, 1989, was 234.41 M/S cents per kilogram, which was above the upper intervention (i.e., "may sell") price of 232 M/S cents per kilogram and, therefore, in violation of article 31C of INRA 1987.²⁷ Paragraph 1C of article 31 of INRA 1987 requires that if the 6-month average DMIP prior to the review of the reference price is above the upper intervention price or below the lower intervention price (i.e., "may buy"), the reference price shall be adjusted upwards or downwards, respectively, by 5 percent of its level at the time of the review, unless the Council, by special vote, decides on a higher percentage adjustment. Thus, the time criterion was met, and the Council revised the reference price upward by 5 percent at the 19th session of the Council.

Secondly, paragraph 3 of article 31 of INRA 1987 provides for a review of the reference price when a net change in the buffer stock of 300,000 mt has taken place. Net buffer stock sales amounting to more than 300,000 mt have taken place since these sales commenced in 1987. Because this level of sales was achieved since the last revision of the reference price (which occurred on August 15, 1985), the reference price had to be revised by an additional 3 percent over and above the mandated 5-percent increase, because the quantity criterion also had been met for price revision. The Council, by special vote, could have decided to raise it by a higher amount, but did not.

The Council at the 19th session decided that there shall be no revision of the indicative prices as provided for in paragraphs 5,6,7, and 8 of article 31. Paragraph 3 of article 30 of INRA 1987 states that unless the Council, by special vote, decides otherwise under paragraph 2 of the article, the Buffer Stock Manager (BSM) shall use the contingency buffer stock to defend the lower indicative price by bringing the contingency buffer stock into operation when the market indicator price is at a level 2 M/S cents per kilogram above the lower indicative price, and to defend the upper indicative price by bringing the contingency buffer stock into operation when the market indicator price is at a level 2 M/S cents per kilogram below the upper indicative prices. Paragraph 4 of article 30 states that buffer stock and the contingency buffer stock, shall be fully utilized to ensure that the market indicator price does not fall below the lower indicative price or rise above the upper indicative price.

²⁷ The daily market indicator price (DMIP) is a composite, weighted average of daily official current-month prices on the Kuala Lumpur, London, New York, and Singapore markets. Initially, the DMIP shall comprise three grades of natural rubber; that is, RSS1, RSS2, and TSR20, and their weighting shall be equal. All quotations shall be converted into f.o.b. Malaysian/Singapore ports, and the DMIP is expressed in the common currency of M/S cents per kilogram. The DMIP, according to the Council, can be considered as representative of the state of the natural rubber market more than any other indicator.

Through 1989 the BSM of the INRO had not entered the natural rubber market since INRA 1987 came into effect at the end of 1988. In fact, the last time that the BSM bought rubber was in 1986.²⁸ Sales of about 290,000 mt of the original 360,000 mt of INRO's natural rubber buffer stock took place from September 1987 through the end of 1988, and by March 1989 the remaining buffer stockpile was sold with deliveries to consumers expected to have been completed by the end of July 1989. With the impact of sales by the BSM removed from the market, industry sources project that prices are likely to remain in the neutral zone above the "may buy" level and no intervention by the BSM will be required.²⁹

Worldwide consumption of natural rubber reportedly reached 5.270 million metric tons in 1989, a 3-percent increase over 5.115 million mt in 1988.³⁰ However, another noted source reports natural rubber consumption in 1989 at 5.072 million mt, a 3-percent increase over 4.932 million mt in 1988.³¹ Worldwide production of natural rubber in 1989 reportedly reached 5.070 million mt, an increase of about 1 percent over 5.020 million mt of natural rubber produced in 1988.³² Natural rubber stocks declined again in 1989 as natural rubber demand rose about 100 thousands mt more than production. The overall drop in natural rubber stocks for 1989 has been estimated at 200,000 mt.³³ Industry sources attribute the slowdown in natural rubber production to lower than expected natural rubber production in Malaysia, the leading producer of this product in the world.³⁴

Other Trade Agreements Activities

The Bilateral Investment Treaty Program

The U.S. Bilateral Investment Treaty (BIT) program was launched in 1981 to help promote U.S. direct investment abroad.³⁵ BITs with

²⁸ *The Economist Intelligence Unit*, "Rubber Trends," London, England, No. 124, December 1989, p. 15; and, *The Economist Intelligence Unit*, "Rubber Trends", London, England, No. 123, September 1989, p. 16.

²⁹ *The Economist Intelligence Unit*, "Rubber Trends," London, England, No. 123, September 1989, p. 16.

³⁰ *The Economist Intelligence Unit*, "Rubber Trends," London, England, No. 124, December 1989, p. 23.

³¹ The International Institute of Synthetic Rubber Producers (IISRP), "Synthetic Rubber Growth Continues: IISRP Projects Worldwide Consumption to Reach 11.7 million metric tons by 1994," *IISRP News Release*, Feb. 9, 1990.

³² *The Economist Intelligence Unit*, "Rubber Trends", London, England, No. 124, December 1989, p.23.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ For a complete discussion of the BIT program, see USITC, *Operation of the Trade Agreements Program, 35th Report, 1983*, USITC Publication 1535, 1984, pp. 36-43.

interested countries, usually low- and middle-income developing countries, guarantee U.S. investors abroad certain rights and protections. The program is based on the idea that when some of the risks and restrictions associated with overseas investment—particularly in developing countries—are eliminated, U.S. international investment flows should increase.

The U.S. Government negotiates BITs using a prototype treaty that has the following main objectives: (1) ensure national treatment status, including provisions to hire whomever companies desire to manage the venture, (2) unrestricted capital and profit repatriation, (3) expropriation protection based on the "fair market value" of the investment, and (4) binding third-party arbitration to resolve disputes. This model is an updated version of the original BIT prototype and dated from early 1984.

Since the beginning of the program, the United States has held preliminary discussions with over 40 countries regarding possible BITs. In 1986, 10 BITs were submitted to the Senate for ratification.³⁶ In 1988 eight of the BITs were ratified by the Congress and signed into law by the President.³⁷

United States-Israel Free Trade Area Agreement

The United States-Israel Free Trade Area Agreement,³⁸ the first FTA entered into by the United States, became effective on September 1, 1985, with the first of a series of tariff reduction and eliminations.³⁹ Under the agreement, over a 10-year period, tariffs on all trade between the two countries will be eliminated. The FTA covers not only manufactured goods and agricultural products, but also areas that are not presently covered by GATT, such as trade in services, intellectual property rights, and trade-related investment performance requirements.⁴⁰

³⁶ The 10 countries are Morocco, Turkey, Panama, Egypt, Senegal, Haiti, Zaire, Cameroon, Bangladesh, and Grenada.

³⁷ Of the original 10 submitted to Congress for ratification, all were ratified except those negotiated with Haiti and Panama. The ratified treaties will not go into effect until the United States formally exchanges instruments of ratification with the other countries. As of February 1990, the United States had not formally exchanged the instruments of ratification with any of the eight countries.

³⁸ An FTA is an agreement in which participating countries remove substantially all trade barriers with respect to each other. GATT article XXIV establishes an exception to GATT obligations, in particular the MFN obligation, for FTAs provided: (1) duties and restrictions on "substantially all trade" between the members are eliminated; and (2) each members' duties and regulations are not more restrictive than those existing prior to the FTA. The GATT also permits interim agreements that lead to the formation of an FTA "within a reasonable length of time."

³⁹ For a discussion of the U.S.-Israel Free Trade Area Agreement, see USITC, *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, 1985, pp. 26-33.

The special duty provisions of the FTA break down U.S. imports from Israel and U.S. exports to Israel into four categories for the purpose of phasing out customs duties. Each of the categories follows a different staging pattern based on the sensitivity of the products to imports, with the complete elimination of duties accomplished by January 1, 1995. Duties on the most import-sensitive products, which fall into category 4, were scheduled to remain unchanged at least until January 1, 1990. On September 1, 1985, duties on products in the first, least sensitive category were completely eliminated, and duties on products falling into categories two and three were reduced. Therefore, under the FTA, U.S. exports are provided reciprocal duty-free treatment by Israel. Israel's import duties on U.S. products will be phased out by January 1, 1995.

The year 1989 was the fourth full year of operation of the United States-Israel FTA. Total imports under its special-duty provisions were at their lowest level since the FTA became operational. The total reported value of imports under the FTA in 1989 was \$759 million, or about 23 percent of total U.S. imports from Israel. Comparable figures for previous years were \$717 million, or 24 percent of total imports from Israel in 1988, and \$763 million, or about 29 percent of total 1987 U.S. imports from Israel. Many of the top items included under the special duty provisions of the United States-Israel FTA were electronics products, with radio and television transmission apparatus, other optical instruments and appliances, parts of telephonic apparatus, surveying instruments, and electrical machines and apparatus comprising the top five items. Table 5 lists imports of the top 10 items imported from Israel under the special-duty provision of the United States-Israel FTA during 1987-89.⁴¹

During 1989, negotiations took place between the United States and Israel regarding two FTA-related issues. Talks continued on the final phaseout of duties for the most sensitive products traded between the two countries.⁴² Both countries agreed to explore the possibility of accelerating the pace of the final tariff reductions. Failing agreement, according to the FTA, all duties will be eliminated automatically by 1995.

Negotiations also focused on trade in agricultural products. The original provisions of the FTA do not provide full coverage to agricultural products. In 1989, negotiations to

⁴⁰ However, the United States has retained its rights under the Multifiber Arrangement to restrain disruptive imports of textiles and apparel from Israel.

⁴¹ Leading items exported to and imported from Israel are contained in appendix tables A-10 and A-11.

⁴² Items identified as the most sensitive trade products are certain categories of olives, dehydrated onions and garlic, citrus fruit juices, cut roses, certain bromine products, and certain gold jewelry. See USITC, *Operation of the Trade Agreements Program, 36th Report, 1984*, USITC Publication 1725, 1985, p. 29.

Table 5
Israel: Leading U.S. imports for consumption, under FTA special-duty provisions, customs value,
1987-89

(Thousands of dollars)

HS commodity	Description	Time period		
		1987	1988	1989
85252060	Transmission apparatus incorporating reception apparatus, nesl	66	1	33,525
90314000	Optical measuring and checking instruments and appliances	877	2,093	20,842
85179040	Parts of electrical telephonic apparatus, nesl	9,532	15,157	17,469
90158080	Surveying, hydrographic, oceanographic, hydrological	19	8,874	16,307
85438090	Electrical machines and apparatus, nesl	5,121	6,664	15,442
85174050	Electrical apparatus, for telephonic carrier-current	4,146	7,401	14,759
61124100	Women's or girls' knitted or crocheted swimwear of syn fibers, knit wgt >=5% rb t	12,271	8,603	13,607
85179030	Parts of electrical telephone sets	48	8	11,730
29242115	Aromatic pesticides of ureines and their derivatives	32	70	11,270
90189060	Electro-surgical instruments & appliances & parts	9,201	7,175	11,216
Total of items shown		41,313	56,045	166,167
Total other		721,220	661,102	593,249
Total all commodities		762,533	717,147	759,416

Note.—Compiled from official statistics of the U.S. Department of Commerce.

expand coverage of the FTA to more agricultural products progressed. In addition, Israel granted the United States larger quotas for certain U.S. agricultural exports to Israel. The U.S. trade surplus in agriculture with Israel was \$342 million in 1988, on total two-way trade in the sector of \$488 million.

United States-Soviet Grain Trade

United States-Soviet grain trade during 1989 was conducted under a bilateral agreement that extended the United States-Soviet 5-year Long-Term Grain Agreement (LTA) from October 1, 1988, through December 31, 1990.⁴³ The first round of negotiations to conclude a new long-term bilateral grain agreement beyond the year 1990 took place in Moscow during the first week of December 1989. The goal of the first round was largely organizational, laying the groundwork for further talks.⁴⁴

The terms of the LTA—which continued under the extended agreement—require that the Soviet Union purchase at least 9 million metric tons (mt) of U.S. grains during each agreement

Service, Centrally Planned Economies Branch, Apr. 18, 1990.)

year (Oct. 1 through Sept. 30 of the following year). At least 4 million mt of the total must be wheat and 4 million mt, corn, but the Soviets may substitute 0.5 million mt of soybeans or soybean meal for the additional 1 million mt of wheat or corn. The LTA allows the Soviet Union to buy—in addition to the 9 million mt—up to 3 million mt of wheat or corn annually without consultation with the U.S. Government. Beyond the 12 million mt limit, purchases may be made only after consultation with the U.S. Government. Since the extension of LTA includes 3 months in addition to 2 agreement years, the terms of the extension call for prorating Soviet purchase requirements for that period.⁴⁵

Between October 1, 1988, and September 30, 1989, the United States unilaterally raised the "consultation level" three times, bringing the maximum purchase level to 24.0 million mt. During that period, the Soviets purchased a record 16.3 million mt of U.S. corn, 5.4 million mt of wheat, 0.3 million mt of soybeans, and 1.3 million mt of soybean oilcake.⁴⁶ At 21.7 million mt, grain sales (corn plus wheat) far exceeded the 12.5 million mt average annual sales to the Soviets during the previous 5-year period of the LTA.⁴⁷ Of the 5.4 million mt of wheat sold during fiscal year 1989, 4.7 million mt was contracted under the Export Enhancement

⁴³ Foreign Broadcast and Information Service (FBIS), *Daily Report: Soviet Union*, Nov. 29, 1988, p. 11.

⁴⁴ FBIS, *Daily Report: Soviet Union*, Dec. 7, 1989, p. 19. After further negotiations, on Mar. 22, 1990, U.S. and Soviet officials announced that they had reached a tentative agreement for a new 5-year Long-Term Grain Agreement (NLTA). NLTA calls for a minimum of 10 million mt of annual Soviet purchases, without defining the purchasing year. The maximum level, beyond which further Soviet purchases are conditioned on government-to-government consultation, was set at 14 million mt. Of the 10-million mt-minimum, at least 4 million mt must be wheat, 4 million mt coarse grains (corn, barley, and sorghum), whereas the remaining 2 million mt could be any mix of grains. Unlike the previous agreement, the NLTA specifies a 50-million-mt, 5-year minimum of Soviet purchases. (Interview with USDA, Economic Research

⁴⁵ *57th Quarterly Report to the Congress and Trade Policy Committee on Trade Between the United States and the Nonmarket Economy Countries During 1988*, USITC Publication 2176, p. 12 (hereafter referred to as the *57th Quarterly Report*).

⁴⁶ See article by Christian J. Foster in U.S. Department of Agriculture (USDA), Economic Research Service, *CPE Agriculture Report*, September/October 1989, p. 14.

⁴⁷ For U.S. sales of wheat, corn, soybeans, and soybean meal to the Soviet Union under the LTA (Oct. 1, 1983-Sep. 30, 1988) see *57th Quarterly Report*, p. 14.

Program (EEP).⁴⁸ EEP bonuses paid on U.S. wheat sales to the Soviet Union averaged \$21 per ton during fiscal year 1989 and totalled nearly \$100 million.⁴⁹

Despite an increase in overall Soviet grain production during 1989, the country's import demand remained strong.⁵⁰ Soviet grain imports rose from 27.5 million mt during July 1986–June 1987 to 32.0 million mt during July 1987–June 1988, and to 39.0 million mt during July 1988–June 1989. According to USDA estimates, Soviet grain imports will amount to 38.0 million mt during July 1989–June 1990, the average level of Soviet import demand during the 1980s.⁵¹

The persistently high Soviet import demand is explained by a combination of the decline of state procurement of domestic grain as a percentage of domestic output, and by the population's growing demand for quality food. State procurement of domestic grain was about 59 million mt in 1989, compared with procurement levels of 79 million mt in 1986, 73 million mt in 1987, and 61 million mt in 1988. The 1989 procurement figure, representing only 30 percent of the country's annual grain output, was the lowest since at least 1955.⁵² Coinciding with the low level of procurement is increasing public pressure on the Soviet authorities to augment the supply of high-quality food.⁵³ The consensus among Western agricultural experts is that despite Soviet efforts to increase agricultural output and reduce dependence on imported grains, Soviet domestic demand for grains will continue to

outstrip domestic supplies in the coming years.⁵⁴ Shortfalls are expected to be more acute in coarse grains used in animal husbandry than in milling quality wheat. Annual Soviet demand for imported grains during 1990–94 is expected to remain in the 25–35 million-mt range.⁵⁵

Competition for market shares in the Soviet grain market remained intense during 1989. According to estimates by the U.S. Department of Agriculture, the U.S. share of total Soviet wheat imports declined from 50 percent during October 1987–September 1988 to 33 percent during October 1988–September 1989, but the U.S. share in the Soviet coarse grain market—which includes corn—increased from 50 percent to about 70 percent over the period. In the wheat market, the European Community (EC) is the major U.S. competitor, followed by Canada, Australia, and Argentina. Most of the loss in the U.S. market share during the period was EC's gain. In the coarse grain market, the non-U.S. share is distributed among a considerably larger number of suppliers, including—in addition to the above—China, Hungary, Yugoslavia, and Romania.⁵⁶ The Soviets have long-term grain-supply agreements with Canada, Argentina, France, China, and Hungary.⁵⁷ Nevertheless, given the strong competitive position of U.S. grain exporters, the USDA expects overall U.S. agricultural exports to the U.S.S.R. during fiscal year 1990 to approximate the \$3.3 billion level registered during fiscal year 1989.⁵⁸

Arrangement Regarding International Trade in Textiles

The Arrangement Regarding International Trade in Textiles, commonly known as the Multifiber Arrangement (MFA), was established under the aegis of the GATT. The MFA provides the framework under which countries can establish limits on international trade in textiles, including apparel, primarily through negotiation of bilateral agreements between importing and exporting countries. It also permits importing countries to impose unilateral restraints on specific products for up to 2 years in the absence of an agreement to control textile trade and thus prevent market disruption.

⁵⁴ For details on Soviet agricultural reforms in 1989, see USITC, *Summary of the Soviet Economy, Economic Reforms, And U.S. Soviet Economic Relations*, vol. 3, USITC Publication 2271, p. 2-7.

⁵⁵ Interview with USDA Economic Research Service, Centrally Planned Economies Branch, Agriculture and Trade Analysis Division, Feb. 14, 1990.

⁵⁶ Interview with USDA, Economic Research Service, Centrally Planned Economies Branch, Agriculture and Trade Analysis Division, Oct. 10, 1989.

⁵⁷ For details, see article by Christian J. Foster in USDA, Economic Research Service, *U.S.S.R. Agriculture and Trade Report*, May 1988, pp. 41, 42.

⁵⁸ See article by Christian J. Foster in USDA, Economic Research Service, *CPE Agricultural Report*, January/February 1990, pp. 25-26.

⁴⁸ EEP reduces the unit price of a U.S. agricultural commodity to a stipulated level by augmenting the U.S. exporter's shipments with those of the Commodity Credit Corporation. For details, see USDA, *Agricultural Information Bulletin No. 515, Increased Role for U.S. Farm Export Programs*, April 1987. During 1989, the Soviet Union contracted for 5.0 million mt of EEP wheat, China for 3.4 million mt, and Poland for 22,000 mt. Since the implementation of the EEP in 1987, the Soviet Union contracted for 18.3 million mt of EEP wheat, China contracted for 13.6 million mt, and Poland for 2.0 million mt. (Interview with USDA, Foreign Agricultural Service, Commodity and Market Programs Division, Jan. 24, 1990.)

⁴⁹ EEP bonuses on U.S. wheat sales to the Soviet Union averaged \$42 per ton in fiscal year 1987 and about \$32 per ton in fiscal year 1988. EEP bonuses paid on wheat sales to the Soviets during fiscal years 1987-1989 totalled \$545 million. See article by Christian J. Foster in USDA, Economic Research Service, *CPE Agricultural Report*, September/October 1989, p. 14.

⁵⁰ Soviet grain production increased by 16 million mt from 195 million mt in 1988 to 211 million mt in 1989. The estimated output of wheat increased as did the average yield. See article by Christian J. Foster in USDA, Economic Research Service, *CPE Agriculture Report*, November/December 1989, p. 13.

⁵¹ For details, *Ibid.*, pp. 26-30.

⁵² *Ibid.* Since the state bears the responsibility of supplying milling and feed mixing facilities with grain, it often covers its procurement shortfalls by imports.

⁵³ Interview with USDA Economic Research Service, Centrally Planned Economies Branch, Agriculture and Trade Analysis Division, Feb. 14, 1990.

The MFA was established in 1974 and has been extended three times since then. The most recent extension, referred to as MFA IV, went into effect on August 1, 1986, and is scheduled to expire on July 31, 1991. This extension expanded coverage of the MFA from textiles and apparel of cotton, wool, and manmade fibers to include products of silk blends and of noncotton vegetable fibers. As of December 31, 1989, 41 countries had signed MFA IV, including the EC as a single signatory, and the United States.

During 1989, the United States had bilateral agreements with 43 countries as shown in table 6. In addition, the United States had a bilateral agreement with Guam, a U.S. territory, and a bilateral agreement with the Northern Mariana Islands, a U.S. commonwealth. Not all of these agreements were concluded with signatories to the MFA. The United States negotiates comparable agreements with non-MFA signatories under the authority of section 204 of the Agricultural Act of 1956.

The United States has established 147 categories for purposes of setting restraint levels on U.S. textile imports. These categories comprise groupings of statistical reporting numbers in the U.S. tariff schedule covering textile yarns, fabrics, apparel, and madeup articles and miscellaneous textiles. The number of categories under restraint varies widely from country to country; some large suppliers may have as many as 100 categories subject to specific limits, while new suppliers may have limits on less than 10 categories. In addition to limits on specified categories, during 1989, 19 of the U.S. agreements had group or aggregate limits providing broader limits on imports.

Of the countries with which the United States had bilateral agreements, the leading suppliers were Hong Kong, Taiwan, China, and Korea. The combined imports from these countries totaled \$12.9 billion, or almost one-half of the \$26.6 billion in total textile and apparel imports in 1989. The value of imports from these four countries together rose by almost 15 percent in 1989 from the 1988 level. Imports from EC members, the major unrestrained source, totaled almost \$2.7 billion in 1989, almost 10 percent of the total value and 3 percent less in value than in 1988. The quantity of imports from EC countries, however, rose by 2 percent in 1989 from the 1988 level. Imports from ASEAN countries—primarily Indonesia, Malaysia, the Philippines, Singapore, and Thailand—countries with which the United States has either negotiated bilateral agreements or has imposed unilateral restraints, totaled almost \$3.2 billion in 1989. This represented almost 12 percent of the total value and a 26-percent increase from the 1988 level.

During 1989, the United States renegotiated agreements with two of the largest

suppliers—Taiwan and Korea. An agreement with Japan, the seventh largest supplier, was also renegotiated. The new agreements with Taiwan, Korea, and Japan, which include aggregate or group limits, allow for average annual growth rates of roughly 1 percent. The agreements with Hong Kong and China allow for average annual growth rates of roughly 1 percent and 3 percent, respectively. A new agreement was also finalized with the Soviet Union, which contained specific limits only on certain cotton fabrics. Agreements with Poland and Nepal were amended and extended during 1989. An agreement was negotiated with Guatemala for the first time, which granted Guatemala virtually unlimited access to the United States for apparel assembled from fabric cut and made in the United States under the special access program. The agreement with Thailand expired December 31, 1988. Thus far no new agreement has been concluded. Consequently, the United States imposed unilateral restraints on selected categories of Thailand's textile and apparel shipments. The United States renegotiated an agreement with the United Arab Emirates⁵⁹ during 1989; however the diplomatic notes finalizing this agreement were not signed as of May 1990. During the midterm review of the United States-Mexico agreement, new agreement terms were negotiated eliminating quotas on more than one-half of the Mexican-made textiles and increasing most of the remaining quotas by one-fourth. In addition, Mexico may request increases in export limits if necessary. The original agreement that became effective January 1, 1988, already was aimed at liberalizing trade through a program known as the "special regime." The special regime set aside a significant portion of the quotas negotiated under the agreement for apparel and other textile made-up articles assembled in Mexico with U.S.-made-and-cut fabric. The quotas combine products eligible for the special regime with those made of foreign fabrics and are limited to overall growth of 6 percent annually. However, these quotas are significantly higher than the 1987 base levels to accommodate the special regime which became effective January 1, 1989.

Progress on Services Trade Agreements in 1989

Service Activities in the OECD and UNCTAD

For several years, the United States has advocated liberalizing services trade. In 1989, while GATT Uruguay Round discussions on trade

⁵⁹ Certain imports from this country are currently subject to restraint, the last of which is scheduled to expire 11/26/90.

Table 6
Value of textile and apparel imports,¹ 1989, by countries with U.S. bilateral textile agreements or quotas in effect, as of May 1990

Country	Value (1,000 dollars)	Agreement expiration date
Argentina*	71,999	(2)
Bangladesh*	328,080	01/31/93
Brazil* ³	292,341	03/31/92
Bulgaria*	1,067	04/30/89
Burma	6,865	12/31/90
China* ³	3,076,152	12/31/91
Colombia* ⁴	156,672	03/31/90
Costa Rica*	331,217	(5)
Czechoslovakia*	11,293	05/31/92
Dominican Republic*	665,455	05/31/92
East Germany	936	12/31/90
Egypt* ³	70,759	12/31/91
El Salvador*	56,540	12/31/92
Guam ⁶	7	10/31/92
Guatemala*	141,424	12/31/92
Haiti	174,659	12/31/93
Hong Kong* ³	3,664,935	12/31/91
Hungary*	64,216	12/31/91
India* ³	738,518	12/31/91
Indonesia* ³	637,755	06/30/92
Jamaica*	229,061	12/31/92
Japan* ³	680,836	12/31/91
Korea* ³	2,933,881	12/31/91
Macau* ³	399,156	12/31/91
Malaysia* ³	462,533	12/31/91
Mauritius ³	120,726	09/30/90
Mexico* ³	645,693	12/31/91
Nepal	44,489	12/31/93
Northern Mariana Islands ⁶	7	10/31/90
Pakistan* ³	377,576	12/31/91
Panama	51,337	03/31/90
Peru* ³	69,031	12/31/91
Philippines* ³	894,500	12/31/91
Poland* ³	52,128	12/31/92
Romania* ⁴	34,628	12/31/89
Singapore* ³	630,611	12/31/90
Soviet Union	7,668	12/31/92
Sri Lanka*	361,261	06/30/92
Taiwan ³	3,236,628	12/31/95
Thailand*	528,300	(8)
Trinidad and Tobago	1,645	12/31/90
Turkey* ³	360,520	06/30/91
United Arab Emirates ⁹	74,574	06/26/89
Uruguay*	75,897	06/30/91
Yugoslavia*	88,447	12/31/91

¹ Represents the value of U.S. general imports of textiles and apparel covered by MFA categories.

² The agreement with Argentina has not been finalized as of 05/15/90. The proposed agreement is scheduled to expire 03/31/92.

³ The agreement with this country includes group, or aggregate, limits.

⁴ The agreement with this country has not been renewed, as of 05/15/90.

⁵ The agreement with Costa Rica has not been finalized as of 05/15/90. The proposed agreement is scheduled to expire on 05/31/91.

⁶ The agreements with Guam, a U.S. territory, and the Northern Mariana Islands, a U.S. commonwealth, are "quota exceptions" for sweaters classified as products of foreign countries, but assembled in these insular areas. In general, quota-free entry is allowed for a specified number of sweaters provided that at least 40 percent of the assembly workers were citizens or nationals of certain areas or the United States. Imports in excess of the specified amounts are charged to quotas established for the country of origin, usually the country where the sweater parts were knitted.

⁷ Not applicable.

⁸ No new agreement has been signed with Thailand, as of 05/15/90, to replace the three that expired on 12/31/88. Since the expiration, certain imports from Thailand have been subject to unilateral restraints.

⁹ A tentative agreement has been reached with the United Arab Emirates; the proposed agreement would expire on 12/31/91. Certain imports from this country are currently subject to restraint.

*Signatory to the MFA Protocol that went into effect on 08/01/86.

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

in services progressed,⁶⁰ the OECD and UNCTAD continued their work programs on services trade issues. The main aspects of those activities are summarized below. The chapter concludes with a discussion of trade-related actions in five major services industries.

Organization for Economic Cooperation and Development

In 1982, the OECD Ministerial Council launched a work program to "examine ways of removing unjustified impediments to international trade in services and to improve international cooperation in this area."⁶¹ The work program has taken a two-part approach. Committees with sectoral expertise are identifying and evaluating obstacles to trade in specific service industries. Meanwhile, the Trade Committee and its working party are establishing a general framework for considering service trade issues.

Tourism services

International tourism is one of the service areas that has been the subject of study and agreement by the OECD.⁶² In a report on tourism, released in March 1989, the OECD Tourism Committee reported that tourism in OECD countries continues to grow. Arrivals at frontiers, nights spent by foreign tourists in European countries, and international tourism receipts each grew by 6 percent in 1988, the OECD reported.⁶³

Banking services

A 1989 study by the OECD Secretariat examined the degree of changes that have taken place in the banking sector, particularly the rise of competition.⁶⁴ The report cited several important factors pertaining to the banking sector in OECD countries. These considerations were that (1) competitors should be able to compete under equal terms and conditions;

⁶⁰ For a summary of 1988 GATT services negotiations, see ch. 2.

⁶¹ OECD, "OECD Council Meeting at Ministerial Level Communique," *The OECD Observer*, May 1982, p. 6.

⁶² In November 1985, the OECD Council approved a three-part Decision-Recommendation for eliminating government barriers to tourism. The Decision-Recommendation focuses on reducing impediments to the international movement of people, goods, services, and capital and lowering duties on personal items of tourists. It also contains guidelines on how the objectives may be met. The Decision Recommendation provides for a review of progress on meeting its objectives at least every 3 years and incorporates the updated OECD Code of Liberalization of Current Invisible Operations, which facilitates financial operations for tourists. For more information on the OECD code and tourism, see USITC, *Operation of the Trade Agreements Program, 37th Report, 1985*, USITC Publication 1871, 1986, p. 117.

⁶³ "International Tourism in the OECD Area," OECD press release (89)11, Mar. 3, 1989. See also, OECD, "Tourism Policy and International Tourism in OECD Member countries," Paris, 1989.

⁶⁴ OECD, "Competition in Banking," Paris, 1989.

(2) all market participants should face a common set of rules for operating; (3) close arrangements among various participants in the banking sector, what the OECD called "club arrangements," might be useful for determining common rules for operating in the market, but should not give rise to anticompetitive behavior; and (4) anticompetitive behavior of powerful market participants should be prevented.

United Nations Conference On Trade and Development

Issues related to trade in services have long been a part of UNCTAD's work program.⁶⁵ The Secretariat has produced studies on specific service industries (notably shipping, insurance, and financing related to trade) and on service issues related to technology transfer and the control of restrictive business practices. Within the United Nations, many organizations deal with service-sector concerns. Whereas some bodies focus their attention on a particular subsector (e.g. the International Civil Aviation Organization), others deal with issues applicable to a much broader array of sectors (e.g., the World Intellectual Property Organization).

The Final Act of UNCTAD VII (105(19)) requested that the secretariat undertake a two-phase study of trade in services from the point of view of developing countries.⁶⁶ The secretariat's report to the Trade and Development Board, which conducted its 35th session (2nd part) in March, 1989 in Geneva, was entitled *Services: Issues raised in the context of Trade in Services*. This report covers the first part of the request. In addressing these issues, the Secretariat examined definitional issues, trade in services and development, and the issues raised by proposals for an increased liberalization of trade in services, focusing upon: (1) the techniques expected to achieve such liberalization, (2) the expected benefits of liberalization of trade in services, including expansion and economic growth; and (3) the contribution of trade in services to the development of the developing countries.

On the subject of definitional aspects of trade in services, the Secretariat stated that, so far,

⁶⁵ In the Final Act of UNCTAD VII (105(19)) the mandate of the Secretariat to study trade in services was reaffirmed. The Conference stated, *inter alia*, "From the point of view of developing countries and in the context of overall development objectives, the Secretary-General of UNCTAD is requested: (1) to analyze the implications of the issues raised in the context of trade in services; (ii) to explore appropriate problematics for trade in services, keeping in view the technological changes in the field of services. For a discussion of the Final Act of UNCTAD VII, see USITC, *Operation of the Trade Agreements Program, 39th Report, 1987*, USITC Publication 2095, 1988, pp. 3-6 to 3-7.

⁶⁶ The Conference stated that the Secretariat (i) analyze the implications of the issues raised in the context of trade in services; and (ii) explore the appropriate problematics for trade in services, keeping in view the technological changes in the field of services.

attempts to create a universal classification system and definition of trade in services have been unsuccessful. Work on establishing a definition of what constitutes "trade" in services, the report pointed out, is an issue for negotiation in the Uruguay Round. It said that the distinctions between trade in services that involve the shorter term movement of persons or capital, and between immigration and investment of a longer term, will have to be considered in developing a complete definition of services.

Concerning development, the Secretariat stated that the key to the process of development is the contribution of services to the allocation, utilization, mobilization, and creation of resources. Trade in services has provided developing countries with an important source of foreign exchange, along with jobs for service professionals and workers abroad. Generally, however, the Secretariat noted that developing countries run deficits in service trade, reflecting the weakness of their domestic service sectors in terms of their support to production and trade in other sectors. A key factor in development is the strengthening of a "knowledge-based" service sector that supports production (e.g. financial services) and exports in other sectors of the economy and the competitiveness of national firms. The potential to accelerate the strengthening of knowledge-based service sectors and to diffuse information to developing countries more rapidly, arises from advances in information and communications technology in trade in services.

Finally, the Secretariat considered an increased liberalization of trade in services. It stated that trade liberalization in services could help further the development process if it were to be accomplished in a multilateral contractual framework where developing countries would be able to effectively implement policies aimed at developing their service sectors that were recognized as legitimate and justifiable policies by other trading partners. Also, the Secretariat stated, proposals have been put forward to expand service trade by enabling strong competitive service firms to penetrate world markets more effectively and to operate more efficiently on a global basis by facilitating their ability to locate abroad, transfer information within their global networks, and compete with local suppliers. Trade in services can be directly supportive of the development process if it takes place within a policy framework that ensures consistency and coherence with overall development objectives. Expanded services trade could enhance developing countries' ability to further these objectives through improvements made to human capital, technological capacity, income, foreign exchange earnings from exports, etc. Or, expanded services trade could have the opposite effect of disequilibrium. The Secretariat concluded that these issues which will have great

effects in this respect are being negotiated in the Uruguay Round.

Trade Developments in Selected Service Industries

Architectural, Engineering, and Construction Services

Trade

Exports of architectural, engineering, and construction (AEC) services in 1989 were estimated at \$34.7 billion compared with \$28.5 billion in 1988.⁶⁷ The estimated value of new contracts won by U.S. contractors overseas increased by 20 percent from \$26.0 billion in 1988 to \$31.2 billion in 1989. Foreign billings by U.S. design firms increased from \$2.5 billion in 1988 to \$3.5 billion in 1989, or by 40 percent. U.S. design firms increased their foreign billings in every region in 1989. For example, U.S. design billings in Europe increased more than three-fold to \$900 million in 1989. Other large increases occurred in Canada (up by 30 percent) and the Middle East (up by 42 percent).

U.S. exports of AEC services increased because U.S. firms were successful in winning major contracts for petroleum refineries and petrochemical projects (notably in the Pacific Rim, the Soviet Union, and the Middle East) requiring advanced construction technologies and special expertise. In addition, the success of creative U.S. design firms abroad resulted in followup or "piggyback" engineering and construction projects.⁶⁸

U.S.-owned construction firms continue to experience an increasingly competitive market abroad; thus, U.S. firms are now more likely to form joint-venture arrangements with local partners, integrate design-related services with their construction expertise, and offer specialized services such as turnkey and construction management.⁶⁹ U.S. industry sources indicate that only 30 to 40 U.S. construction firms are active in the global market, a significant decline from the more than 200 U.S. firms that operated abroad a decade ago.⁷⁰

U.S. design and construction firms faced increased competition from foreign firms in the domestic market in 1989. Imports of architectural, engineering, and construction services reached an estimated \$13.0 billion in 1989, compared with about \$8.5 billion in 1988.⁷¹ The principal reason for the increase in imports during 1989 was that foreign-owned architecture, engineering, and construction

⁶⁷ USITC staff estimates based on data contained in "Construction," U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, pp. 5-1 to 5-15.

⁶⁸ *Engineering News Record*, Outlook '90.

⁶⁹ USITC staff interviews with industry representatives.

⁷⁰ *Engineering News Record*, Dec. 21, 1989, p. 43.

⁷¹ Estimated by staff of the USITC.

services firms have steadily increased their share of the U.S. market through mergers and acquisitions.

Trade-related activities in 1989

U.S. architectural, engineering, and construction services firms continued to seek increased access to the Japanese construction market in 1989. Though U.S. and other foreign firms are able to bid on certain Japanese public works projects under the United States-Japan Construction Agreement of May 1988, few U.S. contractors have been successful in penetrating the Japanese AEC market.⁷² U.S. industry officials estimate that U.S. engineering and construction firms won a total of \$9 million of the estimated \$430 billion Japanese engineering and construction market in 1989.⁷³

In late December 1989, Japan's Construction Ministry announced that it would prohibit bid-rigging ("dango") in all future public works projects. U.S. trade officials have repeatedly pressed the Japanese to tighten Government controls on dango and other alleged collusive practices of Japanese Construction Ministry officials and private firms. While a General Agreement on Trade in Services continued to be elusive despite a ministerial level meeting of the Uruguay Round's Trade Negotiations Committee in late July 1990, U.S. and Japanese negotiators planned to resume review of their 1988 public works agreement in August 1990. On April 30, 1990, the Office of the U.S. Trade Representative announced that it would not designate Japan as a country that maintains barriers to U.S. construction and related services providers.

U.S. industry officials indicate that the Soviet Union and the Eastern European countries will provide some of the most promising opportunities for AEC services over the next decade.⁷⁴ To date, U.S. firms have been active in the design and construction of hotels and fast food restaurants in Eastern Europe and the Soviet Union.⁷⁵ The Soviet Union, in particular, is short of housing, hotel, and office space, and is severely handicapped by an inadequate infrastructure. Industry sources expect the Soviet Union and the East European countries to initiate ambitious building programs that is likely to invite participation by U.S. AEC firms. One significant factor to the provision of U.S. AEC services in the Soviet Union is that the "perestroika" program has now made general foreign investment and business ownership possible.

⁷² USITC staff interview with representatives from the International Engineering and Construction Industry Council (IECIC), December 1989.

⁷³ *Ibid.*

⁷⁴ USITC staff interviews with key U.S. industry representatives.

⁷⁵ *Engineering News Record*, Dec. 7, 1989, p. 40.

Many of the estimated 1,000 United States-Soviet joint-ventures formed in the past 2 years have involved the provision of construction and engineering services.⁷⁶

The EC economic integration and the German unification programs will offer increased opportunity for U.S. AEC services trade in Western Europe.⁷⁷ U.S. industry sources estimate that the eight largest EC countries will spend close to \$150 billion in infrastructure and commercial office development in 1990 alone.⁷⁸ Several major U.S. design and engineering firms are already active in the construction of the giant "Chunnel" or ocean link between the United Kingdom and France. In 1989, U.S. AEC merger and acquisition activity was particularly strong in the Nordic countries, Spain, and Italy.⁷⁹

The lack of adequate and competitive project financing continued to be a critical problem for U.S. contractors in 1989. In future years, the U.S. share of the international engineering and construction market will depend more and more heavily on aggressive and innovative financing packages.

Insurance Services

Trade

Statistics for insurance services are difficult to obtain and verify; in general, the U.S. Government does not maintain comprehensive databases on domestic and international insurance services, partly because insurance in the United States is regulated by the states.⁸⁰

In 1989, the world's insurance market exceeded \$1 trillion in annual premiums. Industry figures indicate that the United States represented roughly 38 percent of this market, followed by the 12 nations of the European Community (24 percent), and Japan (23 percent).⁸¹ Only a small portion of insurance dollars cross international borders since a life, health, or accident claim will tend to be serviced, administered, and paid in the same country in which the premium was collected. Reinsurance is an exception, tending to be highly international. U.S. insurers continue to rely heavily on foreign firms to offer reinsurance on some of their largest policies and thus often pay out more in reinsurance premiums than they receive, placing the industry in a net deficit position in reinsurance trade.

⁷⁶ *The Washington Post*, Nov. 28, 1989, p. C1.

⁷⁷ "On Doing Business Overseas," *Journal of Commerce*, Mar. 1, 1990, p. A3.

⁷⁸ *Business Week*, Mar. 12, 1990, p. 116D.

⁷⁹ *Business Week*, Mar. 12, 1990, p. 116H.

⁸⁰ The U.S. Commerce Department does conduct an annual survey of the reinsurance industry, whereby insurance companies themselves diversify risks.

⁸¹ *Sigma*, Swiss Reinsurance, 2/89, 1989. Rankings are based on currencies converted to U.S. dollars. Fluctuations in monetary exchange rates should be kept in mind in the interpretation of the results.

In the case of life insurance, international business represents a small portion of total U.S. companies' revenues. In 1987,⁸² for example, the sales (including premiums and interest) of life insurance abroad by U.S. insurance branches and subsidiaries amounted to \$7.8 billion, up from \$5.6 billion in 1985. For nonlife insurance (i.e., property/casualty), international sales by U.S. foreign direct investors totalled over \$22 billion in 1987, up from less than \$14 billion in 1985. Conversely, it is estimated that foreign life insurers in the United States obtained approximately 5 percent (\$17 billion) of the U.S. domestic market, while foreign nonlife insurers garnered roughly 10 percent (\$21 billion).⁸³

Trade-related activities in 1989

Trade barriers continue to exist in the insurance industry. Among the most common are denial of rights to establish, restrictive reserve and re-investment rules, mandatory licensing procedures, and restrictions on reinsurance opportunities.

In 1989, the United States cited India under the "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988 for monopoly practices that deny U.S. (as well as other non-Indian) insurers access to the Indian insurance market. To date, few discussions have been held.

The United States and Mexico, in 1989, agreed to revive talks on insurance matters, and these talks started in January 1990. The discussions aim both to liberalize entry for U.S. insurers to the Mexican market, as well as resolve outstanding insurance questions (e.g., extra auto insurance for vehicles crossing the border).

Perhaps the most significant long-term trade agreement under discussion for U.S. insurers interested in foreign markets is the Uruguay Round Group of Negotiations on Services under the General Agreement on Tariffs and Trade. An agreement could establish a multilateral set of rules for international trade and investment in the service industries, including insurance. Negotiations are scheduled to end in December 1990.

Several European countries are liberalizing their insurance markets motivated by the European Community's (EC) 1992 economic integration.⁸⁴ The EC plan for the insurance sector includes directives which will open national markets and permit cross-frontier sales by companies admitted in any one Member State, and allow a firm to observe the rules of only one national insurance regulator. Considerable

merger and acquisition activity between European insurers (as well as between major European banks and insurance companies) occurred throughout 1989. Some large European insurers appear to be convinced that Pan-European insurance companies will soon evolve for the first time. Due to their worldwide research capabilities and cross-frontier experience, the role of U.S. insurance brokers already admitted to the European market could be of particular importance as this liberalization process progresses.

Trade negotiations with Korea and Taiwan in recent years resulted in more than a dozen U.S. insurers successfully applying for licenses in each of those countries.⁸⁵ As a continuing part of this liberalization, in 1989, two U.S. insurance brokers had applications pending before Korean insurance regulatory authorities for entry to that market. In Taiwan, outstanding issues remain the Taiwanese interdiction on foreign joint ventures for subsidiary companies, and the prohibition of foreign insurers in Taiwan from owning real estate.

Over the next several years, competition is likely to increase throughout financial service sectors, including insurance. The integration of insurance, banking, securities and other financial services is increasing on a global scale, and is already extensive in Europe. The process is accelerating in the United States, as banking, securities and insurance businesses are increasingly blurred (and internationalized) due to court decisions regarding broadened interpretations by the Federal Reserve Board of the Bank Holding Companies Act, continued pressure from the banking community to expand into these areas⁸⁶, and similar factors. In the United States, this continued effort to diminish the separation between banks and insurance firms could conceivably lead to some degree of federal regulation of insurance services. In addition, concerns over the solvency of insurance companies have increased, triggering congressional investigations.⁸⁷

All aspects of the market are likely to continue expanding internationally, with U.S. insurers increasing their presence in overseas markets and foreign insurers establishing more subsidiaries in the United States. In addition to these international opportunities, wide public disenchantment with auto insurance and policies,

⁸⁵ U.S. Department of Commerce, *U.S. Industrial Outlook*, January, 1990, p. 55-3.

⁸⁶ See U.S. Congress, Hearings before the Task Force on the International Competitiveness of U.S. Financial Institutions, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, June 27-28, 1990.

⁸⁷ See, for example, U.S. Congress, Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce, U.S. House of Representatives, *Failed Promises, Insurance Company Insolvencies*, February 1990.

⁸² Data are from 1987 latest figures available.

⁸³ USITC staff estimate based on data contained in U.S. Department of Commerce, "Insurance," *U.S. Industrial Outlook*, 1990, pp. 55-1 to 55-9.

⁸⁴ See USITC publication 2204, *The Effects of Greater Economic Integration within the European Community on the United States*, July 1989, pages 2-23 to 5-30, and USITC publication 2268, *First Follow-up Report*, March 1990, pages 5-16 to 5-27.

the challenges of diseases such as AIDS, restrictions on the U.S. tort adjudication system and product liability, and the status of anti-trust provisions of current U.S. insurance law, are among the issues that will continue to affect U.S. insurers⁸⁸.

Financial Services

Trade

Although financial activities may originate in the United States, financial services by U.S.-based firms generally are provided through branches or subsidiaries established in individual country markets. In general, the U.S. Government as well as private sources do not maintain comprehensive databases on domestic and international financial services. However, the Bureau of Economic Analysis (BEA) reports that fees and commissions from U.S. banks and brokerage firms generated from worldwide sources were estimated at \$5.0 billion in 1989, up nearly 32 percent from the \$3.8 billion earned during 1988.⁸⁹

The direct foreign investment position of U.S. banks in all countries at yearend 1988 was estimated at \$16.1 billion, up slightly from \$15.2 billion in 1987.⁹⁰ The direct foreign investment position for U.S. finance and insurance firms at yearend 1988 in all countries was \$60.6 billion, an increase of almost 17 percent over the 1987 number of \$52.0 billion.⁹¹

Trade-related activities in 1989

The European Community integration plan of 1992 was one of the major developments on which U.S. financial firms focused in 1989. Among the plan's goals are liberalization of capital movements and harmonization of member state regulations regarding the financial sector.

Although the EC Second Banking Directive was generally viewed as a positive development, major concern was voiced by U.S. industry over the application of the reciprocity test.⁹² The concern over the reciprocity language was raised because U.S. banks could be precluded from establishing operations or from offering the same range of financial services in the EC as EC firms if they attempted to enter the EC after 1992. U.S. firms with legally established subsidiaries in

⁸⁸ See *National Underwriter*, various issues, 1990.

⁸⁹ Estimates based on BEA data.

⁹⁰ Periodically, the *Survey of Current Business*, a publication of the BEA, provides statistics on the U.S. international investment position, measuring the stock of U.S. assets abroad and of foreign assets in the United States. The BEA indicates their measurement is not entirely accurate as it is based on incomplete information subject to being outdated, incomplete or based on misreported data on international balance of payment flows. Nevertheless, the data provide an indication of the magnitude of assets abroad.

⁹¹ *Ibid.*

⁹² Conversations with industry, trade association, and U.S. and EC government officials, December 1989-February 1990.

the EC before 1992 will be "grandfathered" and, thus, should not experience any change in operating conditions.

The capital adequacy standards that will be implemented are modelled on the internationally accepted Basle Accord of 1975. The United States was one of the countries that participated in drafting the accord; its provisions provide the basis upon which capital standards are formulated for banks in the United States and in other industrialized countries. The two major directives addressing capital adequacy are key to the implementation of the EC plan as they measure and ensure the financial strength and stability of EC banks. The Own Funds Directive sets forth the standards for determining the composition of a bank's capital while the Solvency Ratio Directive sets forth a minimum ratio of its own funds in relation of certain risk-adjusted assets and off-balance-sheet items.

The continuing trend towards deregulation of the financial markets has increased worldwide competitive pressures that have had an impact on the operations of U.S. securities firms both domestically and overseas. Events such as declines in global stock market turnover continued to magnify the overcapacity in 1989, resulting in declining revenues, employee layoffs, the sale or closing of operations, and overall consolidation of the investment services industry, particularly in such highly developed markets as New York and London.⁹³

While the U.S. firms' worldwide share of the financial services market has diminished, the Japanese continue to dominate and expand their operations internationally. In 1970, for example, assets held by Japanese banks were \$178 million or about one-third of the \$487 million in total assets held by U.S. banks. By 1988, however, Japanese banks' assets had risen to \$4.4 billion, or about 1.6 times total assets of U.S.-owned banks.⁹⁴ In 1989, no U.S. bank or investment firm ranked among the top 20 financial institutions in the world in terms of capitalization.⁹⁵

Progress on the developing countries' debt issue was made in 1989 as countries such as the Philippines, Mexico, Brazil, Argentina, and Venezuela entered into negotiations to structure repayments based on a plan designed by Treasury Secretary Brady. Under the Brady plan, U.S. banks may receive some repayment of the original loans. Nevertheless, most have continued to raise their reserves for losses and capital bases since the early 1980s. Third world

⁹³ "Big Bang: Big Bust, Big Lessons", *Business Week*, March 6, 1989, p. 38.

⁹⁴ "Financial Evolution in Japan and the Pacific Rim," *International Banking Competitiveness... Why It Matters*, A Report of the Economic Advisory Committee of the American Bankers Association, March 1990, p. 38.

⁹⁵ *Ibid.*, p. 7.

debt ballooned to an estimated \$1.3 trillion in 1989.

The Uruguay Round discussions in the GATT that addressed financial services issues such as national treatment, transparency, effective market access, and dispute settlement procedures continued in 1989. A sectoral testing exercise was conducted in July 1989 to determine how GATT principles might apply to financial services.

During 1989, on the recommendation of the Committee on Liberalization of Capital Movements, the OECD Council agreed to take on new obligations in preparing a document that would have the effect of expanding and revising the current Code of Liberalisation of Capital Movements by addressing and including the more advanced financial instruments that have been developed over the last several years. The document is being prepared, but a date for its completion has not yet been determined.

Maritime Transportation Services

Trade

Maritime transportation services are classified in U.S. international transactions accounts under "other transportation." In 1988, the trade deficit in maritime transportation services declined to \$1.2 billion, from \$1.3 billion in 1987.⁹⁶ In 1986, the sector recorded a deficit of \$2.1 billion.⁹⁷ The decline in the sector's trade deficit can, in part, be attributed to an increase in imports carried by U.S.-flag ships. Preliminary data indicate that in 1988, the U.S.-flag deep sea foreign trade fleet carried 30.8 million long tons of cargo valued at \$57.3 billion. This represents an increase of 7 percent in tonnage and an increase of 28 percent in value over 1987 data.⁹⁸

U.S. exports of maritime transportation services, consisting of ocean freight, port expenditures, and charter hire totalled \$11.1 billion in 1988, up from \$10.1 billion in 1987, with port expenditures accounting for 66 percent of exports in 1988. Total U.S. imports of ocean freight, port expenditures, and charter hire increased from \$11.3 billion in 1987 to \$12.3 billion in 1988, slightly less than the increase in maritime transportation service exports. Ocean-freight payments constituted 77 percent of imports of maritime transportation services in 1988. Exports of maritime transportation services as a proportion of total U.S. international transportation exports decreased from 42 percent in 1987 to 40 percent in 1988; for imports, the share rose from 44 percent in 1987 to 45 percent in 1988.⁹⁹

⁹⁶ Trade data for 1989 were not available at the time this report was published.

⁹⁷ U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, June 1989.

⁹⁸ U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, ch. 42.

⁹⁹ U.S. Department of Commerce, Bureau of Economic Analysis, *Survey of Current Business*, June 1989.

There has been intense global competition among trade liner fleets in recent years. Despite an increasing volume of trade, excess capacity currently exists on the U.S.-foreign trade liner routes, thereby creating a downward effect on freight rates. Likewise, freight rates have remained below breakeven levels for trade handled by U.S.-flag liquid and dry bulk carriers in spite of increased worldwide demand for bulk shipping services and reduced capacity.¹⁰⁰

Trade-related activities in 1989

On July 17, 1989, the United States submitted a communication to the General Agreement on Tariffs and Trade's (GATT) Group of Negotiations on Services that requested the GATT to examine the consequences of applying certain concepts and principles agreed to at the Montreal declaration (the December 1988 meeting of the GATT) to the U.S. maritime, aviation, and trucking industries. The U.S. communication briefly explained how these concepts might affect the U.S. maritime industry.¹⁰¹ According to the U.S. communication, the concept of national treatment is incompatible with cabotage laws, and existing U.S. maritime agreements are generally incompatible with the MFN principle. In addition, the U.S. report claims that the concept of market access could cause laws allowing exclusive U.S.-ownership and control of vessels to be nullified.¹⁰²

On March 16, 1989, in an effort to combat such restrictive measures, the Federal Maritime Commission (FMC) announced that it was adopting a Final Rule, in order to incorporate the Foreign Shipping Practices Act of 1988 into its regulations. The Act, contained in the Omnibus Trade and Competitiveness Act of 1988, directs the FMC to address adverse foreign conditions affecting United States carriers in U.S.-foreign oceanborne trade that do not exist for foreign carriers in the United States.¹⁰³

In March 1989, the FMC issued a final rule finding that conditions unfavorable to shipping exist in the United States-Peru trade resulting from laws, regulations, and decrees of the Government of Peru. The FMC established a system of countervailing fees to be paid by Peruvian-flag carriers for each voyage made subsequent to the rule's implementation. However, the FMC suspended the effective date for application of these countervailing fees owing to prevailing political and economic conditions in Peru.¹⁰³ In March 1989, the FMC

¹⁰⁰ U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, ch. 42.

¹⁰¹ U.S. delegation to the GATT, *Implications for Application of Concepts, Principles, and Rules for the Transportation Sector*, July 17, 1989, pp. 1-10.

¹⁰² *Washington Letter*, Joint Maritime Congress, July 24, 1989.

¹⁰³ Federal Maritime Commission, *Section 18 Report on the Shipping Act of 1984*, Sept. 1989.

issued a Notice of Inquiry into the laws, regulations and policies of the Government of Ecuador affecting shipping in the United States-Ecuador trade. On January 16, 1990, the FMC issued a Final Rule finding unfavorable conditions to exist in the foreign oceanborne trade between the United States and Ecuador. In order to meet or adjust unfavorable conditions found, the FMC assessed a fee of \$50,000 per outbound voyage from the United States to Ecuador on Maritima Transliga, S.A.¹⁰⁴

In July 1989, the FMC instituted a proceeding under the Foreign Shipping Practices Act of 1988, seeking to determine whether laws, rules, regulations, policies, or practices of Taiwan result in the existence of conditions which adversely affect the operations of U.S. carriers and which do not exist for carriers from Taiwan in United States. The investigation focused on certain "doing business" restrictions such as off-dock container terminal licensing, shipping agency licensing, and trucking licensing as well as restrictions affecting chassis registration and the leasing of empty containers to third parties.¹⁰⁵ On November 16, 1989, the FMC discontinued this proceeding as there was evidence that the Taiwanese authorities had relaxed their requirements concerning shipping agency licensing, chassis registration, and the leasing of empty containers to third parties. However, the FMC did order Taiwanese and U.S. carriers to report on the status of shipping conditions, especially with respect to off-dock container terminal licensing and trucking licensing, by mid-1990.¹⁰⁶

Roughly a year ago, the United States and the People's Republic of China (PRC) signed a 4-year bilateral maritime agreement that will liberalize port access for both countries.¹⁰⁷ U.S.-flag vessels will be permitted to enter 40 listed Chinese ports, Chinese vessels will be granted entry to nearly all U.S. ports, and there will be a limited cargo-sharing plan.

On December 20, 1989, the Maritime Administration of the U.S. Department of Transportation announced that it had extended the bilateral equal access agreement with Brazil for 18 months. The pact provides each country's merchant vessels with equal access to bilateral government-impelled cargoes, with the exception of U.S. agricultural commodities and the defense cargoes of both nations. Under the agreement, the two countries will have access to the cargo of

third-party trades, subject to existing laws and treaties.¹⁰⁸

During 1989, Korea enacted new maritime legislation to allow U.S. carriers to establish full-service branch offices. At present, the Korean Government has approved branch office applications from at least two U.S. carriers.¹⁰⁹

Lastly, U.S.-flag liner operators could benefit from an April 1989 Department of Defense interim rule which requires that all Defense purchased goods and supplies be shipped on U.S.-flag vessels. This ruling could bring an estimated \$250 million in additional revenues to the U.S.-flag fleet.¹¹⁰

Telecommunications and Information Services

Trade

Total U.S. revenues from international telecommunications services,¹¹¹ after payments to foreign carriers, rose from \$330 million in 1970 to \$3.2 billion in 1988, or by about 13 percent per year.¹¹² The U.S. Department of Commerce estimates that revenues from international services for 1989 grew by slightly more than 21 percent over 1988, and projects that revenues for 1990 will increase by almost 19 percent.¹¹³ In 1988, the largest segment of international telecommunications services was telephone message service that represented about 87 percent of total revenues.

The growth in volume of international telecommunications services—telephone, telegraph, and telex—far outstripped the growth in revenues during 1970-88. For example, in 1970, approximately 123 million minutes of telephone service was transmitted to and from the United States; by 1988, this number had risen to over 5.7 billion, representing an annual growth rate of 24 percent. In 1988, the U.S. settlement payment deficit continued at a record-setting pace, rising to \$1.6 billion compared with the \$1.4 billion deficit for 1987.

Total U.S. revenues from information services are forecast to increase by 17 percent from \$72.4 billion in 1989 to \$84.9 billion in 1990.¹¹⁴ The U.S. Government as well as industry do not maintain comprehensive databases on international trade for services, but it is estimated that 25 percent of this amount is derived from

¹⁰⁸ Ibid, p.2.

¹⁰⁹ Ibid.

¹¹⁰ U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, ch. 42.

¹¹¹ SIC 4812, 4813, and 4822.

¹¹² Data are from *International Communications Service Data, 1985-1988: A Summary and International Communications Traffic Data Report for 1988*, Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, October 1989.

¹¹³ U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, "Telecommunications Services," p. 31-1.

¹¹⁴ Estimated by the staff of the U.S. International Trade Commission based on data provided by the U.S. Department of Commerce.

¹⁰⁴ Federal Maritime Commission, *Inquiry into Laws, Regulations and Policies of the Government of Ecuador Affecting Shipping in the United States/Ecuador Trade*, Docket No. 89-07, Jan. 16, 1990.

¹⁰⁵ Federal Maritime Commission, *Actions to Address Adverse Conditions Affecting United States Carriers that Do Not Exist For Foreign Carriers in the United States/Taiwan Trade*, Docket No. 89-16, July 18, 1989.

¹⁰⁶ MARAD '89 *The Annual Report of the Maritime Administration for Fiscal Year 1989* (draft, June 1989).

¹⁰⁷ MARAD '89 *The Annual Report of the Maritime Administration for Fiscal Year 1989* (draft, June 1989).

foreign sources.¹¹⁵ In 1989, the largest segments of the information services industry included computer professional services with revenues of \$37.8 billion, data processing services with revenues of \$27.1 billion, and electronic information services with revenues of \$7.5 billion.¹¹⁶ An increasing share of revenues for computer professional services has come from abroad. It is forecast that 34 percent of all revenues for programming services will come from foreign clients and foreign subsidiaries of U.S. multinational corporations in 1990.¹¹⁷ The U.S. was the largest market in the world for data processing services with approximately 20 percent of U.S. data processing services revenues, or \$5.4 billion, derived from overseas income in 1989. The U.S. was also the largest producer and consumer of electronic information services during 1989 with approximately 25 percent of all revenues, or \$1.9 billion, derived from foreign sources.

Trade related activities in 1989

The move toward deregulation of telecommunications services and increased competition continued throughout much of the developed world in 1989. Although countries' policies differ, common trends such as the promotion of competition in the markets for value-added network services (VANS) and terminal equipment, and the separation of the regulatory functions from network operations are emerging in most deregulation plans. However, most countries continue to restrict the provision of certain basic services, most commonly voice telephony, and the maintenance network infrastructure to a monopoly carrier.¹¹⁸

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires that the United States Trade Representative (USTR) review the operation and effectiveness of trade agreements covering telecommunications products and services between the United States and other countries. On April 28, 1989, the USTR determined that Japanese practices with respect to third-party and cellular phone services were not in compliance under the Market-Oriented, Sector-Selective (MOSS) agreement with Japan which had been negotiated between March 1985 and February 1986. After negotiations, the United States and Japan concluded an agreement on June 28, 1989 in which Japan agreed to modify several of its

regulations and policies that both discriminated against foreign firms in the areas of third-party radio and cellular phones.¹¹⁹ It was announced that "as a result of the consultations, the Government of Japan informed the United States that it was taking a number of specific actions which are expected to achieve more competitive access to the Japanese telecommunications market for foreign companies. The specific decisions taken by the Japanese Government involve improved transparency in licensing procedures for third-party radio businesses, streamlining of licensing procedures for third-party radio, improved access to spectrum necessary to provide third party radio and cellular telephone by foreign firms, and adoption of other rules which will treat foreign third-party radio companies on a more equitable basis."¹²⁰ In addition, discussions with the Japanese were conducted at the 14th MOSS oversight meeting held in October 1989. The USTR announced that the United States and Japan agreed to renew the NTT agreement, which provides for open and transparent procurement procedures by Japan's recently privatized major telecommunications company.¹²¹ During this oversight meeting, such telecommunications services as international value added networks (IVANs), cellular telephone service, and third-party radio services were considered along with issues relating to telecommunications equipment, satellites, and the designation of telecommunications carriers in Japan. During the discussions, the Japanese criticized the section 1377 process as violating the American tenet of due process of law. A summary of the talks noted that on many issues, rather than any real dialogue, both sides merely stated conflicting positions.¹²²

Section 1374 of the Omnibus Trade and Competitiveness Act also requires that the USTR designate priority countries for negotiations on improving U.S. access to their markets. On February 18, 1989, the European Community (EC) and South Korea were selected as the two priority countries because of their high volume of exports to the United States, potential for U.S. sales in their markets, and barriers to U.S. telecommunications equipment and services trade. The removal of prohibitions or restrictions on value-added services was mentioned as one of the goals of the proposed negotiations.¹²³ In February 1990, the USTR recommended that the

¹¹⁵ Representative from U.S. Department of Commerce, telephone interview by USITC staff, Washington, D.C., Apr. 9, 1990.

¹¹⁶ U.S. Department of Commerce, *U.S. Industrial Outlook 1990*, "Information Services," pp. 29-1 to 29-5.

¹¹⁷ Revenue data for this paragraph were derived from the U.S. Department of Commerce, "Information Services," *U.S. Industrial Outlook 1990*, pp. 29-2 to 29-6.

¹¹⁸ "European Telecommunications—Fact or Fiction?," *Telecommunications*, October 1987, p. 46.

¹¹⁹ Office of the United States Trade Representative, *1990 Trade Policy Agenda and 1989 Annual Report of the President of the United States on the Trade Agreements Program*, (Washington: GPO, 1990), p. 46.

¹²⁰ Office of the United States Trade Representative press release dated June 28, 1989.

¹²¹ Office of the United States Trade Representative, *1990 Trade Policy Agenda and 1989 Annual Report of the President of the United States on the Trade Agreements Program*, (Washington: GPO, 1990), p. 46.

¹²² U.S. Department of State Telegram, October 1989, Tokyo, Message Reference No. 18455.

¹²³ "Bush Administration Moves Aggressively on Telecommunications Trade," *Communications Daily*, Feb. 23, 1989, pp. 4-5.

EC and South Korea be maintained as priority countries and that discussions with these countries continue. Because of progress made in the discussions with the EC and South Korea, the decision was made to extend the negotiations for an additional year. Also, the USTR is seeking to open these markets through negotiating groups in the Uruguay Round and the continuation of priority status would serve to emphasize the concern the United States has with the successful completion of these negotiations.¹²⁴

Generally, the information services industry is only regulated to the extent to which it uses the highly regulated public switched telephone network as a means of transport for its products. Otherwise, the industry itself is unregulated and dominated by private companies. Technological advances are blurring the distinction between some markets, especially business services markets, where telecommunications, computer, and information services firms are competing. Bilateral and multilateral agreements that govern telecommunications services can thus affect information services.

The EC continued its movement to liberalize telecommunications equipment and services as well as information services in 1989. During the year, EC Ministers reached agreement on two linked, proposed directives on telecommunications services and Open Network Provision (ONP) that are a significant step in opening up EC telecommunications and information services markets. The telecommunications services directive allows competition in all telecommunications and information services except voice telephony and telex, while the ONP directive harmonizes terms and conditions of access to the public network for competitive service providers. Under these proposed directives, EC member states may retain their monopoly on basic data transmission until January 1993. Countries with an inadequate telecommunications infrastructure such as Greece, Portugal, and Spain, will have until 1996 to implement these proposed directives. In addition, EC-member countries will be able to license private telecommunications services providers and licensing conditions must not hinder competition. An agreement on both directives is expected in 1990. Additional directives relating to leased lines, value-added networks, and voice telephony are expected to follow and amplify these framework directives.¹²⁵

U.S. telecommunications firms' participation in foreign markets continued to increase in 1989 as did the participation of foreign firms in the U.S. market. Pacific Telesis, a regional Bell

¹²⁴ Keith M. Rockwell, "US Holds Off on Retaliation in Telecom Rift," *Journal of Commerce*, Feb. 16, 1990.

¹²⁵ U.S. Department of State Telegram, February 1990, Brussels, Message Reference No. 02061.

holding company, purchased a small interest in International Digital Company, a Japanese consortium for international telecommunications services.¹²⁶ Pacific Telesis also was part of a consortium which was awarded the West German contract to provide a second national cellular system.¹²⁷ AT&T acquired Istel, a United Kingdom-based value-added network services firm, with plans to use the firm as a springboard into Europe.¹²⁸ British Telecom (BT) entered the U.S. market with two major investments in 1989. BT purchased Tymnet, the second-largest public data network in the United States, and also purchased a 22-percent stake in McCaw Cellular Communications Co., the largest cellular carrier in the United States.¹²⁹

The EC market for information services was approximately \$37.7 billion in 1988.¹³⁰ During 1989, each EC member state was at a different stage of liberalization in their telecommunications services regulations. The United Kingdom appears to have the most liberal and open markets for telecommunications and information services. During the year, West Germany, which previously maintained a virtually closed market, passed legislation and took steps to open up its telecommunications and information services markets. Many U.S. providers of information services have established operations in the EC, particularly in the United Kingdom, France, and West Germany. IBM, General Electric Information Services Corporation (GEISCO), Electronic Data Systems, and Computer Sciences Corporation are well established and strong participants in the EC information services market.

In 1989, telecommunications and information services were addressed by the GATT Group of Negotiations on Services (GNS) as part of the Uruguay Round of multilateral trade negotiations. Recognizing the need for a multilateral framework of principles and rules for trade in services, the GNS sought to establish principles of transparency, most-favored-nation treatment, and progressive liberalization of international trade in services. The liberalization of telecommunications services will have a great impact on information services because they are so closely interrelated. During 1990, an agreement should be reached on the provision of these services by GATT member countries.

¹²⁶ Charles Mason, "Greene chooses different answers for PacTel, NYNEX," *Telephony*, Feb. 20, 1989, p. 8.

¹²⁷ "PacTel Consortium Wins W. German Cellular Contract," *Communications Daily*, Dec. 8, 1989, p. 2.

¹²⁸ John Williamson, "AT&T moves into U.K. VANS market," *Telephony*, Oct. 2, 1989, p. 9.

¹²⁹ John Williamson, "British Telecom buys Tymnet; expands U.S. datacom position," *Telephony*, Aug. 7, 1989, p. 8.

¹³⁰ INPUT, Inc., *The Western European Market for Computer Software and Services, 1988-1993*, 1988.

Chapter 4

Developments in Major U.S. Trading Partners

This chapter reviews the important bilateral trade issues regarding major U.S. trading partners in 1989. Significant policy developments affecting trade are also included where relevant. The specific partners discussed are the European Community (EC), Canada, Japan, Mexico, Taiwan, the Republic of Korea (Korea), and Brazil. Trade with these countries is shown in tables 7-13, and the leading export and import items with each of these partners are further specified in appendix tables A-12 through A-25.

The European Community

Overview

In 1989, the United States recorded a \$1.5 billion merchandise trade deficit with the EC, representing an 88-percent decline from the \$12.7 billion deficit registered in 1988 and the smallest U.S. deficit with the EC since 1984. Two-way trade measured an all-time high, reaching nearly \$167 billion in 1989.

The EC's plan to create a single internal market by yearend 1992 provided the primary focus for U.S. attention during 1989. The United States carefully monitored the single market process to ensure that as old trade barriers are removed, new ones are not erected between the EC and third countries.

In addition to internal market integration, agricultural issues dominated the U.S.-EC bilateral agenda. Two disputes involving the administration of hormones into livestock caused serious concern for the United States in 1989. A dispute over the EC's ban on the sale of meat from animals treated with growth hormones—implemented on January 1, 1989 for third countries—remained near stalemate at yearend. U.S. officials also grew concerned that the EC may base authorization of the use of bovine somatotropin (BST), a genetically engineered natural hormone that increases milk production in dairy cattle, on economic or political factors rather than scientific evidence. On another topic, in May the U.S. Trade Representative (USTR) initiated an investigation in response to EC noncompliance with a 1985 agreement that limited canned fruit processing subsidies. The investigation was later terminated when the EC took steps to resolve the issue. Finally, the GATT dispute settlement process brought a U.S. complaint over EC oilseeds subsidies close to resolution by year end. The USTR had initiated a section 301 investigation in January 1988 in response to a complaint filed by the American Soybean Association alleging that the EC unfairly subsidizes its domestic production and processing of oilseeds and related

animal-feed proteins.¹ Although a GATT dispute settlement panel was established in June 1988, it was unable to proceed with its work until May 1989. In December 1989, the panel issued its report supporting the U.S. claim that EC oilseed supports are inconsistent with GATT provisions.²

In the industrial sphere, the United States and the EC concluded a voluntary restraint agreement covering EC exports of steel to the United States. This agreement, together with a subsequent pact to eliminate subsidies to the steel sector and barriers to imports, form part of the strategy of the President's Steel Trade Liberalization Program. In addition, government support for Airbus Industrie, a European aircraft manufacturing consortium, remained a primary area of contention between the United States and EC in 1989. Efforts to resolve the dispute in the GATT Civil Aircraft Committee and bilaterally with the EC and Airbus consortium governments have been unsuccessful. Lastly, U.S. and EC officials met twice in 1989 to discuss EC market access for U.S. telecommunications services and equipment after the EC was named a priority country under the telecommunications provisions of the 1988 Omnibus Trade and Competitiveness Act. Although some progress was made, talks will continue in 1990.

Internal Market

The EC's plan to create a single internal market by January 1, 1993, continued to make substantial progress in 1989. As of January 1, 1990, the EC Commission had tabled 261 of the 279 measures that comprise the internal market program as outlined in the EC Commission's 1985 white paper. Furthermore, by that date the EC Council had formally adopted 142 of these measures, or about 60 percent of the program.

In addition to the EC 1992 plan described in the white paper, the EC Commission began to pursue more vigorously the flanking policies identified in the Single European Act such as "economic and social cohesion" (i.e., harmonious economic development across all of the member states), social policy, the environment, research and technological development, and monetary integration. Although these policies are not technically part of the EC 92 program outlined in the white paper, they are considered part of a broader process to integrate the EC's internal market more completely.

¹ For more background on this dispute, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, pp. 88 and 146.

² On Jan. 25, 1990, the GATT Council adopted the panel report and the EC announced its intention to comply with the panel's recommendations. As a result, the USTR terminated the section 301 investigation on Jan. 31, 1990. For more information on the U.S.-EC soybean dispute in 1989, see ch. 5 of this report.

Table 7
U.S. trade with the European Community, by HTS sections, 1987-89
(1,000 of dollars)

Section	1987	1988	1989
<i>U.S. exports</i>			
1 Live animals; animal products	606,345	713,437	630,828
2 Vegetable products	3,358,390	3,566,531	3,313,955
3 Animal or vegetable fats, oils, and waxes	150,295	197,671	167,709
4 Prepared foodstuffs, beverages, and tobacco	3,102,542	3,380,257	3,287,734
5 Mineral products	2,563,474	2,965,509	3,422,622
6 Products of the chemical and allied industries	6,500,028	7,458,487	8,528,039
7 Plastics and rubber, and articles thereof	1,971,276	2,498,069	2,856,361
8 Hides and skins; leather and articles thereof	417,029	416,500	360,644
9 Articles of wood, cork, or plaiting material	682,329	899,319	983,109
10 Wood pulp, paper, paperboard, and articles thereof	1,797,436	2,217,126	2,701,703
11 Textiles and textile articles	1,334,487	1,578,261	1,626,180
12 Footwear, headgear, and artificial flowers	82,175	108,601	97,197
13 Articles of stone or ceramics; glass and glassware	277,959	346,161	499,288
14 Pearls; precious stones and metals; jewelry, coin	868,335	1,135,049	1,488,384
15 Base metals and articles of base metals	1,466,030	2,143,326	2,414,221
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	19,265,238	25,418,756	28,273,448
17 Vehicles, aircraft, and other transport equipment	6,457,041	8,525,226	12,042,459
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	4,024,418	4,912,469	5,738,619
19 Arms and ammunition; parts and accessories thereof	29,082	43,222	778,893
20 Miscellaneous manufactured articles	556,256	753,567	735,220
21 Works of art, collectors' pieces, and antiques	279,003	376,664	568,827
22 Special classification provision	1,440,908	1,651,417	2,009,265
Total	57,230,077	71,305,625	82,524,708
<i>U.S. imports</i>			
1 Live animals; animal products	768,136	571,065	534,988
2 Vegetable products	563,803	533,835	582,032
3 Animal or vegetable fats, and waxes	153,903	191,680	229,185
4 Prepared foodstuffs, beverages, and tobacco	3,722,843	3,686,268	3,596,664
5 Mineral products	4,302,344	4,034,646	3,944,759
6 Products of the chemical and allied industries	6,950,327	8,532,528	8,518,160
7 Plastics and rubber, and articles thereof	2,158,675	2,428,947	2,613,990
8 Hides and skins; leather and articles thereof	724,954	761,734	801,415
9 Articles of wood, cork, or plaiting material	178,782	204,440	226,940
10 Wood pulp; paper, paperboard, and articles thereof	1,266,000	1,408,961	1,453,557
11 Textiles and textile articles	3,098,558	3,146,941	3,277,351
12 Footwear, headgear, and artificial flowers	1,487,892	1,403,858	1,360,541
13 Articles of stone or ceramics; glass and glassware	1,645,336	1,802,965	1,830,674
14 Pearls; precious stones and metals; jewelry; coin	3,078,030	3,380,979	3,367,923
15 Base metals and articles of base metal	4,856,575	6,008,827	5,795,398
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	18,447,695	20,466,110	21,337,133
17 Vehicles, aircraft, and other transport equipment	17,123,016	15,243,577	13,718,376
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	3,423,666	3,914,986	3,932,411
19 Arms and ammunition; parts and accessories	158,102	178,435	221,041
20 Miscellaneous manufactured articles	1,782,832	1,804,013	1,870,099
21 Works of art, collectors' pieces, and antiques	1,086,532	1,206,839	1,345,041
22 Special classification provisions	3,066,345	3,124,571	3,467,673
Total	80,144,348	84,036,204	84,025,352

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

The U.S. administration strongly supports the EC 1992 process and believes that open and nondiscriminatory implementation of the program will benefit both the EC itself and the Community's major trading partners, including the United States.³ The administration cited several key EC decisions in 1989 that have eased the fears of third countries that the single market process could result in a "Fortress Europe."⁴ One example is the revision of reciprocity provisions in the Second Banking Directive to require reciprocal national treatment, permitting U.S. banks to operate freely in the EC. A second example is the decision to drop a proposed requirement that road haulage companies be majority-owned and -controlled by EC nationals in order to be permitted to make stops other than at their final destination after they have crossed the border of a member state.

Despite these developments, certain concerns remain. One such concern is the adoption by the EC Council in October 1989 of the so-called Broadcasting Directive which permits frontier-free broadcasting but requires "where practicable" a majority of EC-produced programs. The U.S. entertainment industry has strongly criticized the directive as a barrier to U.S. exports of movies and television programs. The U.S. Government has argued that the local-content requirement in the directive violates the most-favored-nation and national treatment articles of the GATT; as a result, the United States initiated bilateral consultations under article XXII of the GATT.

Another area of concern has been proposals to grant market access to foreign firms on the basis of reciprocity, particularly in the area of financial services. During 1989, provisions in the Second Banking Directive that appeared to apply "mirror-image" reciprocity were modified. However, other proposed directives in nonbanking financial services have raised similar concerns with the U.S. Government. These directives are still under review and have yet to be finalized.

Other notable areas of concern include discriminatory provisions in the proposed directive on opening up government procurement in the "excluded sectors" (telecommunications, transport, energy, and water), and how the EC will apply new testing and certification procedures to products from third countries. The United States is carefully monitoring all aspects of the EC's integration program.

Meat Hormone Ban

The EC's ban on the sale of red meat from animals treated with growth-promoting

³ For example, see address by Ambassador Carla A. Hills, USTR, before the Fondation du Futur, Paris, France, Sept. 11, 1989.

⁴ See testimony of Peter Allgeier, Assistant USTR for Europe and the Mediterranean, before the House Foreign Affairs Committee, Subcommittee on International Economic Policy and Trade and Subcommittee on Europe and the Middle East, Feb. 20, 1990.

hormones⁵ entered into effect on January 1, 1988, but third countries—including the United States—were given a 1-year grace period before they had to comply with the ban. The grace period was intended to grant U.S. and EC officials time to work out a permanent solution, but the issue remained unresolved throughout 1988.

When negotiations failed to resolve the dispute in 1988, the EC implemented its ban on imports of hormone-treated meat on January 1, 1989, as planned. The U.S. Government retaliated the same day. Because U.S. officials estimated that the ban would cause U.S. exporters to lose about \$100 million annually in sales to Europe, the United States retaliated by imposing 100-percent tariffs on an assortment of imports from the EC worth an estimated \$100 million. The European goods targeted by the retaliatory measure were boneless beef, processed pork hams and shoulders, prepared or preserved tomatoes, soluble or instant coffee extracts, some fermented beverages with less than 7-percent alcohol content, some fruit juices, and packaged pet food.

Fears of a spiraling trade war worsened on January 5 when the EC Commission composed a list of U.S. products on which counterretaliatory tariffs would be imposed. At a meeting on February 18 and 19, U.S. and EC officials agreed to establish a joint task force to help ease the trade war tensions.

On May 3, the task force officials signed an interim agreement on how to set up a certification system to allow U.S. exporters to resume shipments to Europe of high-quality beef that is hormone free. This type of beef represents about 15 percent of total U.S. beef exports to the EC affected by the ban. The United States exports three categories of beef to the EC: high-quality beef, variety meats for pet food, and variety meats for human consumption. (The inner organs, such as livers and hearts, and head meat of animals are referred to as variety meats or offals.) The ban halted virtually all U.S. exports of beef to the EC, with the exception of variety meats imported for pet food, which were exempted from the ban. Meat other than beef accounts for only a small portion of total U.S. meat exports to the EC and is generally unaffected by the ban since it is not treated with growth hormones. Because veal also is untreated,

⁵ For a complete discussion of the history of the U.S.-EC hormone conflict, see USITC, *Operation of the Trade Agreements Program*, 39th Report, 1987, USITC Publication 2095, 1988, p. 4-7, and USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 85. The EC hormone ban was implemented in response to consumer concerns that meat from animals treated with hormones poses a health risk. The U.S. Administration has argued that the ban is not based on scientific evidence and therefore, constitutes an unjustifiable restriction to trade.

the EC agreed in June to permit imports of U.S. veal. The United States pledged to modify its retaliation list to the extent that U.S. meat exports resumed.

The Administration welcomed the interim agreement but argued that it does not address the fundamental U.S. concern that the ban is an unfair barrier to trade. Also, the agreement did not resolve the dispute over U.S. exports to the EC of variety meats for human consumption, which account for about 85 percent of total U.S. beef exports to the EC covered by the ban.

In the meantime, industries and consumers on both sides of the Atlantic are experiencing the consequences of the hormone dispute. Efforts to increase U.S. exports of hormone-free beef to the EC, particularly from Texas, resulted in only small shipments by year end because of the relatively high production costs involved in abandoning hormone injections. As a result, relaxation of U.S. retaliatory measures on EC products (pork hams and shoulders and tomato sauce) amounted to only about \$4.3 million by the end of 1989. The EC Commission has also been under pressure to find a solution, primarily from European meat processors and Italian tomato producers.

In December, the U.S. Congress approved legislation requiring U.S. military bases in Europe to purchase U.S. beef. The U.S. military market for beef in the EC is estimated to be worth \$55 million annually and will require the United States to offer subsidies to cover transportation costs and the differences in price between the EC and U.S. stock. Although the EC requested that the United States modify its retaliation measures, U.S. officials responded that the legislation was unrelated to the hormone conflict.

By year end 1989 the hormone dispute remained little changed from one year earlier. Efforts to settle the issue in the GATT throughout the year continued to be unsuccessful. The United States hoped to resolve the issue under the GATT Standards Code, but the EC repeatedly blocked the U.S. request to establish a technical experts group to evaluate the effect of hormone usage on consumers. The EC requested that a GATT dispute settlement panel rule on the legality of U.S. retaliatory measures, but the United States blocked this request. U.S. officials argue that the GATT panel would only examine one side of the issue and would not judge the validity of the ban.

Moratorium on Dairy-enhancing Hormone, BST

A ban threatened by the EC on the use of the dairy-enhancing hormone bovine somatotropin

(BST)⁶ sparked serious concern among U.S. officials in 1989. Debate over whether the Community should authorize the use of BST has been based in part on the so-called fourth criterion. The traditional criteria used to judge veterinary substances for use in livestock are safety, quality, and effectiveness. The fourth criterion allows socioeconomic considerations to become a relevant factor. The United States opposes the introduction of socioeconomic factors in approving new substances on the grounds that only scientific criteria are relevant.

The EC Commission originally considered presenting a proposal calling for a moratorium on the use of BST and similar substances affecting animal growth until July 30, 1991. The purpose of the ban was to provide time for internal EC study of the bioengineered hormone. However, reportedly in response to U.S. Government pressure, on September 13 the EC Commission issued a redrafted proposal calling for an "evaluation period" ending December 31, 1990, to provide time to conduct scientific studies of BST and consultations with third countries. During this time, member states are not permitted to authorize the administration of BST to dairy cattle except for research purposes.⁷

Socioeconomic arguments raised during EC debates over the merits of approving the use of BST in the Community include the following. Some EC representatives fear that wide-scale use of the hormone by large EC farms could result in lower prices and force smaller dairy producers out of business, thereby hastening the long-term consolidation of the dairy cattle sector. A large share of dairy farmers in the EC, especially in West Germany, are small-volume producers. People who support the traditional EC view that small-volume agriculture producers are desirable, in part, for employment and cultural reasons, strongly oppose BST. Also, the EC has experienced chronic and expensive surpluses of dairy products and some officials question the advisability of a product that increases dairy production. Other observers are concerned that BST has potential health and safety problems for consumers as well as treated animals. A consumer scare over milk from cattle treated with the

⁶ BST is a naturally occurring protein that stimulates lactation in cows. It can also be produced synthetically and can increase milk yields in dairy cattle by up to 25 percent.

⁷ In March 1990, the Agriculture Committee of the European Parliament adopted the Happort report on BST. This report went one step further than the proposal for a temporary moratorium by calling for a ban on BST to remain in place until detailed research has shown conclusively its socioeconomic and environmental consequences and its effect on the health of animals and consumers. Nonetheless, in April 1990 the EC's Agriculture Ministers approved the proposal for a moratorium ending Dec. 31, 1990 with one amendment that requires that any testing of BST be conducted under strict scientific and technical guidelines and be registered with Commission officials.

hormone could exacerbate the already serious EC surplus in dairy products, officials fear. Moreover, EC officials note that the U.S. Food and Drug Administration (FDA) has yet to approve BST except for purposes of scientific research, despite an earlier finding by the FDA that meat and milk from BST-treated animals are safe for human consumption. Indeed, BST is also controversial in the United States for reasons of food safety, safety of the cow, effect on the economics of the dairy industry, and the effect on small farms.⁸

U.S. Government officials are particularly concerned over the EC's possible application of the fourth criterion as a justification for prohibiting BST on grounds that only scientific criteria should constitute legitimate considerations in assessing the use of new substances. Agriculture Secretary Clayton Yeutter has stated that EC enactment of the ban would contravene international commitments made during the Uruguay Round of multilateral trade negotiations.⁹ At the April 1989 Trade Negotiations Committee meeting of the Uruguay Round, countries agreed to ensure that restrictions designed to protect the health of humans, plants, or animals are not merely disguised trade barriers but are enacted on the basis of sound scientific evidence.¹⁰ Studies conducted on BST to date in both the United States and the EC have uncovered no scientific basis for concerns over consumer safety. However, as of year end 1989 the FDA and the EC were still reviewing data on animal safety, safety to the environment, and drug effectiveness.

The EC Commission intends to submit, by October 1, 1990, a report to the EC Council and the European Parliament on developments in the BST issue, along with necessary proposals. The EC Council will then render a decision regarding whether or not to approve BST by December 31, 1990.

Canned Fruit

During 1989, the United States complained that the EC was not complying with the 1985 U.S.-EC Canned Fruit Agreement. The USTR initiated an investigation, but it was soon terminated when the Community agreed to lower its subsidies on canned fruits.

⁸ In fact, the GAO was recently requested to study the FDA's process for approving BST. Also, certain states have taken steps to ban BST until July 1991.

⁹ In March 1990 under the "early warning system" of the Uruguay Round, the United States noted that there is no basis in GATT for prohibiting importation of a good on the basis of a deemed lack of economic or social need. (Under the early warning system, the Uruguay Round Surveillance Body serves as a forum for countries to raise "early warning" concerns of potential measures, which have not passed national legislatures or have not been implemented, in order to prevent measures that may undermine the Uruguay Round or the GATT.)

¹⁰ For more information, see ch. 2.

The U.S.-EC Canned Fruit Agreement ended a long-running dispute that began in 1981 over EC subsidies to processors of certain fruits.¹¹ Under the Canned Fruit Agreement, the EC agreed to cut its processing aids to peach canners by 25 percent in the 1986-87 farm year, and to phase out processing aids for peaches, either canned or as part of fruit mixtures, in subsequent years. The United States agreed to accept previous reductions in the processing subsidies for canned pears.

In August 1988, the U.S. Government informed the EC that the Community was violating the agreement. European officials argued that the subsidies were in compliance with the accord. Disagreement over the new subsidy levels as well as the methodology used to calculate the allowable subsidy continued throughout 1988 and into 1989. In March 1989, U.S. officials warned the EC that domestic pressures could force the United States to retaliate against Community exports should the EC not reduce its subsidies. Soon after, on May 8, 1989, the USTR initiated an investigation to determine whether the subsidies issue could be appropriately handled under section 301 procedures. A list of EC products targeted for potential restrictions under section 301 was drawn up, including primarily spices and preserved fruits and vegetables.

Greece, Spain, and Italy are the primary recipients of the subsidies to processors of canned fruit. The U.S. industry argued that these subsidies blocked U.S. exports of canned fruit to the EC altogether, and threatened to hurt U.S. markets in Canada and Japan, as well as at home. Estimates of the cost to U.S. producers generally ranged between \$6 and \$10 million annually. U.S. Department of Commerce statistics indicated that U.S. imports from the EC of certain prepared or preserved (including canned) peaches increased from nearly \$7 million in 1987 to close to \$20 million in 1988.

On June 30, 1989 the USTR announced that Community officials had agreed to lower EC subsidies to processors of canned peaches and pears. The reduction covers the 1989-90 farm marketing year that began on July 1, 1989. The two sides also clarified the interpretation of the 1985 agreement with regard to the methodology for determining allowable subsidy rates so as to forestall future disputes. The USTR determined

¹¹ These subsidies were intended to compensate processors for high costs resulting primarily from high minimum grower prices paid to the growers for their fruits. However, a GATT panel report issued in July 1984 found that the production aids granted to processors of canned peaches, canned pears, and canned fruit mixtures (fruit cocktail) nullified and impaired tariff concessions granted by the EC on those products and suggested that the EC restore the competitive relationship between imported U.S. and domestic EC canned fruit. The panel report was never adopted, but warnings of possible U.S. retaliation led to a settlement.

that the EC subsidies had denied U.S. rights under the GATT, but that the EC had taken satisfactory measures towards resolving the issue. Consequently, the USTR terminated the section 301 investigation on October 1, 1989.

Steel

Steel production in the EC rose to 139.8 million tons in 1989, an increase of 1.5 percent over the previous year. In the United States, steel output dropped by 2 percent to 88.9 million tons in 1989.

On July 25, 1989 the President announced a Steel Trade Liberalization Program, which extended the voluntary restraint agreement (VRA) program until March 31, 1992. The President's program also called for negotiating an international consensus on effectively disciplining government aid and intervention in the steel sector by eliminating subsidies and market access barriers. The United States aims to have a broad agreement in place under GATT by March 1992.¹²

As part of the steel program, on November 20, 1989, the United States and the EC concluded a VRA covering EC exports of steel to the United States. The EC Commission also agreed at that time to sign a second pact with the U.S. Government that would gradually eliminate subsidies and import barriers in the steel sector in the United States and the EC.¹³

The U.S.-EC VRA on steel, which runs from October 1, 1989 through March 31, 1992, replaces a previous agreement that expired on September 30, 1989. The new agreement raises the EC share of the U.S. steel market from 6.8 percent to 7 percent (6 million tons). Under an EC-determined "burden sharing" formula, West Germany will account for about 30.5 percent of the total quota allocation, France 19.3 percent, Belgium 11.4 percent, Spain 10.7 percent, the United Kingdom 8.6 percent, the Netherlands 8.6 percent, and Italy 5.7 percent.¹⁴ The other member states, with the exception of Ireland (which has only a small steel industry), were allocated the remainder of the quota.

¹² For more information, see ch. 5.

¹³ In January 1990, the United States and the EC complied with the second goal of the Steel Trade Liberalization Program by reaching agreement to eliminate market distorting practices in the steel sector. The agreement is effective through March 1992 and is expected to provide a model for steel negotiations currently being conducted in the Uruguay Round. In general, the accord states that the United States and the EC will liberalize tariffs and nontariff barriers to trade in steel bilaterally and support mutual efforts in the GATT to achieve a global solution to market distorting practices. More specifically, the accord establishes a general prohibition on export subsidies while permitting other subsidies under certain circumstances, including certain research and development programs, environmental protection, plant closures, and certain social purposes.

¹⁴ These figures do not include agreements reached on pipe and tube.

U.S. steel industry officials were generally satisfied with the agreement although they had supported an extension of the VRA for 5 years with no changes. However, at least some U.S. steel consumers argued that the VRAs should be modified or even eliminated because they believed that the arrangements had led to increased prices and shortages of domestic steel in the U.S. market.

Although EC Commission officials stated that they would have preferred no constraints on access to the U.S. market, they favored the new deal over the previous arrangement for two reasons. First, the EC's U.S. market share was increased and second, a clause in the agreement facilitates EC shipments above the quota when product shortages are foreseen in the U.S. market.

Community steel manufacturers were less enthusiastic about the new agreement. Some representatives expressed regret that the United States had refused to allow quantities of steel that were not exported under the previous agreement to be carried over into the new one. Others were disappointed that the U.S. Government had been more generous in bilateral agreements with its other trading partners, including East European countries, South Korea, and the nations in Latin America. EC steel industry officials also complained that the agreement contained detailed quotas for 32 steel products and was therefore far too rigid in comparison with U.S. agreements with other countries, which covered only a small number of large families of products. Finally, because Spain and Portugal were not members of the EC when the last U.S.-EC steel agreement was negotiated, they believed that the EC share of the U.S. market should have been increased more to reflect shares of the U.S. market held by those two countries under their own agreements with the United States prior to their accession to the Community.

Airbus

Little progress was achieved during 1989 in the ongoing U.S.-EC dispute over U.S. claims of unfair subsidization of Airbus Industrie, a European aircraft manufacturing consortium. Although U.S. producers are benefiting from strong worldwide demand for aircraft, the U.S. Government and industry still strongly oppose Airbus support which places U.S. firms at a disadvantage. Unlike their European competitors, U.S. producers must bear the full market risks for new aircraft development and production, thereby limiting their profit margins and ability to invest in new technologies for future competition.

Airbus Industrie is a public/private corporation co-owned by Aerospatiale of France, Deutsche Airbus of West Germany, British Aerospace, and Construcciones Aeronauticas (CASA) of Spain. (Spain owns less than a

5-percent share in the company.) The U.S. Administration charges that government subsidies to Airbus builders and other unfair trade activities, including political and economic incentives to potential customers of Airbus, are inconsistent with the Agreement on Trade in Civil Aircraft, one of the Tokyo Round codes. Specifically, articles 4 and 6 prohibit unfair inducements for potential purchasers and trade-distorting subsidies, respectively.¹⁵

Bilateral consultations held in May and July failed to make significant progress. No further meetings were scheduled during 1989 pending a new EC proposal.

During the spring of 1989, U.S. officials considered citing financial support for Airbus as a priority practice under Super 301. However, on May 26, the President decided to pursue these concerns in both bilateral and multilateral fora.

In a related matter, the U.S. Government grew particularly concerned over an exchange rate scheme devised by the West German Government in the context of privatizing Messerschmitt-Bolkow-Blohm (MBB) and its wholly owned subsidiary, Deutsche Airbus. Efforts to shift some of MBB's 52.5-percent public ownership to the private sector through a Daimler-Benz-MBB merger were made conditional on the German Government's ability to cover the financial risks of current and future Airbus projects. In late 1988, the German Government approved a merger between MBB and Germany's largest company Daimler-Benz, including a support package deemed necessary to induce Daimler-Benz to assume responsibility for MBB's Airbus participation and reduce long-term government investment. In November 1989, the largest merger in German history took place and a new Deutsche Airbus subsidiary was formed, which is 80-percent owned by Daimler-Benz-MBB and 20-percent owned by the German Government. Under the merger agreement, Daimler-Benz-MBB will take over a 100-percent stake in Deutsche Airbus by December 31, 1996.

Of greatest concern to the United States in the support package is a government-financed exchange rate guarantee scheme for Airbus sales until the year 2000. The exchange rate proposal grew out of increasing concern over the weakened dollar—the currency of the civil aviation market—on Airbus profit margins. EC officials claimed that rising production costs for Airbus relative to its U.S. rivals required that currency fluctuations be taken into account.

The USTR warned that the exchange rate risk package sets a dangerous precedent and

¹⁵ For more background information, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 89.

would greatly increase trade tensions across the Atlantic. On March 20, 1989, the United States requested consultations with the EC under the Subsidies Code to discuss the exchange rate subsidy plan. Informal consultations were held in May, and in December the United States requested conciliation under the Code's dispute settlement provisions.

Canada

Overview

The Canadian economy experienced a slowdown in 1989, bringing to an end a 6-year period of vigorous expansion. Real gross domestic product grew during the year at 2.5 percent, down from 4.5-percent-growth in 1988. This slowdown can be partially attributed to high interest rates and their effect of decreasing investment and increasing the value of the Canadian dollar. Labor productivity stagnated, and new factory orders declined by 8.5 percent at an annual rate. Capacity utilization began to fall in the second quarter of 1989 and remained slightly above the 1972–1982 average, at around 82.5 percent.

Inflation, as measured by changes in the GDP implicit price deflator, increased to 5.3 percent, up from the 1988 level of 4.1 percent. Inflationary pressures in 1988 had been masked by the appreciation of the Canadian dollar and the decline in world energy prices. Wage pressures were primarily responsible for leading the price level increases in 1989. Canadian monetary authorities countered these inflationary trends by pursuing a restrictive monetary policy through the first 9 months of 1989. Interest rates increased dramatically—the Canadian money-market interest rate for the year averaging 12.2 percent, up from 9.6 percent in 1988. The comparable U.S. rate was 9.3 percent in 1989.

Unemployment decreased slightly from 1988, and the annual average for 1989 was 7.6 percent. The gains in employment came mainly from the service and the transportation sectors. There is a definite disparity among unemployment rates of the provinces, ranging from 5 percent in Ontario to 16 percent in Newfoundland.¹⁶

The Federal budget deficit, which peaked in 1985 at \$31.4 billion (Canadian), continued to pose a problem for the government. In 1989, the general government deficit totalled \$21.9 billion (Canadian).¹⁷ To combat this deficit, the Canadian Government attacked on two fronts: imposing spending restraint and introducing a new Goods and Services Tax to be implemented on January 1, 1991. The Canadian

¹⁶ *Canadian Economic Observer*, Nov. 1989, p. 5.103.

¹⁷ *OECD Economic Outlook*, p. 82.

Table 8
U.S. trade with Canada, by HTS sections, 1987-89
(1,000 of dollars)

Section	1987	1988	1989
<i>U.S. exports</i>			
1 Live animals; animal products	321,385	350,124	424,114
2 Vegetable products	772,999	877,958	1,024,061
3 Animal or vegetable fats, oils, and waxes	42,643	45,048	73,298
4 Prepared foodstuffs, beverages, and tobacco	684,387	773,970	766,733
5 Mineral products	1,908,829	1,952,926	2,206,793
6 Products of the chemical and allied industries	2,598,058	3,030,669	3,539,258
7 Plastics and rubber, and articles thereof	1,731,605	1,992,345	2,140,673
8 Hides and skins; leather and articles thereof	276,102	284,979	194,969
9 Articles of wood, cork, or plaiting material	468,706	542,618	647,978
10 Wood pulp, paper, paperboard, and articles thereof ...	1,470,363	1,788,154	1,848,201
11 Textiles and textile articles	685,328	777,936	863,841
12 Footwear, headgear, and artificial flowers	34,957	43,226	47,291
13 Articles of stone or ceramics; glass and glassware	543,808	621,872	640,645
14 Pearls; precious stones and metals; jewelry, coin	759,235	753,456	550,030
15 Base metals and articles of base metals	2,306,022	3,012,095	3,243,241
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	12,972,683	14,580,896	15,354,863
17 Vehicles, aircraft, and other transport equipment	16,182,530	18,320,127	17,876,216
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments .	1,465,952	1,615,500	1,702,490
19 Arms and ammunition; parts and accessories thereof ..	21,576	26,808	131,902
20 Miscellaneous manufactured articles	524,060	681,019	646,029
21 Works of art, collectors' pieces, and antiques	42,034	40,812	44,477
22 Special classification provision	11,187,787	16,130,650	21,010,367
Total	57,001,048	68,243,191	74,977,469
<i>U.S. imports</i>			
1 Live animals; animal products	2,062,589	2,086,490	2,295,282
2 Vegetable products	471,762	591,153	719,254
3 Animal or vegetable fats, oils, and waxes	37,582	74,581	91,999
4 Prepared foodstuffs, beverages, and tobacco	1,217,338	1,245,118	1,327,130
5 Mineral products	7,367,161	7,495,125	8,618,783
6 Products of the chemical and allied industries	2,680,266	3,239,515	3,291,055
7 Plastics and rubber, and articles thereof	1,852,177	2,163,156	2,380,997
8 Hides and skins; leather and articles thereof	255,222	236,635	213,173
9 Articles of wood, cork, or plaiting material	3,774,275	3,684,164	3,880,065
10 Wood pulp, paper, paperboard, and articles thereof ...	7,445,462	8,458,334	9,295,841
11 Textiles and textile articles	435,204	504,043	561,058
12 Footwear, headgear, and artificial flowers	56,634	64,436	73,217
13 Articles of stone or ceramics; glass and glassware	537,705	566,043	576,714
14 Pearls; precious stones and metals; jewelry, coin	1,096,472	1,044,165	1,326,427
15 Base metals and articles of base metals	5,939,582	7,578,491	8,184,943
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	8,309,136	9,585,197	11,202,820
17 Vehicles, aircraft, and other transport equipment	22,194,526	26,590,975	27,881,124
18 Optical, photographic, measuring and medical apparatus; clocks and watches; musical instruments .	663,526	672,134	635,093
19 Arms and ammunition; parts and accessories thereof ..	51,082	57,531	70,643
20 Miscellaneous manufactured articles	1,234,645	1,370,301	1,430,149
21 Works of art, collectors' pieces, and antiques	115,011	110,869	52,274
22 Special classification provisions	3,053,268	3,260,164	3,879,611
Total	70,850,625	80,678,621	87,987,651

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

Government has set the following targets for reducing the deficit: by CAN \$5.2 billion in FY 1989/1990 and by CAN \$9 billion in FY 1990/1991.¹⁸

The Canadian current account balance for 1989 was a negative \$18 billion. Exports were weakened due to the sagging U.S. automobile demand, the slowing of Canadian grain production due to the 1988 drought, and the appreciation of the Canadian dollar. Imports to Canada increased due to the increasing value of the Canadian dollar. The Canadian dollar appreciated to a level of \$.86 (U.S.) in October up from an average of \$.8125 in 1988 and then leveled off. This appreciation in value can be attributed to the dramatic rise in interest rates.

Bilaterally, the U.S. merchandise trade balance with Canada remained in deficit in 1989 and increased by nearly 5 percent to \$13 billion. This occurred while U.S. exports of automobiles, the single most significant category of shipments to Canada, declined from 1988 levels.

The general state of U.S.-Canadian economic relations in 1989 was upbeat. Given the volume of trade between the two countries, each being the other's most significant trade partner, a certain number of trade disputes is practically inevitable. However, commercial relations are now characterized by the new free trade agreement (FTA) that began in 1989. Events of the year demonstrated the usefulness of the new pact and its mechanisms for the resolution of bilateral differences.

United States-Canada Free-Trade Agreement

Accelerated Duty Reduction

The most significant bilateral event in 1989 was the inauguration of the Free-Trade Agreement (FTA) on January 1. Products receiving tariff protection were put in one of three categories under the terms of the pact: those eligible for immediate tariff elimination, those eligible for tariff elimination over 5 years, or those eligible for tariff elimination over 10 years. By January 1, 1998, all items traded between Canada and the United States will be free of duty. However, under the Free-Trade Implementation Act of 1988, the President has the authority to accelerate the tariff reduction schedule after consultations with advisory committees, Congress, and the United States International Trade Commission (ITC). Companies on either side of the border can request expedited tariff removal which is granted if both governments agree to the change.

In 1989, more than 300 Canadian firms and over 200 U.S. firms petitioned their respective governments for expedited tariff reductions which

would go into effect on January 1, 1990. The 2200 Canadian tariff provisions and the 2800 U.S. tariff provisions included in the petitions covered products from virtually all industry sectors, including chemicals, plastics, machinery, metals, textiles, and agriculture. Before assembling the final list that would be taken to the negotiating table, both governments requested comments from interested parties. Between 600 and 700 letters encouraging accelerated tariff reduction were received by various government agencies in Washington. Of the 112 submissions received by the ITC, only 22 opposed early elimination of the tariffs.¹⁹ Although approximately 1,000 submissions were received in Canada, these comments remain confidential. Neither government proceeds with an accelerated tariff reduction unless it is supported within the industry and is perceived to be aligned with the national interest.

Meetings by Canadian Trade Minister John Crosbie and USTR Carla Hills reached an agreement that would eliminate tariffs covering about (U.S.) \$6 billion worth of bilateral trade. The tariff elimination package went into effect in April 1990 and will affect the following goods: methanol, photographic film, telecommunications equipment, aluminum products, and diesel locomotives. This list of goods scheduled for accelerated tariff reduction was cut down considerably from the original petitions.

Though many industrial sectors sought quicker tariff reduction, certain sectors continue to worry that they will lose their tariff protection quicker than anticipated. In the United States, the leading critics are in the basic resources: fish, agriculture, and minerals. In Canada, textile manufacturers, printing companies, and packagers reflect the same concern.

Dispute Resolution Under the FTA

Since both Canada and the United States are signatories to multinational GATT codes, procedures covering antidumping (AD) and countervailing duties (CVD) investigations are virtually the same in both countries.²⁰ Over the last 6 years, Canadian exporters have faced over 50 U.S. trade law actions. Often these apply to the four-fifths of Canadian-United States trade which is "tariff free."²¹ In recent years, CVD and AD cases have been among the most conspicuous hurdles in Canada-United States trade relations. The FTA provided for dealing with certain aspects of AD and CVD matters through the establishment of a bilateral dispute resolution mechanism. The central feature of the mechanism is the replacement of the domestic judicial review of determinations in AD and CVD

¹⁹ "Mandarins Sift Replies on Levies," *The Globe and Mail*, Toronto, Canada, Oct. 2, 1989.

²⁰ Andrew Anderson and Alan Rugman, "The Canada-U.S. Free Trade Agreement: A Legal and Economic Analysis of Dispute Settlement Mechanisms," *Law and Economics Review*, vol. 13, 1989, p. 45.

²¹ *Ibid.* p. 43.

¹⁸ *Ibid.*

cases involving binational imports with the binational panel review.²² Under the FTA, five-member dispute settlement panels are able to review decisions to impose duties on imports considered to be unfairly subsidized or dumped. These panels will decide whether government trade laws have been properly applied.²³

The dispute resolution mechanism can be applied if one of three conditions exists: (1) one of the parties feels that "fair and predictable conditions for progressive trade resolution" has not taken place and has violated the spirit of the FTA, (2) disputes arising or negotiated under GATT are applied to AD or CVD laws and found to be inconsistent with either the GATT or the FTA, or (3) the AD or CVD case is not in accordance with the law of the importing country. Either Canada or the United States may call for the application of the dispute resolution mechanism.

The binational panels will be established in the following manner. Panels will be set up within 30 days of one of the countries' violation based on the administrative record of a final AD or CVD case. Each panel will consist of two panelists chosen from a United States roster, two panelists chosen from a Canadian roster, and a fifth panelist (United States or Canadian) chosen by agreement among the existing panelists. Either Canada or the United States can request a panel review if they think that any trade law has been applied in a way that violates the FTA.

Since the institution of the FTA, this dispute resolution mechanism has been used on several occasions. The first panel met on October 13, 1989, to review a U.S. Commerce Department decision in an antidumping action against Canadian-made parts of bituminous paving equipment.²⁴ Six other important cases have recently been challenged by the Canadian Government: (1) an antidumping ruling on Canadian red raspberries; (2) an administrative review of antidumping duties on Canadian codfish; (3) a countervailing duty determination on Canadian pork; (4) a countervailing duty ruling on Canadian steel rails; (5) an antidumping ruling on Canadian steel rails; and (6) an injury ruling in the steel rails case.²⁵ The case involving countervailing duty on Canadian codfish was terminated, and at yearend the others were yet to be decided. Pursuant to a U.S. complaint, a panel examined a Canadian antidumping ruling

²² United States International Trade Commission, 19 CFR Part 207, Subpart G, "Panel Review Under Article 1904 of the United States-Canada Free Trade Agreement."

²³ "U.S. Official Questions Trade Dispute Panels," *Toronto Star*, June 1, 1989.

²⁴ "First Binational Panel Under FTA Meets Today To Review Commerce Ruling," *Inside U.S. Trade*, Oct. 13, 1989, p. 14.

²⁵ *Ibid.*

against U.S. industrial motors.²⁶ This case was terminated by joint consent of Canada and the United States. The above appeals have been in protest of affirmative rulings, but negative rulings can also be appealed.

The FTA also makes provision for dispute resolution that does not involve antidumping and countervailing duty cases. Chapter 18 of the FTA establishes a commission which supervises the implementation of the FTA, resolves any disputes that may arise over its interpretation and application, and oversees its further elaboration or any other matter that may affect its operation. One chapter 18 panel, involving review of Canadian landing requirements of salmon and herring, rendered its decision in October 1989. The panel ruled that the landing requirements were not consistent with the GATT. The report suggested, but did not recommend, that Canada solve its problems by lowering its landing requirements from 100-percent to 80- or 90-percent so that the remaining amount could be sold directly to the United States.

Conflicts may also be solved through the decisions of arbitration panels. Chapter 11 of the FTA is known as the "Emergency Action" or "Escape Clause," and it is broken down into two sections: "Bilateral Actions" and "Global Actions." These two sections allow for tariff protection of certain injured industries under specific conditions. "Bilateral Actions," which are available only through 1998, can be taken for a maximum of 3 years or through the transition period and requires consent of the other party. "Global Action" provisions allow Canada's exports to be excluded from U.S. global action if its shipments to the United States constitute "in the range of five percent to ten percent or less of total (U.S.) imports. Similar conditions apply for U.S. exports into Canada.

Regional Effects of the FTA

The FTA has been in operation for one year, and both positive and negative reviews are being promulgated. Even though it is early to be making final judgments, some regions have already demonstrated "side effects" as a result of the agreement. Since January 1, 1989, economic performance within the provinces ranges from "questionable" in Ontario to "prosperous" in Quebec. In the United States, many border regions are experiencing greater interaction with Canada. Buffalo, N.Y., seems to be a prime example of a U.S. success story.

When the FTA was being negotiated, many Ontario businessmen joined the Liberal Government in opposing the deal with the United States. The businessmen were concerned that

²⁶ Gilston, Samuel M. (editor and publisher), "Workload of U.S.-Canada Panels Will Mushroom," *Washington Tariff and Trade Newsletter*, Sept. 4, 1989, p. 2.

removal of tariffs would threaten the strong manufacturing base that was established in Ontario. Since January 1, 1989, there have been some noticeable slowdowns in the Ontario economy. Ford Motor Company for example, extended the summer shutdown of its Ontario Plant from 3 to 8 weeks.²⁷ Other examples of Ontario's economic slowdown are the plant closings of Gerber Canada and PPG Canada. These two shutdowns accounted for the loss of 490 jobs.²⁸ Canada's Federal Minister of State for Finance, John McDerimid, acknowledges that Ontario has experienced plant closings that have been related to the FTA.²⁹ The Canadian exchange rate and slowing U.S. demand may be partially responsible for Ontario's slowdown, but it is still too early to tell how much of a role the FTA has played in the Ontario decline.

Quebec, on the other hand, seems to be experiencing a new emergence. Businessmen of the province were among the early, enthusiastic supporters of the FTA. Since its inception, the FTA seemed to spur new markets for French Canadian firms. Success stories include Bombardier (snowmobiles and rapid transportation), SNC Group (builder, engineer, and armament maker), and Provigo (grocery store chain). The Province of Quebec also has several characteristics which make it less threatened by the FTA. First, Quebecers are less dependent on U.S. multinationals than are their English-speaking counterparts. This makes them less vulnerable to the employment shifts of the multinationals. Second, it is argued by some that the French language shields Quebec's economy from being overwhelmed by the influence of U.S. multinationals. Third, Quebec's popular tax breaks for shareholders have created a vocal free-trade advocacy. Quebec seems to be poised to take advantage of the benefits of the prosperous U.S. market that the FTA has enhanced.³⁰

On the U.S. side, Buffalo, N.Y. is an example of a U.S. beneficiary of free trade. Located only 2 hours from Toronto, Buffalo has been experiencing a rebirth for the past 2 years.³¹ Toronto's cosmopolitan economy has directed Canadian eyes southward to the affordable city of Buffalo. First-class office space in downtown Buffalo can be leased for Can \$18 a square foot,

²⁷ "The Trade Pact is Turning into a One Way Street So-Far," *Business Week*, July 17, 1989, p. 76.

²⁸ "Making a Connection Between Open Markets and Closed Plants," *The Globe and Mail*, Toronto, Canada, Dec. 7, 1989.

²⁹ "Free Trade Has Closed Plants, Federal Minister Acknowledges," *The Globe and Mail*, Toronto, Canada, Oct. 21, 1989.

³⁰ The failure of the Meech Lake Accord, by which Quebec was to formally accept a new Canadian constitution, in June 1990 has opened up a new set of questions regarding the nature of continued affiliation of the province with the rest of Canada.

³¹ "Lured by New Look, Free Trade Canadian Firms Flock to Buffalo," *The Globe and Mail*, Toronto, Canada, Aug. 1, 1989.

compared to \$50 in Toronto. After the FTA was implemented, many Canadian firms began to realize that Buffalo could be a geographic springboard into the new U.S. market. Since 1987, 450 Canadian firms have settled in the Buffalo area.³² With the FTA in effect, Buffalo should become even more attractive to Canadian firms seeking access to the U.S. market.

The FTA has also had the effect of increasing same day visits to the United States by Canadians. During the first 9 months of 1989, same day visits to the United States rose 19.1 percent, compared to the same period a year earlier.³³ Much of the increase in travel is due to Canadians who travel to the United States to shop and buy gasoline. Two possible explanations account for this increase in cross border commerce. The exchange rate is one possible explanation. In 1989, the Canadian dollar appreciated to \$.8600, up from \$.8125 in 1988. The higher exchange rate makes U.S. goods less expensive for Canadian consumers. The higher Canadian dollar gives an incentive to Canadian consumers to buy cheaper U.S. goods. Another explanation for the increase in commerce is the institution of the FTA. Since the inception of the FTA, Canadians may perceive the U.S. market as being more open, and as a result, they may increase their purchases from the nearby United States.

Goods and Services Tax

On August 8, 1989, Canadian Prime Minister Brian Mulroney announced that in 1991, a 9-percent value-added tax on most goods and services would be implemented. This new tax will permit the repeal of the existing manufacturers' excise tax. The current manufacturers' sales tax is considered to be a significant drag on the Canadian economy, and the Government of Canada has opted to replace it with a broader based Goods and Services Tax (GST). The GST plan, which is revenue neutral, will shuffle the existing Canadian tax burden without increasing it. Under GATT regulations, the existing manufacturing excise tax may not be rebated on exports, but the GST may be.³⁴ The proposed Goods and Services Tax has been criticized by both provincial and federal government officials. The Canadian Government argues that the value-added tax enhances savings and investment by dampening consumption.

The Mulroney Administration views the current tax as being outmoded. The current manufacturers' excise tax actually favors U.S. exports to Canada over domestic Canadian products. Current excise taxation imposes varying tax rates over the stages of manufacturing and

³² *Ibid.*

³³ "Free Trade Pact Draws More Canadians to U.S.," *Cleveland Plain Dealer*, Nov. 25, 1989.

³⁴ Cliff Massa and David Ragboy, "The Canadian Value Added Tax: Does Anybody Care?" *Tax Notes*, Oct. 23, 1989, p. 481.

distribution. Imported goods can avoid being taxed on subsequent marketing and distribution costs which are included in the tax base for Canadian producers. Since taxes paid by a producer contribute to his cost of production, U.S. importers have a cost advantage over Canadian producers because the manufacturers' excise tax forces Canadian producers to pay higher taxes. Because the GST will replace the manufacturers' excise tax, the tax burdens on Canada's domestic producers, exporters, and importers, are likely to be substantially rearranged. U.S. producers will lose the advantages they had over Canadian domestic producers under the current tax. Ottawa's fiscal planners continue to focus on correcting the federal budget deficit. The GST will help the planners confront deficit and debt problems.

The GST is a value-added tax. A "value-added tax" can basically be defined as a proportionate tax on the incomes of the factors of production—that is the incomes to capital and labor. The value-added for a company is calculated by subtracting the value of the inputs which it purchases from the value of the product which it sells. Canada's proposed GST calls for a 9-percent federal tax rate that will apply to a broad base of manufacturing, distribution, and service activities. If implemented, the GST will substantially alter the costs of both importing into Canada and competing with Canadian exports.³⁵ By combining the proposed GST tax with provincial sales taxes, combined tax rates will run even higher than 9 percent.

Opponents of the GST attack the value-added tax on several different grounds. First, the GST tends to be a regressive tax. Second, the tax will cause Canada to adjust its levels of imports and exports. Third, the GST tends to tax necessities such as food, housing, and medical care. Finally, the GST causes higher prices to consumers, and as a result, there will be a negative impact on inflation. A 9-percent GST is projected to increase inflation by 2.25 percent.³⁶

The Government of Canada counters the above arguments in the following manner. First, the value-added tax enhances savings and investment by dampening consumption. Second, increased domestic growth will occur due to a more efficient tax system that uses border tax adjustments to encourage exports and discourage imports. Finally, the regressivity can be efficiently offset by refundable income tax credits available to targeted groups, instead of general exemptions under the GST.³⁷

If the proposed GST is imposed in 1991, the United States could experience some negative effects. Since over 20 percent of U.S. trade moves across the border in both directions, this

20 percent of U.S. trade would now be subject to the new value-added tax. Another negative effect that will be felt by the United States will be the loss of the "positive discrimination" advantages U.S. producers had over Canadian producers under the manufacturers' excise tax.

This GST issue is seen by the Mulroney Government as a method to improve the efficiency and growth potential of the Canadian economy, and also to contribute to Canada's commitment to the G-7 nations to improve its fiscal accounts. Thus far, preliminary negotiations and hearings have illustrated that the GST will not pass without a legislative battle. Early concessions already made by the Mulroney Government exempt basic groceries, prescription drugs, and medical devices from the GST. Further government concessions also include exempting financial intermediation service, residential rents, health and dental services, day-care, legal aid, and most education services.³⁸

Political bargaining continues. Some recommendations have been made, by the Commons Finance Committee to Report on GST, that the Federal Government reduce the proposed GST rate from 9 percent to 7 percent. This proposal suggests that the lower rate be financed by increasing excise taxes on alcohol and tobacco, cancelling a 1 percentage point reduction in middle bracket income taxes, and imposing a 5 percent "trade-up" tax on the sale of existing housing. The lower GST rate may prove to hold inflation at a lower level. The Commons Finance Committee Report states that a 7-percent GST rate will only lead to a 1 percentage point increase in CPI inflation.³⁹

The idea of tax reform will remain the focus of Canadian financial planners until some progress can be made in confronting the mounting Federal budget deficit and debt. In 1989, net public debt in Canada as a function of nominal GDP was 37.5 percent. The same ratio in the United States in 1989 was 30.2 percent.⁴⁰ The Government in Ottawa maintains that removal of the distorting merchandise excise tax will provide a macroeconomic boost to the Canadian economy, and that the GST is the proper fiscal instrument around which tax reform should be structured.

Fisheries

Bilateral disputes over fisheries have washed up on western and eastern shores of North America in 1989. In April, a dispute arose between the United States and Canada over Canadian landing requirements mainly affecting salmon and herring fisheries in western Canada. Both the United States and Canada

³⁵ Ibid, p. 482.

³⁶ Halifax Cable No. 0526., Aug. 1989.

³⁷ Massa and Ragboy, p. 484.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ OECD *Economic Outlook*, Dec. 1989, p. 109.

agreed to submit the herring and salmon issue to a bilateral dispute resolution panel under the FTA. As the issue worked its way through the bilateral dispute resolution panels, another fishery related issue developed; however, this time eastern Canada was the focus. Atlantic fisheries were threatened as the U.S. Congress contemplated legislation that would ban undersized lobsters from the U.S. market. Canadian lobstermen have different size requirements, and, if implemented, the U.S. lobster legislation could prove to be very damaging to their livelihood. The disagreement over fish-related issues served as a major point of contention between Canada and the United States during 1989.

The dispute over unprocessed pink and sockeye salmon and herring originated in 1986, when U.S. fish processors, led by Icicle Seafood Inc., charged that Canadian export controls on salmon and herring denied U.S. processors access to Canadian fish.⁴¹ These controls were found to be illegal by a GATT dispute settlement panel in 1988. In April 1989, a new twist was added to the issue when Canada replaced its disputed export controls with "landing requirements." These landing requirements mandated that 100 percent of all salmon and herring caught off Canadian shores must be checked at shore-based, provincially-licensed buying stations before being sold commercially. Canada maintains that the new rules were put in place so that it can better manage and conserve its fish supplies. The United States counters that the landing requirements are disguised protection for British Columbia's fish-processing industry.

USTR Hills and Canadian Trade Minister Crosbie agreed to submit their differences on the issue to a chapter 18 panel under the Free Trade Agreement. The panel in October ruled that the measure was not consistent with the GATT. The panel found that Canada could not justify the landing requirement as a conservation measure because it covered all fish caught in Canadian waters, and that it violated international trading rules as the United States had alleged.⁴² The report suggested, but did not recommend, that Canada solve its problem by lowering its landing requirement to 80 or 90 percent so that the remaining amount could be sold directly to the United States. Friction still exists on this issue, because Canada claims its sovereignty justifies its decision to manage and conserve its fish supplies through its requirements.⁴³

⁴¹ "U.S. Drops Section 301 Case Against Canada's Fish Export Policy, Requests Panel Under FTA," *International Trade Reporter*, May 31, 1989, p. 691.

⁴² "Canada Urges Administration to Fight Congressional Effort to Ban Lobsters," *Inside U.S. Trade*, Oct. 20, 1989, p. 18.

⁴³ In November 1989, Trade Minister Crosbie and Fisheries Minister Siddon announced that they will "adopt" the panels report. They have positioned themselves to be perceived as "firm" in their dedication to FTA despite industry and provincial pressures. (Ottawa Cable No. 08400, Dec. 1989.)

The eastern front in this battle of the fish revolves around the predicament of the Canadian lobstermen. The United States has certain size requirements on lobsters for conservation purposes. A bill to implement a ban on live and frozen undersized Canadian lobsters (smaller than 8 centimeters) was sponsored in October 1989 by Senate Majority Leader George Mitchell (D-ME) and Senator William Cohen (R-ME).⁴⁴ The bill was attached not to the Manguonson Fisheries Conservation and Management Act, but instead to legislation approving the Fisheries Agreement between the United States and Japan. This legislation was approved by Congress in November, but the bill only banned live, undersized lobsters and not frozen or canned imports.⁴⁵

Trade Minister Crosbie stated that he hoped that President Bush would veto the legislation. If that does not happen, he said that Canada will challenge the ruling under the FTA.⁴⁶ Buyers from some of Eastern Canada's largest lobster companies believe that the U.S. Government's action may in the long run cause more harm to the industry than would increasing the minimum size for Canadian lobsters. If Canada does not increase its minimum lobster size to match the U.S. requirement, buyers think that a two-tier lobster market will develop. Because Canada will need to find new markets (other than the United States) to sell its undersized lobsters, Japanese and European buyers will take advantage of this situation by charging one price for the U.S.-sized lobster and a lower price for the Canadian size. This would not help an already weakened lobster market.

Japan

Overview

The year 1989 was another one of brinkmanship in United States-Japan trade relations. Topping the agenda was a series of disputes brought to the fore as a result of the legislative requirements of the newly enacted Omnibus Trade and Competitiveness Act of 1988. Among the product sectors affected were forest products, supercomputers, satellites, telecommunications, and major construction projects. Long-simmering U.S. concerns about access to Japan's market for semiconductors and agriculture also remained prominent in the year.

⁴⁴ *Ibid.*

⁴⁵ Halifax Cable No. 0855, Nov. 1989.

⁴⁶ "Crosbie Rolls Up His Sleeves in Fish Dispute," *The Globe and Mail*, Toronto, Canada, Nov. 30, 1989. On Dec. 12, 1989, President Bush signed into law H.R. 3731 which banned undersized Canadian lobsters (smaller than 8 centimeters) from the U.S. market. Reaction to the bill was negative, and Canadian lobstermen are accusing the United States of using conservation measures as trade barriers.

Table 9
U.S. trade with Japan, by HTS sections, 1987-89

(1,000 of dollars)

Section	1987	1988	1989
<i>U.S. exports</i>			
1 Live animals; animal products	1,867,178	2,831,836	3,254,715
2 Vegetable products	3,033,076	4,160,432	4,199,928
3 Animal or vegetable fats, oils, and waxes	48,988	77,822	82,916
4 Prepared foodstuffs, beverages, and tobacco	1,536,283	1,884,199	2,254,519
5 Mineral products	1,657,890	2,008,296	2,173,410
6 Products of the chemical and allied industries	3,266,177	3,743,550	4,392,903
7 Plastics and rubber, and articles thereof	654,721	901,540	1,010,006
8 Hides and skins; leather and articles thereof	477,903	607,944	586,171
9 Articles of wood, cork, or plaiting material	1,807,487	2,230,413	2,818,025
10 Wood pulp, paper, paperboard, and articles thereof	1,056,291	1,376,071	1,803,736
11 Textiles and textile articles	660,906	866,884	1,042,195
12 Footwear, headgear, and artificial flowers	58,015	57,442	50,987
13 Articles of stone or ceramics; glass and glassware	101,830	143,381	209,192
14 Pearls; precious stones and metals; jewelry, coin	334,941	496,933	627,366
15 Base metals and articles of base metals	1,198,977	1,954,861	2,604,302
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	4,606,057	6,669,142	8,443,902
17 Vehicles, aircraft, and other transport equipment	2,276,449	2,948,071	3,055,422
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	1,418,402	1,941,693	2,204,086
19 Arms and ammunition; parts and accessories thereof ..	2,300	3,381	237,251
20 Miscellaneous manufactured articles	286,925	405,671	563,561
21 Works of art, collectors' pieces, and antiques	178,853	246,022	575,794
22 Special classification provision	373,982	485,990	573,884
Total	26,903,632	36,041,575	42,764,273
<i>U.S. imports</i>			
1 Live animals	165,280	131,649	127,692
2 Vegetable products	56,933	52,028	48,684
3 Animal or vegetable fats, oils and waxes	23,399	18,211	21,718
4 Prepared foodstuffs, beverages, and tobacco	246,999	223,548	187,399
5 Mineral products	132,898	198,849	230,716
6 Products of the chemical or allied industries	2,261,194	2,521,566	2,615,369
7 Plastics and rubber, and articles thereof	1,430,669	1,743,763	2,001,686
8 Hides and skins; leather and articles thereof;	57,032	44,937	32,866
9 Articles of wood, cork, or plaiting materials	30,586	21,341	15,892
10 Wood pulp; paper, paperboard, and articles thereof	428,462	480,307	420,297
11 Textiles and textile articles	1,074,031	914,680	855,821
12 Footwear, headgear, and artificial flowers	24,368	22,642	20,453
13 Articles of stone or ceramics; glass and glassware	653,979	652,397	655,103
14 Pearls; precious stones and metals; jewelry; coin	182,058	202,476	209,803
15 Base metals and articles of base metal	3,992,860	4,612,331	4,465,750
16 Machinery and mechanical appliances, electrical equipment; parts and accessories thereof	32,554,582	36,707,408	39,427,878
17 Vehicles, aircraft, and other transport equipment	32,933,598	31,704,386	31,029,238
18 Optical, photographic, measuring and medical appliances; clocks and watches; musical instruments ..	5,671,200	5,944,211	5,741,238
19 Arms and ammunition; parts and accessories thereof ..	63,363	61,275	63,019
20 Miscellaneous manufactured articles	1,178,106	1,909,562	2,558,985
21 Works of art, collectors' pieces, and antiques	44,834	28,778	58,423
22 Special classification provisions	802,069	914,140	1,053,737
Total	84,008,499	89,110,486	91,841,766

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

In April, Japan was also found to be in violation of a telecommunications trade agreement under the 1988 act provisions. As expected, in May 1989 Japan was identified by the United States Trade Representative (USTR) as a "priority country" under the super 301 provision.⁴⁷ The USTR actions effectively put United States-Japan negotiations during the remainder of the year on the rather rigorous timetable dictated by the law, and carried with it the possibility of unilateral U.S. retaliation in the event of inadequate progress.

Japan reacted strongly to the U.S. move, initially taking the stance that it would not negotiate under the threat of U.S. retaliation, later seeking to convince the United States to enter into negotiations under the auspices of the GATT, and finally agreeing to discuss U.S. concerns bilaterally, but "outside the 301 framework."

The U.S. trade deficit with Japan remained stubbornly high in 1989, totalling \$49.1 billion, or nearly half of the total U.S. deficit in merchandise trade. Although nearly all agreed that macroeconomic variables were the most important reason for the persistent gap, the failure of the yen's near-doubling in value against the dollar since 1985, a dramatic shift by Japan from export-led to domestically driven growth, and a series of sectoral market opening steps to stem the tide of red ink led a number of U.S. analysts to shift their focus from Japan's formal barriers such as tariffs and quotas to the restrictive effect of exclusionary business practices and excessive Japanese regulation on U.S. exports. Largely as a result of this shift, on the same date that USTR Carla Hills essentially labelled Japan an "unfair trader," the United States proposed a bilateral dialogue on fundamental economic factors that were impeding the correction of the U.S.-Japan trade imbalance. Dubbed the "Structural Impediments Initiative" (SII), the policy was initially fairly well received, but there was some concern that far-reaching change would be difficult to achieve and slow to materialize.

U.S. impatience at the pace of progress was somewhat tempered by a slight improvement in U.S. trade performance. U.S. exports to Japan in 1989 rose more than U.S. imports from Japan, resulting in a \$4 billion improvement in the bilateral trade deficit. U.S. exports of manufactures to Japan accounted for much of the increase, with exports of machinery, automotive parts, and consumer goods all registering strong gains. In the meantime, a settlement of the telecommunications trade dispute was reached by late June 1989, but progress on resolving other issues proved elusive in the year.

⁴⁷ See ch. 1 of this report for a discussion of Super 301.

Structural Impediments Initiative (SII)

The single most ambitious negotiation initiated in the year was the SII. On May 25, 1989, the same day as the Super 301 decision, Ambassador Hills announced that President Bush was proposing to Japan a new set of bilateral negotiations "to identify and solve structural problems in both countries that stand as impediments to trade and balance of payments adjustment." The SII was to take place outside of section 301 and to address broader factors—such as national saving and investment patterns—believed to have an impact on trade flows.⁴⁸

The scope of the proposed effort covered a range of subjects previously considered solely matters of sovereign concern. The first two rounds of discussions in September and November 1989 served to highlight areas of concern and disagreement.⁴⁹ Yearend found the negotiations nearly stalemated over the nature and scope of the problems to be addressed.

A principal motivation for the SII was a mounting frustration among U.S. officials with the failure of market forces to produce a significant reduction in the United States-Japan bilateral trade deficit and other payments imbalances. There was also a growing conviction that while the sectoral approach taken in prior bilateral negotiations with Japan⁵⁰ had brought significant, beneficial results in certain specific product areas, a more far-reaching approach was needed to tackle fundamental economic factors that were inhibiting adjustment. Structural problems had been discussed in various multilateral and bilateral fora for years, but the SII represented a departure in terms of both its format and scope. A distinctive feature of the SII format was the discussion of rigidities in both the U.S. and Japanese economies. It was agreed that both countries had structural problems, and that those in Japan acted to impede imports while those in the U.S. tended to have the effect of hindering exports or reducing the competitiveness of U.S. industry. To ensure that the SII produced more

⁴⁸ As the talks progressed into 1990, however, the linkage between the SII and Super 301 processes—on a political if not statutory level—was not lost on most observers. Most notable in this regard was the release of the interim report just 3 weeks prior to the determination not to name Japan as a priority country under the 1990 Super 301 cycle.

⁴⁹ The United States-Japan SII Working Group released an interim report and assessment of the progress achieved to date on Apr. 5, 1990. A final report is planned for July 1990. *Statement by the Press Secretary*, The White House, Office of the Press Secretary, Apr. 5, 1990.

⁵⁰ The two most prominent examples are the Market-oriented, sector specific (MOSS) talks (For background, see the USITC, *Operation of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, 1986, p. 159) and the U.S.-Japan Semiconductor Arrangement of 1986 (see, the USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, pp. 4-26 to 4-27).

tangible results than did earlier talks on structural matters, the initiative was cast as "action-oriented." A 1-year deadline of July 1990 was decided upon for issuance of a final report, with an interim report to be issued in Spring 1990. The final report was to be a blueprint for future government action, including specific recommendations that would, whenever possible, be endorsed by the two sides. The U.S. negotiators also anticipated the establishment of a mechanism to monitor implementation, and for consultations after July 1990 to address future issues. However, the two governments expressly avoided establishing quantifiable targets or strict deadlines for achieving the ultimate objective of the SII—free markets which would facilitate balance of payments adjustment.

Soon after the talks were announced, both sides identified their respective areas of concern. The concerns identified by the United States were (1) a low level of aggregate domestic investment in Japan relative to savings, notably in infrastructure; (2) pricing mechanisms which appear to enable Japanese manufacturers to maintain high prices in Japan and low prices abroad; (3) land use policies in Japan believed to cause inflated land and housing prices; (4) a highly regulated and complex Japanese distribution system that is difficult and expensive for foreigners to penetrate; (5) exclusionary business practices including bid rigging and lax antitrust enforcement; and (6) "keiretsu relationships" that entail preferential business dealings within corporate groups. Cutting across these individual issues was the general theme of the need for greater transparency in Japanese regulations and business practices.

The Japanese called upon the United States to (1) raise U.S. saving rates; (2) enhance corporate investment in U.S.-based production capacity; (3) improve corporate management's emphasis on heightened quality and productivity; (4) reduce the restrictive impact of certain trade-related government regulations; (5) strengthen research and development efforts; (6) make export promotion more effective; and (7) improve the education and training of the workforce. The fact that these critical views of current American policies were so forthrightly aired was considered to be a notable turn in United States-Japan post-war relations. Nevertheless, the talks progressed under the lingering suspicion that, although the U.S. negotiators took up the Japanese points of interest with good faith and a degree of sympathy, the U.S. Government lacked the power or conviction to push many of the reforms recommended by the Japanese side.

The two rounds held in 1989 were intended to establish a common understanding of the fundamental problems on the table for discussion. The general assessment by U.S. officials at the

conclusion of the second round was that insufficient progress had been made in reaching a common understanding on the nature and origin of issues widely recognized as problems even within Japan.⁵¹ The apparent stalemate led some officials, particularly on the Japanese side, to express fears that SII's emphasis on deeply rooted problems might raise expectations for sweeping changes that were politically difficult and unlikely to occur, thus further souring relations.⁵² The significant challenge of identifying specific barriers and negotiating remedial measures was left until after the Japanese general elections in mid-February 1990. Both sides hoped that the Japanese negotiators would then receive the political mandate needed for a successful outcome of SII.

Telecommunications

The level of U.S. access to Japan's telecommunications market also received prominent attention in 1989.⁵³ By late June, the two countries had signed a detailed agreement intended to resolve a number of issues affecting the sale of U.S. radio-based communications equipment in Japan and the participation by U.S. interests in Japan's market for telecommunications services. The agreement followed an intense high-stakes negotiating effort triggered by an annual U.S. review of the openness of foreign markets to U.S. telecommunications suppliers required by the 1988 Omnibus Trade and Competitiveness Act. The United States and Japan also renewed for the third time an agreement dealing with the procurement by Japan's dominant common carrier for domestic phone service, Nippon Telegraph and Telephone (NTT).

Cellular Phones and Third-Party Radio

The USTR on April 28 determined that Japan was violating several elements of the 1986 market-oriented sector specific (MOSS) agreements as a result of the 1989 review mandated by Section 1377 of the 1988 Act.⁵⁴ By law, the USTR finding was treated as a final determination that Japan had violated an agreement under section 301, and was thus liable

⁵¹ "U.S. Officials Disappointed in Latest Trade Talks," *The Washington Post*, Nov. 8, 1989, p. A5.

⁵² "U.S., Japan Discuss Economies," *The Washington Post*, Sept. 6, 1989, p. A21.

⁵³ In its 1990 *National Trade Estimate Report on Foreign Trade Barriers*, the Office of the United States Trade Representative reports that in the broader telecommunications equipment market, U.S. exports to Japan were \$402.9 million in 1989, accounting for 2.3 percent of Japan's apparent consumption, p. 112.

⁵⁴ These agreements actually consist of a series of letters and joint communications between U.S. and Japanese government officials. The MOSS negotiations were initiated by the United States in 1985 in an effort to shape Japan's deregulation of its telecommunications market. The goal of the talks was to ensure that the new regulatory environment was conducive to foreign competition in both equipment and services.

for up to 100-percent punitive duties on selected exports to the United States. A list of items under consideration for punitive tariffs was included in the May 1 *Federal Register* notice announcing the USTR determination.

Behind the determination were a series of administrative decisions made by Japan's Ministry of Posts and Telecommunications (MPT) that effectively limited U.S. sales prospects in Japan's large and rapidly growing market for cellular telephones and associated network equipment.⁵⁵ Among them were decisions made in 1987 to only allow one competitor to NTT in each of Japan's two major regions, and a decision by the designated service provider in the Tokyo/Nagoya corridor to purchase only equipment conforming to NTT standards.⁵⁶ USTR also alleged that U.S. access to Japan's market for third-party radio equipment and services, such as those used by taxicabs, was being limited by a host of barriers. The leading U.S. supplier of such equipment, Motorola, complained that MPT's third-party radio-licensing and approval systems discriminated against U.S. firms.⁵⁷

A resolution of both issues was finally reached on June 28, 1989. In the case of cellular phones, the Japanese Government agreed to make available to Daini Denden, the service provider in the Osaka/Kyoto area, sufficient radio spectrum to permit its subscribers to use their phones in the Tokyo/Nagoya corridor. With respect to third-party radio, MPT agreed to assign frequencies to all applicants on a nondiscriminatory basis and to make other changes that would improve the likelihood of foreigners receiving new frequency allocations. Moreover, MPT agreed to apply the same licensing requirements and procedures to foreign third-party radio operators as it applies to Japanese operators.⁵⁸

⁵⁵ The cellular phone market in Japan has gone from a few thousand units in 1984 to about 450,000 in 1989. It is expected to grow to about 10 million, most used in the Tokyo/Nagoya corridor.

⁵⁶ Motorola does sell car telephones using NTT standards to NTT, who subsequently leases them to its mobile phone service customers, including customers in the Tokyo area. Tokyo and Nagoya account for some 60 percent of Japan's \$720 million cellular phone market. Neil Gross, "Motorola is Pounding on Japan's Open Door," *Business Week*, May 8, 1989.

⁵⁷ Motorola had entered the Japanese market for such services following the 1986 MOSS agreements in competition with a Japanese supplier. It had only been allotted enough frequency to serve 4 percent of the market, however, and had been repeatedly denied petitions for additional frequency allocations in Tokyo on the grounds that no spectrum was available. MPT also required Motorola to undergo more onerous licensing procedures than those applied to the domestic carrier.

⁵⁸ As a result, foreign suppliers will no longer be required to pre sign customers before it is granted permission to build and operate a new system. Instead they will be permitted to submit forecasts of expected demand in support of applications for approval. MPT also committed itself to process such applications within four months and to permit more efficient connection of third-party systems to the public network. Susan MacKnight, "Japan Expands U.S. Access to Mobile Phone/Radio Markets," *JEI Report*, No. 26B, p. - 9.

Several outstanding U.S. concerns remained, however.⁵⁹ These issues were discussed at MOSS oversight meetings held in September 1989, but a satisfactory resolution was not agreed upon by yearend. In the meantime, several developments cast doubt on the ultimate beneficial impact of the June 1989 deal.⁶⁰

NTT

On December 26, 1989, the United States and Japan renewed the bilateral agreement on NTT procurement. The renewal is for the 3 years until December 31, 1992.⁶¹ In addition, the United States used the renewal negotiations in 1989 as a forum for pressing Japan to resolve several problems encountered by U.S. suppliers which had surfaced in the course of the April 1990 review.

NTT is in the process of being privatized, and the Japanese Government began in 1989 to formally evaluate whether it should further deregulate the Japanese telecommunications market, including whether the break-up of

⁵⁹ MPT requires that digital terminal equipment used for connection to digital telephone services be owned by the service provider, usually NTT, as opposed to end users. The requirement effectively forces suppliers of such equipment to sell directly to NTT. NTT's purchases from U.S. suppliers have never accounted for more than 4 percent of its total procurement. MPT also maintains a legal distinction between telecommunications carriers offering services such as satellite communications and value added computer networks that U.S. industry argues often subjects them to MPT registration and approval before they can begin operations, compared to the simple "notification" required of operators of less extensive services. These concerns were spelled out in a June 30, 1989 letter from Deputy United States Trade Representative Linn Williams to then-MITI Vice Minister Okuyama. Other U.S. concerns involve the testing and certification of telecommunications equipment and the recent specification by NTT of an Japanese-developed operating system in a number of tenders. The system, dubbed TRON, is being developed by Japanese firms with assistance by the Government of Japan.

⁶⁰ The cellular phone service responsible for operating the core network equipment needed in order for Motorola-developed mobile phones to operate in the Tokyo/Nagoya market announced that purchasing the \$71 million in necessary equipment and services might prove too heavy of a financial burden for it. It said it would conduct a "feasibility study" on the matter, but said that "the addition of the Motorola system cannot be expected before 1991." As reported in "U.S.-Japan Phone Deal on Shaky Ground," *San Francisco Chronicle*, July 10, 1989, p. C1. The delay effectively prevents Motorola from selling its portable telephone, currently the world's smallest, directly to Tokyo customers until 1991 or later. In the meantime, NTT has announced that it has developed the technology needed to produce a mobile phone smaller than Motorola's and "would seek companies to join in the commercial production of the new phone." NTT does not produce equipment itself but has rather relied on a core group of Japanese suppliers for the bulk of its equipment needs. As reported in "NTT goes Motorola One Better with a Smaller Portable Phone," *The Japan Economic Journal*, Oct. 7, 1989.

⁶¹ Annual reviews of the agreement's operation and reevaluation of the agreement in 1992 were provided for in the renewal letters.

NTT—now Japan's largest private firm—would be desirable. In the exchange of letters accompanying renewal of the NTT agreement, the Japanese Government assured the United States that "it is prepared to hold talks with the United States Government" to ensure that the benefits enjoyed by U.S. suppliers under the existing agreement would not be reduced in the event of a break-up of NTT in the future.

No changes were made in the procurement procedures already contained in the agreement. However, since the data communications business of NTT was spun-off to a private company, NTT Data, in 1988, the two countries established procedures for the acquisition of data on NTT Data's procurement that will use procurement procedures similar to NTT's.⁶²

Forest Products

Forest products was one of the three Japanese product sectors designated by USTR on May 25, 1989 as a trade liberalization priority under Super 301, reflecting growing U.S. concern about a series of barriers to the sale of higher value-added U.S. products in Japan, the world's second-largest market for forest products. In announcing the decision, the U.S. Government alleged that practices ranging from high tariffs, tariff escalation, restrictive standards, out-of-date building codes, and costly and time-consuming testing and certification requirements combined to bias Japan's purchases in favor of unprocessed logs and wood chips and away from higher-value added products such as plywood and laminated lumber. Nearly 80 percent of the \$2.8 billion in U.S. exports to Japan in 1989 was accounted for by unprocessed logs and wood chips. The National Forest Products Association claimed that U.S. exports would have been \$1.2 billion higher in the absence of such barriers. While progress on U.S. concerns was made in 1989, final agreement on the issues was not reached in the year.⁶³

The 1989 action arose partly out of the failure of the MOSS negotiations on forest products in 1985 to yield satisfactory results on certain issues.⁶⁴ Frustration with the pace of change led

⁶² NTT's procurement procedures are as stipulated in the Agreement on Government Procurement and the bilateral arrangements on NTT procurement. The bilateral arrangements are embodied in a series of letters exchanged between the United States and Japan between Dec. 19, 1980 and Dec. 23, 1986.

⁶³ The United States and Japan announced on Apr. 25, 1989 that they had reached tentative agreement on a package of measures intended to improve U.S. access to Japan's market for forest products. Although the two sides agreed in principle on solutions to all of the issues raised by the United States in 1989, some of the details of the package remain to be ironed out. See, for example, "U.S., Japan Reach Tentative Accord to Open Japan's Forest Products Market, Hills Says," *International Trade Reporter*, vol. 7, May 2, 1990, p. 618.

⁶⁴ See USITC, *Operations of the Trade Agreements Program*, 37th Report, 1985, USITC Publication 1871, pp. 167-8, for a brief discussion of the outcome of these negotiations.

several Congressional leaders to threaten restrictions on U.S. exports of logs in an effort to force Japan to purchase more U.S. lumber and other processed products. While Japan did agree to tariff cuts on a number of products in the MOSS process, followup meetings failed to resolve remaining technical barriers.

The two countries met in the context of the Trade Committee on September 9, 1989 to discuss U.S. concerns. The September meeting was followed by in-depth discussions on November 17-18 and 20 on the individual practices identified by the United States as impediments to expanded U.S. sales. At the November meetings, the United States charged that tariff misclassification by Japan was resulting in high duties being levied on two processed wood products.⁶⁵ It also complained that Japan's building and fire codes, standards for wood products, testing and certification procedures, distribution-related practices and Japanese Government subsidies to producers of processed wood⁶⁶ hindered U.S. exports. The U.S. Government called for the acceptance by Japanese building authorities of U.S. test results and grading marks.

Officially, Japan maintained that its tariff classifications were appropriate, that its building codes and wood product standards were necessary to ensure public health and safety, given Japan's greater vulnerability to earthquakes and associated fires, and that the procedures for acceptance of U.S. test results had been agreed to by the United States in the context of 1985 MOSS negotiations. The Japanese Government negotiators stated that reductions in Japan's tariffs on processed wood products were properly addressed in the context of the Uruguay Round. Moreover, Japanese Government programs to assist the forest products industry such as subsidies and officially-sanctioned cartels were, the Japanese side claimed, intended to facilitate the industry's contraction and therefore furthered, rather than hindered, the goal of trade liberalization.

Having laid down their basic positions, the two sides agreed at the November meeting to a program of work and a schedule of future meetings. It was agreed that detailed papers on tariff classification, building codes and standards, and testing methods would be exchanged and that technical experts should discuss tariff classification and building standards issues. Technical meetings on Japanese building standards and approval procedures were held on December 13 and 14.

⁶⁵ The two products were glue-laminated wood and laminated veneer lumber.

⁶⁶ The Japanese government promised its domestic suppliers 150 billion yen in subsidies from 1986-90 to ease adjustment to foreign competition associated with the 1985 MOSS agreements. Masami Iida, "Forest Products: Censure Befuddles Industry," *Japan Economic Journal*, June 3, 1989, p. 2.

Supercomputers

On May 25, 1989, the USTR included supercomputer procurement practices by the Japanese Government in its list of "trade liberalization priorities" under the "Super 301" provision of the 1988 Trade Act. The USTR claimed that U.S. supercomputer producers are effectively shut out of the publicly funded segment of the Japanese supercomputer market—the world's second largest.⁶⁷ The poor prospects for any future sales was considered especially serious in light of an August 1987 bilateral agreement calling upon Japan to adopt transparent, nondiscriminatory procedures for public sector procurement of super-computers.⁶⁸ Concern over the impact on the U.S. industry of denial of access to Japan's market heightened in 1989 with the withdrawal from the business of two U.S. producers (Control Data Corp./ETA, Evans & Sutherland) and the break-up of the remaining American producer, industry leader Cray Research.

Two principal causes for a lack of sales cited by USTR were the use of technical specifications that favor domestic models, and excessively low government budgets for supercomputers. A deliberate policy of underfunding was alleged to lead to deep discounts by Japanese makers which could not be met by the relatively-smaller U.S. suppliers.⁶⁹

Resolution of the supercomputer dispute was underway before official talks under the section 301 framework began in September 1989. In early May 1989, the Government of Japan announced a supercomputer import expansion plan, centered on the proposed purchase of eight supercomputers during 1989–1991.⁷⁰ On May 27

⁶⁷ Although American models have garnered a nearly 80-percent share of the world market for supercomputers, and nearly one-fifth-of-Japan's private sector market, they have held only about 7 percent of the public sector market in Japan. The public sector market consists of government and quasi-governmental entities and public universities, and was valued at an estimated \$100 125 million in fiscal year 1990. It is projected to expand to as much as \$1.3 billion by 1993. Only two sales of U.S. supercomputers have been made to Japanese public entities in recent years. Both were done on a noncompetitive basis under a special one-time import promotion budget in 1987, which preceded the Aug. 1987 agreement. Office of the United States Trade Representative, *1989 National Trade Estimate Report on Foreign Trade Barriers*, Apr. 28, 1989. In late July 1989, Tohoku University announced that it would become the first public entity to purchase a U.S. supercomputer since the special purchases of 1987.

⁶⁸ The agreement resulted from a section 305 investigation initiated by the Office of the United States Trade Representative on Dec. 10, 1986. See USITC, *Operation of the Trade Agreements Program*, 39th Report, 1987, 1988 USITC Publication 2095, p.4-28 for a discussion of the agreement's contents, and *Ibid*, 40th Report, 1988, USITC Publication 2208, pp. 109-110.

⁶⁹ The issue of discounting was not addressed under the 1987 agreement itself, although it was recognized by both governments as an important one.

⁷⁰ That target figure was ultimately reduced by Japan to 4 units as a result of "budgetary constraints" after the Super 301 determination was announced.

the Ministry of Finance disclosed its intention to conduct a review of the controversial discounting practices of Japanese suppliers. On June 28 the Ministry of International Trade and Industry limited to 50 percent the discounts which Japanese supercomputer makers could offer to public universities and research organizations.

Formal consultations between the two governments were held in September and November 1989. At the talks, Japanese negotiators conceded that insufficient budget allocations were a problem that they would strive to correct. Otherwise, little progress towards resolution of the U.S. complaint was made, as the Japanese continued to deny that their procurement practices were inconsistent either with the terms of the 1987 bilateral agreement or the rules set forth in the GATT Government Procurement Code.⁷¹

Satellites

On May 25, 1989, the USTR identified Japan's satellite procurement policies as a "trade liberalization priority" under the "Super 301" provision of the 1988 Trade Act. The U.S. Government alleged that Japan implicitly banned the procurement of non-Japanese satellites by government or quasi-governmental entities through the stated policy of not allowing foreign satellite procurement by public entities when such procurement would interfere with "indigenous development objectives" for Japan's space capabilities.⁷² U.S. officials also asserted that the Japanese Government was discouraging domestic companies from buying foreign satellites by, in effect, subsidizing domestic satellite production. Also, the USTR expressed concern over the resistance shown by MPT to license a third firm to provide satellite telecommunication services. Little progress toward reconciling the positions of the two governments was evident in talks held in September and November of 1989.⁷³

⁷¹ Tentative agreement on the supercomputer procurement issue was reached on Mar. 22, 1990. A final version of the agreement was signed in late April, and it is expected that USTR Hills will announce the successful conclusion of the 1988 section 301 case on supercomputers on June 15, 1990. *International Trade Reporter*, Vol. 7, No. 427, Mar. 28, 1990.

⁷² The U.S. Government alleged that the broad definition given by Japan to its space development objectives meant that, essentially, no foreign satellite would be procured by a government body if any competing domestic model was potentially available, regardless of cost and performance differentials. The procurement by Japan's public broadcasting authority (NHK) of a General Electric satellite in 1988 was considered by the U.S. Government to be an aberration, caused by the temporary inability of the domestic makers to fill NHK's immediate need.

⁷³ Talks resumed in January and February of 1990, but were temporarily halted by U.S. government negotiators in March, who were dissatisfied with the apparent lack of prospects for compromise. "U.S. Halts Japanese Talks Over Satellite Sales Issue," *The Washington Post*, Mar. 16, 1990. A tentative accord was announced by the two governments on Apr. 3, 1990, which appeared to provide a sufficient basis for

Major Projects

Japan's major projects construction market was examined by the USTR in 1989, to assess whether the May 1988⁷⁴ agreement to open Japan's construction market was actually resulting in greater U.S. access. Section 1305 of the Omnibus Trade and Competitiveness Act of 1988 required the USTR to initiate an investigation and determine by November 21, 1989, whether government barriers to construction in Japan exist, whether the barriers harm U.S. companies, and whether retaliation would be appropriate.

On November 22, the United States Trade Representative determined that although certain Japanese Government practices were unreasonable and continued to exclude U.S. firms, no retaliatory action would be taken at that time. These "unreasonable" practices included inadequate Government action to prevent bid rigging, the requirement that foreign firms have prior experience in Japan before being eligible to participate on public projects, and discriminatory access to project information.⁷⁵ Nevertheless, the USTR stated that the promises made by the Government of Japan to address these and other U.S. concerns were sufficient to defer the decision on whether to take retaliatory action until May 1990 when the bilateral agreement was to be reviewed. At the time of the determination, 10 U.S. companies had been granted construction licenses and some \$430 million in contracts awarded to U.S. firms.

Semiconductors

The United States-Japan Semiconductor Arrangement of 1986 reached the midpoint of its scheduled 5-year duration in 1989.⁷⁶ Regular

⁷³—Continued

resolving the 301 action in time to meet the legislated deadline. "U.S., Japan Reach Tentative Pact to Open Japan's Public Sector Satellite Markets," *International Trade Reporter*, Apr. 4, 1990, p. 460.

⁷⁴ See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, pp. 107-108 for a detailed explanation of the May 1988 agreement.

⁷⁵ See *International Trade Reporter*, Nov. 29, 1989, p. 1548; "Construction Market Access Investigation Continues," *Japan Economic Institute*, May 26, 1989, pp. 5-6; and "Washington Watchful on Japanese Construction," *Japan Economic Institute*, Dec. 1, 1989, pp. 5-6.

⁷⁶ Under the 1986 Arrangement, the United States agreed to suspend dumping duties imposed against Japanese semiconductor manufacturers and settle a section 301 investigation. For their part, the Japanese undertook to cease the dumping of certain types of semiconductors in all markets and to promote the expansion of market share of foreign made semiconductors in Japan. For further details on the history of this issue, see the USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, pp. 4-26 to 4-27 and 39th Report, 1987, USITC Publication 2095, 1988, pp. 4-24 to 4-25.

consultations as called for by the arrangement did not produce substantial progress in resolving the principal outstanding issues of improving market access for U.S. firms and modifying Japan's measures to prevent third-country dumping.⁷⁷ In May 1989 USTR reaffirmed the priority of greater foreign access to the Japanese market within the existing arrangement, but opted not to designate semiconductors as a priority under "Super 301," despite requests to do so by U.S. industry. The U.S. Government determined that Japan had complied with the terms of the arrangement concerning dumping by November 1987, but continued to express dissatisfaction with Japan's inability to meet its market access objectives. The actual extent of foreign semiconductor access, the timing for achieving interim levels, and the degree to which the Government of Japan is committed to ensuring access defined as market share, remain contentious issues among the two countries.

Consultations in 1989 focused upon refining "market access checklists" to monitor overall progress, and the development of Japanese company-specific "market access action plans." The United States has been striving to get so-called second-tier firms, especially those in the auto parts and consumer electronics markets, to increase their purchases of foreign semiconductors on a par with the relatively more open major Japanese electronics firms, which are themselves semiconductor producers. Also, the U.S. and Japanese industries have established task forces to facilitate imports by Japan's consumer electronics and high-definition television industries.

Although the Japanese semiconductors covered by the Arrangement have sold at prices well above the established "fair values" over the past 2 years, the two governments have continued to consult concerning the coverage of the arrangement's dumping provisions. The most substantial adjustment made in 1989 was the change in the procedures by which the Government of Japan, under the 1986 arrangement, prevents dumping in third countries. In order to implement a May 1988 GATT panel finding that Japanese practices that amounted to an illegal export restraint required modification,⁷⁸ Japan introduced a revised system in June 1989. Under the new system, the Government requires Japanese firms to report prices after, rather than before, exportation.

⁷⁷ For background on the October 1986 complaint filed by the EC and the resulting GATT Council finding of May 1988 which led to the changes introduced by Japan, see USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, 1987 USITC Publication 1995, pp. 4-9 to 4-10 and 40th Report, 1988, USITC Publication 2208, 1989, p. 109.

⁷⁸ See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 109.

Japan is the largest market for U.S. agricultural exports, accounting for \$8.4 billion in U.S. exports in 1989. Implementation of bilateral agreements in the agricultural sector that were reached during the previous year—those on beef and citrus and processed foods (GATT 11)—were the major topics addressed in 1989.⁷⁹ U.S. exports of beef increased substantially in 1989 as a result of quota-liberalization measures taken in 1988,⁸⁰ but sales of U.S. oranges were well-below expected levels.⁸¹ Distribution of beef emerged in 1989 as a factor impeding U.S. sales. Chilled U.S. beef is sold at the retail level at six to seven times its import price.⁸² Japan's Fair Trade Commission took several measures related to price fixing by Japanese trading house in 1989 intended to check practices that contribute to such high prices for Japanese consumers.⁸³ In addition, longstanding issues such as quotas on rice,⁸⁴ wheat, wheat flour, and barley, and restrictive practices in the feedgrains sector⁸⁵ remained on the bilateral negotiating agenda.

⁷⁹ See *ibid.*, pp. 106-107 for a more detailed explanation of the beef and citrus and GATT-11 agreements.

⁸⁰ The quota for imported beef from Apr. 1, 1989 through Mar. 31, 1990 was 334,000 tons. In February 1989, Japanese purchasers sharply increased their buying of imported beef in order to fulfill that fiscal year's quota.

⁸¹ In 1989, Japan's imports of oranges totalled 130,000 tons, a level 20 percent lower than the import quota. One of the reasons that orange imports may not have expanded more despite the agreement is Japanese consumer preference for domestic mikan oranges.

⁸² That is, between \$14 and \$18 per 2.2 pounds.

⁸³ On Mar. 7, 1989, Japan's Fair Trade Commission (JFTC) raided the office of 29 of the participating trading houses during an investigation of price-fixing during monthly auctions. "Japanese Officials Raid Trading Houses in Probe into Alleged Beef Price Fixing," *International Trade Reporter*, Mar. 15, 1989, p. 328. In July, the "JFTC warned 36 trading houses against price fixing through collusive activities." "FTC Warns Traders Over Alleged Price Fixing Beef Imports," *Kyodo News Service*, July 26, 1989.

⁸⁴ Following the rejection of the Rice Millers' Association section 301 petition in 1988, substantive discussion over Japan's ban on rice imports shifted to the Uruguay Round. For background, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 107.

⁸⁵ Only licensed mills can import feed into Japan duty-free. In the past, aside from one exception, all licensed mills in Japan were also feed producers. This has apparently inhibited the ability of U.S. companies to sell their products in Japan. On Oct. 1, 1989, the requirement that MAFF had to approve licenses to build new mills or expand existing facilities was eliminated. The licensing system itself is still in effect and the Ministry of Finance is involved in offering financing for mills.

In 1989, Japan's tariff quota on corn for single-ingredient feed was changed to a new quota to be announced biannually based on demand during the previous period. The flaking requirement for corn continues to affect U.S. exports to Japan as it restricts distribution of corn to those mills with the necessary equipment. Mandatory use of byproducts in mixed feed, and the Food Agency's control over wheat and barley imports were other feedgrain issues raised during 1989.

Overview

Economic relations between the United States and Mexico have probably never been friendlier than in 1989. The seventh meeting of the United States-Mexico Binational Commission, held on August 6 and 7, was characterized by a climate of cordiality and frankness. In addition to several major noneconomic topics discussed—such as migration, the environment, and cultural affairs—financial cooperation, trade and investment were important areas of the exchange. The August meeting also prepared the agenda for the upcoming summit meeting of the two countries' Presidents.

During his 5-day visit in the United States in October 1989, Mexican President Carlos Salinas de Gortari addressed the joint session of the U.S. Congress, hailing the two countries' close ties. President Salinas called trade "the most promising area in which substance can be given to our new era of bilateral friendship." In the same speech however, the Mexican President appealed to the United States to open its markets wider to Mexican products. He claimed that the Mexican economy has become one of the most open in the world today, but has not benefited on equal terms from the United States.⁸⁶ President Salinas specifically expressed an interest in new agreements that would enable Mexico "to at least double" its steel and textile exports to the U.S. market. He also saw great prospects of increased automotive exports to the United States.

Trade and Investment Facilitation Talks

During Salinas's October visit, President Bush and President Salinas signed the broadest economic agreement ever reached between the two countries. The objective of this accord, formally known as the "Understanding of the United Mexican States and the Government of the United States regarding Trade and Investment Facilitation Talks" (TIFTs,) was to enlarge bilateral trade and investment. The accord broadens the 1987 "framework agreement," which is a consultative mechanism for trade disputes.⁸⁷

The TIFTs, which provide an umbrella for negotiations in specific product areas, are expected to break new ground for United States-Mexico trade negotiations. The previous rounds of talks were based on independent analysis by the two sides, often resulting in an unwillingness to accept the other's premise. The

⁸⁶ However, Mexico still maintains barriers including import licensing, high tariffs for certain products, government procurement laws, and inadequate intellectual property protection.

⁸⁷ See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 118.

Table 10
U.S. trade with Mexico, by HTS sections, 1987-89
(1,000 of dollars)

Section	1987	1988	1989
<i>U.S. exports</i>			
1 Live animals; animal products	190,593	600,981	621,285
2 Vegetable products	733,516	1,150,856	1,521,005
3 Animal or vegetable fats, oils, and waxes	120,672	164,636	156,782
4 Prepared foodstuffs, beverages, and tobacco	55,225	222,619	328,601
5 Mineral products	614,430	571,932	818,917
6 Products of the chemical and allied industries	1,027,503	1,236,243	1,450,534
7 Plastics and rubber, and articles thereof	782,484	1,180,152	1,443,692
8 Hides and skins; leather and articles thereof	126,889	184,657	160,354
9 Articles of wood, cork, or plaiting material	109,435	171,956	225,827
10 Wood pulp, paper, paperboard, and articles thereof	650,615	885,011	1,069,558
11 Textiles and textile articles	477,816	622,503	750,865
12 Footwear, headgear, and artificial flowers	33,964	56,509	84,950
13 Articles of stone or ceramics; glass and glassware	81,287	105,802	165,713
14 Pearls; precious stones and metals; jewelry, coin	17,773	32,056	117,394
15 Base metals and articles of base metals	811,490	1,309,400	1,683,296
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	5,346,973	7,401,456	8,339,817
17 Vehicles, aircraft, and other transport equipment	1,547,640	2,049,736	2,543,773
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments ..	544,108	714,800	865,460
19 Arms and ammunition; parts and accessories thereof ..	1,414	5,944	6,946
20 Miscellaneous manufactured articles	216,295	382,923	534,907
21 Works of art, collectors' pieces, and antiques	7,865	4,870	5,320
22 Special classification provision	547,187	798,303	1,222,259
Total	14,045,175	19,853,345	24,117,255
<i>U.S. imports</i>			
1 Live animals; animal products	721,742	624,812	664,840
2 Vegetable products	1,176,756	1,083,763	1,522,346
3 Animal or vegetable fats, oils, and waxes	7,148	11,842	17,157
4 Prepared foodstuffs, beverages, and tobacco	508,077	557,522	542,095
5 Mineral products	4,096,594	3,529,072	4,582,323
6 Products of the chemical and allied industries	298,102	449,448	501,467
7 Plastics and rubber, and articles thereof	279,948	401,862	358,370
8 Hides and skins; leather and articles thereof	69,905	90,243	116,550
9 Articles of wood, cork, or plaiting material	158,377	199,471	220,714
10 Wood pulp, paper, paperboard, and articles thereof ..	274,465	345,337	406,172
11 Textiles and textile articles	592,641	652,912	721,901
12 Footwear, headgear, and artificial flowers	151,231	167,398	189,393
13 Articles of stone or ceramics; glass and glassware	276,754	316,913	351,628
14 Pearls; precious stones and metals; jewelry, coin	389,777	334,360	546,322
15 Base metals and articles of base metals	702,510	962,161	1,135,251
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	6,219,000	7,864,702	8,951,151
17 Vehicles, aircraft, and other transport equipment	2,178,222	2,777,011	2,950,736
18 Optical, photographic, measuring and medical apparatus; clocks and watches; musical instruments ..	350,720	499,151	601,717
19 Arms and ammunition; parts and accessories thereof ..	721	1,461	3,052
20 Miscellaneous manufactured articles	491,124	747,943	926,339
21 Works of art, collectors' pieces, and antiques	72,341	44,201	10,976
22 Special classification provision	749,634	955,593	1,236,071
Total	19,765,789	22,617,177	26,556,570

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

binational groups planned under the new agreement are, however, expected to facilitate the resolution of issues.

In addition to the TIFTs, the parties signed an "action plan" for the implementation of the TIFTs mandate, setting out an ambitious timetable for talks. In November 1989, the parties agreed to begin discussions on "standards, testing and certification" and petrochemicals. Actual talks on standards began in December, when Mexican officials explained their January 1988 measures that incorporated the GATT Standards Code into Mexican law. The parties agreed to explore each others' product standards as possible impediments to bilateral trade. U.S. officials are hoping that Mexico will soon develop more open procedures for setting standards, certification procedures, and other regulatory regimes.

In the petrochemical area, the United States and Mexico agreed to investigate avenues to increase bilateral trade. The two countries found that this effort requires, among others, minimization of differences between their tax structures, and environmental safety regulations. The Mexican Government's role in the petrochemical industry, and Mexican barriers to foreign investment in that sector will also be examined.⁸⁸

Textiles

In 1989, a bilateral agreement on textiles and apparel under the MFA was in effect. Although the accord will expire on December 31, 1991,⁸⁹ U.S. trade officials indicated at the United States-Mexican October summit that they might improve Mexico's access to the U.S. market sooner.⁹⁰ In 1989, Mexico was the sixth-largest supplier of textile and apparel products to the United States.⁹¹

Intellectual Property Protection

In May 1989, the U.S. Government placed Mexico, along with 7 other countries, on a "Priority Watch List" under the "special 301 provision" of the Omnibus Trade and Competitiveness Act of 1988. This measure

⁸⁸ See USITC, *Operation of the Trade Agreements Program*, 39th Report, 1987, USITC Publication 2095, 1988, p. 4-36.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ In February 1990, the United States and Mexico signed a memorandum of understanding (MOU) that liberalized textile and apparel trade for the remainder of the 1988 accord. Many of the changes improved Mexico's access to the U.S. market under the "special regime," i.e. textile products assembled in Mexico from U.S.-formed and cut fabric. In addition, U.S. quotas on 52 categories of products were dropped from the agreement; quotas were increased for the remaining categories by 25 percent; and more flexibility was added in many product areas to accommodate changes in fashion demand.

provides that countries with inadequate legislation for Intellectual Property Rights (IPR) should be identified, and authorizes retaliatory measures if negotiations fail to secure adequate protection. Mexico was placed on the list because of its failure to provide adequate patent protection, and in hopes of promoting bilateral negotiations to cover IPR.

For years, Mexico's weak patent and trademark protection has been a key issue in bilateral consultations between the two countries. In 1986, the Mexican administration passed legislation to amend its 1976 Law on Inventions and Trademarks. However, the United States found the new law still inadequate because it left several problem areas of the original law unchanged.⁹² For example, Mexico's patent protection lasts 14 years, compared with the international norm of 20 years. Also, Mexico denies patents to many types of products, including pharmaceuticals and fine chemicals and has ineffective legislation and enforcement for copyright protection.

Mexico remained on the priority watch list in October 1989, when the United States removed South Korea, Taiwan, and Saudi Arabia in recognition of these countries' measures to prevent the piracy of U.S. products. Meanwhile, although Mexican IPR legislation had not yet been significantly strengthened, a change in the Mexican Government's thinking on the subject continued to be in evidence during the year. Mexican officials publicly stated that protection is essential to ensure Mexico's access to foreign investment and new technology, and made significant progress in the enforcement of copyright protection.⁹³

In addition, the Mexican Government announced that it would soon implement a new law to strengthen patent and trademark protection. This legislation will extend the term of patent protection from 14 to 20 years from the filing date; offer protection to alloys, new chemical and pharmaceutical products and biotechnology processes; restrict compulsory licenses; provide transitional patent protection; strengthen trade secrets protection; and modify the rules concerning trademarks. Mexican officials also drafted legislation for tougher criminal penalties for copyright violations, including those covering sound recordings and software programs.⁹⁴

⁹² See USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, p. 4-37.

⁹³ See *Review of Trade and Investment Liberalization Measures by Mexico and Prospects for Future United States-Mexican Relations*, April 1990, USITC Publication 2275, p. 6-10.

⁹⁴ *Ibid.*, p. 6-3. In response to the Mexican announcements, U.S. officials removed Mexico from the "priority watch list" in January 1990.

Foreign Debt

Following 3 months of intense negotiations, on July 23, 1989, Mexico reached an agreement with its creditor banks.⁹⁵ President Salinas called the negotiations "the most difficult, complex and tense ever realized in the history of our country and the international financial system."⁹⁶ The agreement gave the creditor banks 3 options:

1. A 35-percent reduction of the principal of the \$54 billion owed, collateralized with U.S. Treasury bonds, and a rate of interest equal to the London Interbank Offer Rate (LIBOR) plus 13/16 of a percent;
2. A reduction in the interest rate on the remaining debt from a variable rate to a fixed rate of 6.25 percent, collateralized the same way;
3. Fresh loans in the amount of 25 percent of current debt exposure, with a rate of interest equal to LIBOR plus 13/16 of a percent.

The maturity of loans under the first and second options was to be increased from 20 to 30 years, and all of the principal was to be repaid at the end of 30 years. The amortization period for new money under the third option is 15 years with a 7-year grace period. The United States and other creditor governments lent Mexico an additional \$2 billion in bridging loans in 1989.

The agreement marked the first breakthrough for the Bush administration's Third World debt strategy, the so-called "Brady Plan," unveiled in March 1989.⁹⁷ The new debt agreements overall are expected to reduce Mexico's net external transfers from over 6 percent of GDP during 1983-88 to about 2 percent during 1989-94.⁹⁸

Mexican Measures Affecting Bilateral Relations

In 1989, the Mexican Government continued to make significant progress in liberalizing the economy from what it perceived as burdensome overregulation. The Government also accelerated the privatization of its government-owned or

⁹⁵ See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 118.

⁹⁶ *The Journal of Commerce*, July 24, 1989.

⁹⁷ Early in 1990, the creditor banks approved the July 1989 agreement. Banks accounting for 47 percent of the debt chose to reduce interest (second option); banks accounting for 41 percent of the total chose to reduce the principal (first option); and banks accounting for the remaining 12 percent will make new loans (third option.)

⁹⁸ *Hacienda*, "The Renegotiation of Mexico's External Debt," February 1990, p. 14.

government-controlled sector, and continued to liberalize Mexico's foreign trade and investment regime. In July, Mexico opened the country's stock market to foreign investors, who now can enter directly, using foreign currency. Earlier, foreign investors had to invest in pesos and could transact business only through Mexican intermediaries. Many of these measures, which had major implications for U.S. interests, resolved or ameliorated long-standing contentious issues between the two countries.

Automotive regulations

The Mexican Government's policy of economic openness led to new measures in the automotive area in 1989. On December 11, 1989 President Salinas signed 2 decrees designated to rationalize Mexican automotive production. They encourage the production of only those lines and models that are competitive. The first decree applies to autos, auto parts, light trucks and medium trucks up to 8,864 kilograms in weight. It allows Mexican companies currently manufacturing or selling automobiles in Mexico to import foreign-made models, effective November 1990. Previously, importation of finished automobiles was effectively prohibited by the Government's refusal to issue import permits. Under the new rules, companies will be able to specialize by producing some models and importing others. The new regulations provide, however, that imports in 1991 and 1992 should not exceed 15 percent of total car sales. Special rules will apply to distributors within the free zones and the northern border region, and for the importation of trucks exceeding certain weights.

The decree also liberalizes the domestic component requirements in the auto industry, auto-part, and light-truck industry. Thirty-six percent of the value-added will have to consist of domestic components for makers of the final product, and at least 30 percent for auto-parts. This compares with local content requirements of 60 percent for autos and auto parts, 70 percent for light trucks, and 80 percent for medium trucks under 1983 regulations.

The second new automotive decree applies to heavy-duty trucks and buses and covers the transportation vehicles industry, went into effect on January 1, 1990. Local content requirements, which were 80 and 90 percent for heavy trucks and buses, respectively, are now required to generate only 40-percent local value-added. Imports are permitted under specified conditions that become more liberal each year through 1994.

The liberalization of automotive imports has major implications for U.S. interests, since automotive trade is the largest component of bilateral trade. The United States and Mexican Governments continue to discuss bilateral market

access and related issues in the "Automobile Work Group," established under the 1987 United States-Mexico Framework Understanding.

Maquiladora industry

On December 25, 1989, the Mexican Government put into effect a "Decree for the Promotion and Operation of the Export Maquiladora Industry." Maquilas are companies for which 100-percent foreign ownership was allowed even in the years of Mexico's closed-door economy, i.e. before 1986. Maquilas are allowed to import component parts to be assembled or materials to be processed in Mexico, provided most of the final product is reexported.

Maquilas are predominantly U.S.-owned. Some 85 percent of the maquiladora industry is located along the northern border of Mexico in proximity of the U.S. market. When the maquiladora product is exported to the U.S. market, the United States levies duties only on the value added in Mexico.

The maquiladora industry currently accounts for some one-third of overall United States-Mexico trade, and it is Mexico's second-largest source of foreign exchange. The leading sectors in this assembly industry are automotive parts, electronic products, and apparel.

The 1989 regulations also boost the portion of the maquilas' production that they are allowed to sell on the domestic market from 20 percent to 50 percent of the total. Before the new regulations, the red tape associated with selling in Mexico was prohibitive; therefore, virtually all production of the maquiladora industry was exported. In order to encourage better transfer of technology to the maquilas, the new regulations allow them to import computers for administrative purposes free of duty. Previously, only equipment used directly in the productive process was permitted to enter Mexico free of duties.

The 1989 decree also significantly streamlined administrative procedures to encourage the establishment of new maquilas. Under the prior regulatory framework, negotiations with nine different Government agencies were required. Under the new decree, the Secretary of Commerce handles all administrative details pertaining to the maquiladora industry. In addition, the 2-year term for which licenses for maquilas were granted was changed to an open-ended period.

The new regulations are being considered an instrument of integration between the maquiladora industry and the rest of Mexican industry. Maquiladora rules are expected to be further liberalized in 1991, when the Mexican Government will allow still greater domestic market access for goods finished by the maquilas.

Foreign investment

On May 16, 1989, President Salinas issued a decree announcing new, more liberal foreign investment rules.⁹⁹ The measures fell short of repealing the country's highly protectionist 1973 foreign investment law, but eliminated much of the authorities' discretionary power to which prospective foreign investors, including those from the United States, have repeatedly objected. Mexico's barriers to foreign investment have long been a contentious issue between the United States and Mexico.

The purpose of the new measures is to secure rapid growth of foreign investment in Mexico. Mexico has one of the lowest levels of foreign investment in the world considering its economic potential, its geographic location, and the level of its industrial development. According to data of the U.S. Commerce Department, accumulated foreign investment in Mexico amounts to some \$24 billion, of which 62.1 percent by value comes from the United States, followed by the United Kingdom at 7.3 percent, West Germany at 6.6 percent and Japan at 5.5 percent. Foreign companies in Mexico numbered 8,420 in 1988.

The new rules significantly broadened the range of economic activities open to 100-percent foreign ownership. Seven hundred fifty-four categories of economic activities or 72.5 percent of the Mexican economy benefit by not needing any more prior approval for foreign investors,¹⁰⁰ provided certain conditions are satisfied.¹⁰¹ Included are certain industries such as glass, cement, iron, steel, and cellulose for which majority foreign participation was previously restricted. Upon prior approval, 40 more classes of economic activity are also open to 100-percent foreign investment. In addition, minority foreign participation is newly allowed in many other activities, notably in telecommunications, commercial fishing, and secondary petrochemicals. However, industries deemed "strategic"—such as oil exploration, and power generation—will continue to be off limits to foreigners.

Taiwan

Overview

Several major issues dominated the bilateral agenda in United States-Taiwan trade during

⁹⁹ The new rules were published in the *Diario Oficial*, the Mexican Government's official gazette, on May 16, 1989.

¹⁰⁰ *Review of Trade and Investment Liberalization Measures by Mexico*, op. cit., p. 5-11.

¹⁰¹ The following conditions must be satisfied: (1) capital must not exceed \$100 million; (2) financing must be external; (3) projects must be located outside the Valley of Mexico City, Monterey and Guadalajara; (4) over the first 3 years of the project exports and imports must be balanced; (5) permanent employment must be generated and training given to Mexican personnel; (6) environmental requirements must be satisfied.

Table 11

U.S. trade with Taiwan by HTS sections, 1987-89

(000 of dollars)

Section	1987	1988	1989
U.S. exports			
1 Live animals; animal products	38,954	45,802	67,825
2 Vegetable products	845,774	1,194,328	1,248,166
3 Animal or vegetable fats, oils, and waxes	7,664	16,193	15,681
4 Prepared foodstuffs, beverages, and tobacco	211,712	290,558	329,034
5 Mineral products	369,067	497,774	570,956
6 Products of the chemical and allied industries	888,501	1,216,619	1,446,969
7 Plastics and rubber, and articles thereof	291,702	378,463	386,533
8 Hides and skins; leather and articles thereof	214,953	215,549	173,434
9 Articles of wood, cork, or plaiting material	126,996	189,408	181,497
10 Wood pulp, paper, paperboard, and articles thereof	227,756	304,057	337,336
11 Textiles and textile articles	186,197	153,394	150,451
12 Footwear, headgear, and artificial flowers	3,663	5,482	10,765
13 Articles of stone or ceramics; glass and glassware	36,251	59,191	77,888
14 Pearls; precious stones and metals; jewelry, coin	573,242	2,471,047	21,488
15 Base metals and articles of base metals	289,503	498,911	646,716
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	2,037,991	2,833,238	3,475,482
17 Vehicles, aircraft, and other transport equipment	280,740	712,363	1,098,982
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	238,389	305,941	365,072
19 Arms and ammunition; parts and accessories thereof	3,613	8,505	126,130
20 Miscellaneous manufactured articles	28,545	50,134	58,384
21 Works of art, collectors' pieces, and antiques	2,898	2,551	2,972
22 Special classification provision	115,127	149,776	182,936
Total	7,019,239	11,599,286	10,974,696
U.S. imports			
1 Live animals; animal products	246,920	184,407	166,351
2 Vegetable products	50,816	45,110	46,991
3 Animal or vegetable fats, oils, and waxes	909	897	1,301
4 Prepared foodstuffs, beverages, and tobacco	253,315	215,755	160,818
5 Mineral products	12,656	9,597	4,149
6 Products of the chemical and allied industries	107,233	121,316	121,693
7 Plastics and rubber, and articles thereof	1,354,740	1,486,526	1,359,821
8 Hides and skins; leather and articles thereof	720,741	598,543	590,605
9 Articles of wood, cork, or plaiting material	533,279	491,964	403,339
10 Wood pulp, paper, paperboard, and articles thereof	109,459	104,151	96,002
11 Textiles and textile articles	3,111,451	2,830,443	2,980,241
12 Footwear, headgear, and artificial flowers	2,717,843	2,610,160	2,181,680
13 Articles of stone or ceramics; glass and glassware	593,709	566,579	447,155
14 Pearls; precious stones and metals; jewelry, coin	120,010	129,673	126,472
15 Base metals and articles of base metals	1,791,067	1,861,118	1,824,485
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	7,564,594	8,385,116	8,316,648
17 Vehicles, aircraft, and other transport equipment	999,312	910,102	997,303
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	635,369	703,484	650,401
19 Arms and ammunition; parts and accessories thereof	2,176	1,942	2,345
20 Miscellaneous manufactured articles	3,412,989	3,176,082	3,516,946
21 Works of art, collectors' pieces, and antiques	2,999	3,114	1,754
22 Special classification provision	234,094	274,652	206,786
Total	24,575,682	24,710,730	24,203,285

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

1989. Protection of intellectual property rights, frequently a major bilateral issue, became somewhat of a less contentious issue with the signing of two bilateral agreements. The question of whether Taiwan manipulates its exchange rate to an unfair trading advantage was a heated topic throughout the year, with the issue cooling by yearend as Taiwan loosened Central Bank control on the exchange rate. Taiwan authorities released a trade action plan under which Taiwan will strive to cut the bilateral trade imbalance by 10 percent a year for 4 years. Also, an agreement was signed which allows U.S. officials to board Taiwan fishing boats to conduct spot checks of driftnet fishing.

Protection of Intellectual Property Rights

In May 1989, the Office of the USTR placed Taiwan, among others, on a "Priority Watch List" of countries that deny protection of intellectual property rights or deny equitable market access to those relying on such protection, the so-called "Special 301."¹⁰² Piracy of books, computer software, and videocassettes in Taiwan has been a particular concern to the United States. In June 1989, the United States tabled a proposal for an "accelerated action plan" for improving enforcement of intellectual property rights in Taiwan.

During 1989, Taiwan took several measures designed to improve enforcement of intellectual property protection. These included releasing a policy statement on the importance of protecting intellectual property rights, creating law enforcement bodies, and levying penalties against violators. USTR determined on November 1, 1989, that Taiwan had shown a "strong commitment" to protecting and enforcing intellectual property rights, and was therefore transferred from the special 301 priority watch list to the watch list.

During 1989, the United States and Taiwan initialed two bilateral agreements related to specific U.S. concerns. An agreement on regulation of so-called MTVs¹⁰³ was signed in June, and an accord on copyright protection was reached in July. The MTV agreement is intended to protect holders of copyrights on audiovisual works shown in MTV parlors.¹⁰⁴ Taiwan is moving to close down MTV parlors that do not comply with construction, zoning, and

¹⁰² For a discussion of "Super 301," and "Special 301," see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 4.

¹⁰³ Movies on Television (MTVs) in Taiwan are private video parlors where individuals or small groups can rent and watch movies that may be pirated copies.

¹⁰⁴ By January 1990, of the 649 MTV parlors that were estimated to exist in 1988, 184 remained. Of those, 141 had complied with the new regulations, and the rest were in the process of obtaining the licenses.

copyright requirements. Since the June agreement, Taiwan's Government Information Office created a videocassette licensing system which displays the copyright licensing status for every videocassette.

The July copyright agreement will provide holders of copyrights a degree of protection in Taiwan similar to that of the Berne Convention. Under the pact, Taiwan agreed to protect U.S. works created after 1965 for life plus 50 years. Protection will also be given to works in translation.

Exchange Rates

An October 1988 report by the U.S. Treasury Department criticized Taiwan for manipulating its exchange rate policy "for the purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade."¹⁰⁵ The report further stated that "Taiwan's underlying economic fundamentals strongly suggest that further appreciation would occur if capital and exchange restrictions were dismantled and market forces were given freer rein."

In April 1989, Taiwan authorities announced that, on April 3, a 10-point program that was designed to restrict possible intervention by Taiwan's Central Bank in determining the exchange rate would become effective. As Taiwan authorities noted, the changes were meant to "accelerate economic liberalization and internationalization as well as accommodate financial policy requirements."¹⁰⁶

¹⁰⁵ U.S. Department of the Treasury, *Report to the Congress on International Economic and Exchange Rate Policy*, Oct. 15, 1988.

¹⁰⁶ Central Bank of China, quoted in U.S. General Accounting Office, "U.S. Trade Deficit: Impact of Currency Appreciations in Taiwan, South Korea, and Hong Kong," April 1989, p. 52. The main points of the program are: (1) abolish the current daily weighted average exchange rate with the U.S. dollar; (2) remove the limitation that the NT\$ may not fluctuate by more than 2.25 percent of the previous day's exchange rate; (3) remove limitations on the fluctuation in the exchange rate for spot U.S. dollar trading; (4) establish the beginning of the trading day as 10:00 am, with exchange rates for transactions prior to that time determined by individual banks; (5) create a task force to establish a foreign exchange brokerage house that will engage in foreign exchange trading, gather information required by the Central Bank, and provide market information; (6) release dollar trading volumes and final trading exchange rates to international wire services every 30 minutes; (7) the trading between banks will be determined by the banks themselves, with trading volumes and exchange rates at which transactions are conducted reported to the task force; (8) banks may ask the task force to buy or sell on their behalf by stating their desired currency purchases or sales together with their price quotes; (9) trading on currencies other than the U.S. dollar will be conducted in accordance with existing methods; (10) five banks run by Taiwan authorities along with four other banks will negotiate rates for each day's trading of amounts less than U.S. \$30,000.

On April 27, the U.S. Treasury Department issued its semiannual report to Congress on international economic and exchange rate policy. The report, concentrating on the period prior to implementation of the changes in Taiwan's exchange rate regime noted above, said that Taiwan still manipulated its exchange rate, although some progress (particularly in comparison with South Korea) had been made in adjusting its currency policy. The report warned that the program will ultimately be judged by "the extent of central bank intervention in the market; the continued free flow of trading information; the removal of remaining controls on capital inflows; and the potential for discrimination between Taiwanese (sic) and foreign banks."¹⁰⁷

On October 27, the Treasury Department again released a semiannual report on international economic and exchange rate policy. The Department reversed its finding of 6 months earlier regarding Taiwan, and declared that "at this time, there are no clear indications that Taiwan is 'manipulating' its currency for competitive advantage."¹⁰⁸ The report noted a 12-percent appreciation of the NT dollar against the U.S. dollar over the previous 12 months, and also pointed out that Taiwan's global current-account surplus fell as well. Commenting on Taiwan's new program for foreign exchange trading announced in April, the report said that since then Taiwan has "taken a number of significant steps to further liberalize the system and reduce the capital controls that have facilitated the authorities' ability to manipulate the NT dollar."

After the September 1985 Plaza Agreement,¹⁰⁹ the NT dollar appreciated from about 40 NT/US\$ to an average rate of about 26 NT/US\$ in 1989, or by about 35 percent. During 1989, the NT/US\$ exchange rate remained relatively stable at about 27 NT/US\$.

Trade Action Plan

In February 1989, Taiwan enacted a "Trade Action Plan" designed to counteract the bilateral trade imbalance with the United States, and, by extension, to improve foreign access to Taiwan's market.¹¹⁰ The U.S. trade deficit with Taiwan was

¹⁰⁷ Quoted in *International Trade Reporter*, May 3, 1989, p. 562.

¹⁰⁸ Quoted in *International Trade Reporter*, Nov. 2, 1989, pp. 1419-1420.

¹⁰⁹ During a September 1985 meeting at the Plaza Hotel in New York, finance ministers from the major industrialized countries essentially agreed to support realignment of their currencies in an effort to achieve more balanced trade and economic performance.

¹¹⁰ For background information on the trade action plan as it was proposed in late 1988, see USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 122.

about \$13 billion in both 1988 and 1989. The plan will be implemented over 4 years (1989-92).

Major elements of the plan are measures designed to boost domestic consumption and investment in Taiwan, and cut the merchandise and trade surpluses. Specifically, Taiwan will try to increase consumption and investment as a share of GNP from 90 to 96 percent, and decrease the merchandise and service trade surplus from 10 to 4 percent of GNP. Another goal of the plan is to cut Taiwan's nominal tariff rate from 12.6 percent to 7 percent by 1992. Cuts in nontariff barriers, an easing of restrictions on foreign air cargo operations, inland trucking, foreign banks, insurance companies, and securities firms are also envisioned.

Concerning overall trade with the United States, Taiwan plans to cut the share of its total exports that are destined for the United States from the 1988 level of 39 percent to 33 percent by 1992. A variety of means will be used to increase imports from the United States, such as dispatching more procurement missions to the United States, providing assistance to U.S. companies interested in marketing their products in Taiwan, and extending low-interest credit to U.S. exporters.

Through the trade action plan, Taiwan hopes to cut the its bilateral trade surplus with the United States by 10 percent a year. This goal foresees a reduction in the Taiwan's trade surplus from the 1988 level of \$13.3 billion to \$8.7 billion in 1992.

Driftnet Fishing

The use of driftnets¹¹¹ by Taiwan fishermen was a subject of a series of bilateral discussions between the United States and Taiwan during 1989. These concluded in midyear with the two sides agreeing on how to monitor driftnet fishing. Under the terms of the agreement, U.S. fishing observers will be able to board Taiwanese fishing trawlers on the high seas to inspect their catch. Had the talks failed, the United States might have retaliated against Taiwan as previously suggested by banning U.S. imports of fish products from Taiwan.¹¹² The agreement also grants U.S. access to Taiwanese trawlers for the purpose of gathering scientific information.

Taiwan issued regulations to implement the agreement in late 1989. The guidelines prohibit driftnet fishing by Taiwanese trawlers within 200 miles of the U.S., Canadian, or Soviet

¹¹¹ Driftnets are floating fishing nets that can stretch 20-35 miles long and 35 feet deep. Taiwan, among other countries, uses driftnets for fishing in the North Pacific. Concern over the use of driftnets centers on the incidental catch of marine mammals, and the illegal harvest of fish such as salmon en route to spawning grounds.

¹¹² U.S. imports of fish caught by Taiwan amount to about \$400 million per year.

coastlines. Driftnet fishing will be allowed west of 170 degrees east longitude and south of 36 degrees north latitude from January to April, with the northern border moved up to 38 degrees north latitude in May. Violation of the regulations can result in revocation of licenses of the boat, captain, or other crew members. Taiwan has stated that it will cease using driftnets for salmon fishing by June 30, 1992, as mandated in a United Nations resolution.

Republic of Korea

Overview

In 1989, Korea's bilateral trade surplus with the United States declined by 50 percent (from \$9 billion to \$4.5 billion) from 1988. Korea's 1989 imports from the United States rose by 26 percent over 1988's level, and Korea's exports to the United States declined by 4.2 percent.¹¹³

During 1989, United States-Korea bilateral relations improved as certain ongoing issues were resolved. Korea increased protection for intellectual property rights, extended its steel voluntary restraint agreement, reached an agreement with the United States on driftnet fishing, extended the bilateral textile agreement, and reached an understanding with the United States in the aviation area. Korea also agreed to major reforms in investment, agriculture, and localization to reach Super 301 accords.¹¹⁴

Other key bilateral trade issues between Korea and the United States included market access for U.S. beef, telecommunications services, Korea's use of the GATT balance-of-payments provisions for import restrictions, and food safety questions concerning fruit trade.

Beef Trade

Korean restrictions on imports of high-quality beef have been a highly sensitive bilateral issue during the last few years. With the exception of one small shipment of 49 tons for the annual meeting of the IMF in Seoul, Korea prohibited all imports of beef from May 1985 until mid-1988, and severely restricted imports in the latter half of 1988 and during 1989.¹¹⁵

In February 1988, the American Meat Institute (AMI) filed and USTR accepted a section 301 petition alleging that Korea maintained a restrictive import-licensing system covering all bovine meat, including high quality beef. AMI alleged that this prohibition violated article XI of the GATT, nullified and

impaired Korea's tariff concession on beef under the GATT, and otherwise unfairly restricted U.S. commerce. USTR also brought the case to a GATT panel for review. While these cases were pending, Korea eased restrictions on beef imports in June 1988, allowing a quota of 14,500 tons in 1988, and projecting a quota of 50,000 tons in 1989.¹¹⁶

In April 1989, the GATT panel found that Korean restrictions on beef imports were inconsistent with the GATT balance-of-payments exception. The Korean Government initially blocked approval by the GATT Council before accepting the findings in November 1989.¹¹⁷ After lengthy negotiations, Korea finally reached an accord with the United States in March 1990, avoiding any retaliation by the United States under section 301. Korea will open its beef market fully within 3 years and set up special procedures under which foreign producers can make contact with potential buyers in Korea. In the interim, temporary quotas will allow beef imports of 58,000 tons in 1990, 62,000 tons in 1991, and 66,000 tons in 1992.

Telecommunications

In February 1989, the United States designated Korea as a priority country for telecommunications trade negotiations under Section 1374(a) of the 1988 Trade Act. This action by the United States was taken in response to Korean market access barriers including restrictions on providing value-added telecommunications services; "buy national" government procurement practices; and discriminatory standards, testing, and certification procedures. After 1 year of negotiations, on February 22, 1990, President Bush determined that substantial progress had been made in these negotiations (based on USTR recommendations), particularly in government procurement, standards, testing, certification, and tariffs.

Negotiations were extended for up to 1 additional year, and discussions will be held within the framework of the Uruguay Round and bilateral talks. Unresolved issues mainly concern Korea's restrictions on telecommunications services. Under the 1988 Trade Act, the United States could retaliate using the Super 301 and Special 301 provisions, which respectively identify unfair trading nations and target nations deemed guilty of allowing patent or copyright piracy.¹¹⁸

The Korean Government has taken several steps to liberalize its telecommunications market in the past, including eliminating all restrictions on imports of telecommunications equipment in

¹¹³ *Partnership in Progress*, Korean Ministry of Industry and Trade (MTI), February 1990, pp. 28-29.

¹¹⁴ *Partnership in Progress*, Korean MTI, February 1990, pp. 3-13.

¹¹⁵ *Newsreview*, Oct. 7, 1989, p. 13; *Foreign Trade Barriers*, USTR, Spring 1990, p. 129.

¹¹⁶ *Business Korea*, December 1989, pp. 64-71.

¹¹⁷ This issue is also discussed in ch. 2 of this report in the section on dispute settlement.

¹¹⁸ USTR, *Foreign Trade Barriers*, Spring 1990, pp. 133 and 135, and *Journal of Commerce*, Feb. 16, 1990, p. 1.

Table 12
U.S. trade with the Republic of Korea, by HTS sections, 1987-89
(1,000 of dollars)

Section	1987	1988	1989
<i>U.S. exports</i>			
1 Live animals; animal products	57,799	81,937	161,653
2 Vegetable products	819,956	1,002,358	1,200,093
3 Animal or vegetable fats, oils, and waxes	37,379	48,474	45,330
4 Prepared foodstuffs, beverages, and tobacco	49,180	116,687	225,827
5 Mineral products	380,286	365,092	443,536
6 Products of the chemical and allied industries	791,258	1,139,919	1,367,786
7 Plastics and rubber, and articles thereof	312,617	379,784	374,985
8 Hides and skins; leather and articles thereof	667,438	751,021	773,496
9 Articles of wood, cork, or plaiting material	186,775	302,272	354,133
10 Wood pulp, paper, paperboard, and articles thereof ...	383,363	504,721	589,231
11 Textiles and textile articles	417,223	563,823	560,160
12 Footwear, headgear, and artificial flowers	5,449	7,465	12,076
13 Articles of stone or ceramics; glass and glassware	49,418	77,805	92,113
14 Pearls; precious stones and metals; jewelry, coin	24,113	24,925	35,105
15 Base metals and articles of base metals	429,911	793,852	1,148,138
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	2,028,222	2,741,187	3,638,505
17 Vehicles, aircraft, and other transport equipment	436,560	923,133	1,441,097
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments ..	276,523	365,946	443,109
19 Arms and ammunition; parts and accessories thereof ..	2,790	4,776	89,143
20 Miscellaneous manufactured articles	50,170	84,352	89,716
21 Works of art, collectors' pieces, and antiques	883	5,007	4,123
22 Special classification provision	78,750	96,902	118,385
Total	7,486,064	10,381,436	13,207,742
<i>U.S. imports</i>			
1 Live animals; animal products	185,005	136,166	93,636
2 Vegetable products	17,312	21,468	17,616
3 Animal or vegetable fats, oils, and waxes	901	537	1,571
4 Prepared foodstuffs, beverages, and tobacco	120,661	141,685	97,532
5 Mineral products	32,542	27,076	32,635
6 Products of the chemical and allied industries	102,404	110,874	107,068
7 Plastics and rubber, and articles thereof	450,373	534,194	482,510
8 Hides and skins; leather and articles thereof	1,084,571	1,263,383	1,521,946
9 Articles of wood, cork, or plaiting material	19,685	20,817	16,317
10 Wood pulp, paper, paperboard, and articles thereof ...	73,225	95,740	92,066
11 Textiles and textile articles	2,814,624	2,796,715	2,995,541
12 Footwear, headgear, and artificial flowers	1,886,498	2,477,687	2,359,514
13 Articles of stone or ceramics; glass and glassware	123,375	133,746	139,626
14 Pearls; precious stones and metals; jewelry, coin	136,564	140,071	150,451
15 Base metals and articles of base metals	1,119,335	1,390,731	1,131,818
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	4,918,492	6,419,585	7,018,375
17 Vehicles, aircraft, and other transport equipment	2,251,923	2,792,548	1,957,421
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments ..	357,052	430,692	350,036
19 Arms and ammunition; parts and accessories thereof ..	11,862	12,645	8,023
20 Miscellaneous manufactured articles	1,059,776	978,593	847,448
21 Works of art, collectors' pieces, and antiques	25,970	19,901	11,759
22 Special classification provision	96,002	127,135	133,815
Total	16,888,153	20,071,989	19,566,725

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

1988; reducing average tariffs on telecommunications equipment from 20 percent to 15 percent in 1989, and to 13 percent at the beginning of 1990; allowing foreign manufacturers to invest in Korean production facilities; and allowing foreign companies, since 1987, to participate in joint ventures to provide database, dataprocessing, and intracorporate telecommunication services.

Korea plans to further liberalize trade by opening up the data base and data processing service markets to U.S. companies in July 1990, and by opening the international value-added-network business in 1991. However, the United States has demanded that it be allowed to participate in all value-added-network services, an issue which remains unresolved. The United States will be allowed to participate in competitive bidding for Korea Telecommunication Authority (KTA)-purchased telecommunications equipment in 1991, although the bidding will be for equipment not related to communication networks, such as office machinery. The U.S. participation in network-related equipment bidding will open up only in 1993. While Korea limited the bidding to KTA-purchased goods, the U.S. earlier wanted to include purchases of other telecommunications firms, such as Data Communications Corp. of Korea and the Korea Mobile Telecommunications Corp. These issues also remain unresolved.

GATT Balance-of-Payments Restrictions on Imports

Beginning in 1967, Korea applied article XVIII:b of the GATT, which permits import controls if a country experiences chronic balance-of-payments (BOP) deficits. The United States challenged this justification during the November 1987 and June 1989 GATT BOP Committee meetings since Korea has enjoyed a very healthy BOP situation since 1986.¹¹⁹

During the October 1989 BOP Committee meeting, Korea agreed to phase out all remaining quantitative restrictions or justify such restrictions under other GATT Articles by July 1, 1997. Korea is in the process of freeing 273 products, including fish, fruits, nuts, and some oils under an import liberalization program due to be completed in 1991. After that, it will phase out the remaining restrictions on 274 items, including 264 agricultural products and 10 industrial items, in two 3-year programs. Korea will abandon its claim to article XVIII beginning January 1, 1990. During its liberalization efforts, Korea will give requests for market access by contracting parties to the GATT through the Secretariat priority consideration.

¹¹⁹ Office of the U.S. Trade Representative (USTR), *Foreign Trade Barriers*, 1990, pp. 128-129, and *Partnership in Progress*, Korean MTI, February 1990, p. 21.

Fruit Trade

Bilateral tensions flared in June and December of 1989, as Koreans accused U.S. grapefruit growers of using the chemical alar in grapefruit production, and the U.S. Food and Drug Administration (FDA) detained shipments of Korean pears containing residues of the chemical chlorothalonil. The Korean press even carried vague rumors that there would be a ban on U.S. fruit imports in retaliation for the detained pear shipments. Each side accused the other of imposing nontariff barriers to fruit trade based on "food safety" problems.

The alar controversy in mid-June began when Korean dockworkers raised an alarm that U.S. grapefruit was tainted with alar. Private laboratories that tested the grapefruit did not find any alar, but reported that it could not be found below a certain level (the testing methodology was not sensitive enough to guarantee a zero reading for pesticides).¹²⁰ The scare quickly spread to Korean consumer groups and a popular movement to boycott imported U.S. grapefruit was formed. The Korean Government was slow to correct this misunderstanding, and when it finally explained the test results in October and assured the public that there was no alar in U.S. grapefruit, sales of U.S. grapefruit were temporarily severely curtailed. Despite the scare and consequent decline in sales, U.S. grapefruit exports in 1989 more than doubled from the level in 1988.¹²¹

In December 1989, the U.S. FDA detained several shipments of Korean pears containing residues of the pesticide chlorothalonil. Under the Federal Food, Drug and Cosmetic Act, any amount of pesticide on a particular product is considered to be unsafe if the Environmental Protection Agency (EPA) has not set a residue tolerance for that pesticide on that product. Chlorothalonil is considered a possible carcinogen, and applications for tolerance levels of chlorothalonil on many agricultural crops are currently on hold until EPA finishes its review of the possible carcinogenic effect.¹²²

The Korean Government claimed that the detention of its pear shipments was merely a retaliation against the alar scare of the summer, while U.S. officials maintained that the food safety laws are applied equally to domestic and imported fruit, and that pear imports from Japan and Chile have also been detained in the past. As tensions increased, the Korean press reported rumors that there would be an official retaliation

¹²⁰ *Business Korea*, November 1989, pp. 45-46, and December 1989, p. 64.

¹²¹ *International Trade Reporter*, vol. 6, Oct. 11, 1989, p. 1307, and U.S. Department of State Telegram Seoul A-1, Jan. 3, 1990, p. 13.

¹²² U.S. Department of State Telegram 407145, Dec. 23, 1989.

in the form of a ban on U.S. grapefruit imports, and two Korean importers cancelled orders for U.S. grapefruit.¹²³ However, tensions eventually eased as misunderstandings on both sides were resolved. U.S. Government representatives suggested alternative pesticides for use in Korean pear production, and reminded Korean officials that only a portion of Korean pear shipments were found with chlorothalonil residues.¹²⁴ U.S. and Korean officials were able to pinpoint the source of chlorothalonil contamination—the paper wrapping for shipment of the pears. Cooperation on both sides to clarify which pesticides are legal in the United States resulted in more careful planning for 1990's pear shipments to avoid any future incidents.

Brazil

Overview

In 1989, Brazil's opportunities of alleviating strained economic relations with the United States were restricted by general elections scheduled for November, and the outgoing government's focus on serious economic problems at home. During the year, Brazil maintained an import prohibition list of more than 1,000 items. The list reflected bans on U.S. exports of various agricultural and manufactured items into Brazil, including meat, dairy products, plastics, chemicals, textiles, leather products, electronic items, motor vehicles, and furniture. Brazil also continued to use its licensing system to implement company and sectoral import quotas. This impeded exports of many important U.S. items to Brazil, including office machine parts, internal-combustion engine parts, and electrical machinery. Brazil maintained these restrictions despite the GATT prohibition of such measures.

In 1989, inflation in Brazil was running at an annual rate of 2,000 percent. Fernando Collor de Mello—Brazil's new President who was inaugurated on March 15, 1990—vowed to end the steep inflationary spiral, to privatize many state-owned enterprises, and to decrease Government regulations stifling most economic activities. In addition, the new President's economic reform package announced in March 1990 signalled that the country's protectionist trading system would soon be overturned. Among other goals, the program intended to phase out nontariff barriers to imports, and introduce a free-floating dollar to spur flagging exports.¹²⁵

¹²³ U.S. Department of State Telegram 13834, Dec. 18, 1990.

¹²⁴ *Journal of Commerce*, Dec. 1, 1989, and U.S. Department of State Telegram 407145, Dec. 23, 1989.

¹²⁵ The new administration promised to phase out all import controls except duties, and also significantly reduce the rates of duties. The administration also allowed the exchange rate of the cruzeiro (a currency reintroduced in place of the cruzado) in terms of the dollar to be determined by the free market, in order to escape the restricting effects of an overvalued cruzeiro on exports.

In addition, the President plans to open his country to foreign capital which would reverse a trend that saw foreign investment in Brazil plunge from a peak of \$2 billion a year in the 1970s to an average of \$500 million a year since 1984.

In May 1989, Brazil was one of three countries designated by the U.S. Government as an unfair trader. This aggravated already tense relations between Brazil and the United States. Nonetheless, the meetings of a bilateral working group, set up also in May 1989, kept channels of communications open over commercial issues.

Another positive 1989 bilateral development was that the U.S. Government terminated its 4-year old investigation under section 301 of the Trade Act of 1974 of Brazil's informatics policies, responding to concessions by Brazil. This event, and the cessation of Brazil's protectionist trade and investment policies by Brazil's new government, hold out promise for significant improvement of bilateral relations in years to come.

Super 301

On May 26, 1989, the United States named Brazil as one of three unfair-trading countries (together with Japan and India) under the so-called Super 301 provision of the 1988 Omnibus Trade and Competitiveness Act.¹²⁶ Subsequently, on June 16, 1989, the United States initiated an 18-month investigation under this provision. The investigation focused on the list of items Brazil maintains of prohibited importations; the country's company-based quotas and sectoral quotas; and the lack of transparency in Brazil's implementation of its prior import-licensing regime. The announcement of the U.S. investigation was followed by bilateral discussions. The United States and Brazil held several rounds of consultations concerning Brazil's protectionist import-licensing practices, but with limited progress.¹²⁷

Special 301

On May 26, 1989, the USTR also designated Brazil on a "priority watch list" under the

¹²⁶ Super 301 enables the United States Trade Representative to identify a country as an unfair trader, to begin negotiations with that country, and if these negotiations do not have results, to impose sanctions. Super 301 builds on Section 301 of the earlier Trade Act of 1974.

¹²⁷ On May 7, 1990, Brazil's newly elected government terminated quantitative import restrictions, the prior import-licensing system, and bans on imports of specific items. To prevent surges in imports, Brazilian officials replaced these quotas with tariffs. These and other sweeping policy reforms in Brazil led the U.S. Government on May 21, 1990, to end the ongoing super 301 investigation against Brazil. Brazil was the second country after Japan to escape the threat of U.S. retaliation for its trade practices, leaving India as the sole designated unfair trading nation.

Table 13
U.S. trade with Brazil, by HTS sections, 1987-89
(1,000 of dollars)

Section	1987	1988	1989
	<i>U.S. exports</i>		
1 Live animals; animal products	90,337	16,679	41,445
2 Vegetable products	159,873	25,424	75,798
3 Animal or vegetable fats, oils, and waxes	2,051	6,832	28,813
4 Prepared foodstuffs, beverages, and tobacco	5,569	5,622	10,013
5 Mineral products	321,234	310,039	384,661
6 Products of the chemical and allied industries	620,608	613,776	676,709
7 Plastics and rubber, and articles thereof	126,129	144,026	196,931
8 Hides and skins; leather and articles thereof	21,569	19,470	46,890
9 Articles of wood, cork, or plaiting material	3,509	5,214	5,500
10 Wood pulp, paper, paperboard, and articles thereof ...	53,336	57,843	74,749
11 Textiles and textile articles	28,970	38,851	39,623
12 Footwear, headgear, and artificial flowers	3,426	5,224	3,456
13 Articles of stone or ceramics; glass and glassware	17,920	21,141	31,412
14 Pearls; precious stones and metals; jewelry, coin	10,248	15,677	15,147
15 Base metals and articles of base metals	58,941	73,909	111,241
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	1,199,827	1,519,717	1,622,593
17 Vehicles, aircraft, and other transport equipment	911,115	960,944	817,933
18 Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments .	135,608	173,597	279,656
19 Arms and ammunition; parts and accessories thereof ...	97	82	1,501
20 Miscellaneous manufactured articles	7,655	9,650	14,043
21 Works of art, collectors' pieces, and antiques	724	277	2,857
22 Special classification provision	110,527	82,265	155,140
Total	3,889,272	4,106,260	4,636,110
	<i>U.S. imports</i>		
1 Live animals; animal products	129,131	125,445	104,371
2 Vegetable products	658,805	718,669	534,540
3 Animal or vegetable fats, oils, and waxes	43,291	63,391	42,702
4 Prepared foodstuffs, beverages, and tobacco	1,131,653	1,064,487	841,210
5 Mineral products	699,978	823,704	864,945
6 Products of the chemical and allied industries	256,780	372,233	317,813
7 Plastics and rubber, and articles thereof	149,269	193,485	176,765
8 Hides and skins; leather and articles thereof	47,421	95,116	59,103
9 Articles of wood, cork, or plaiting material	184,102	146,700	127,473
10 Wood pulp, paper, paperboard, and articles thereof ...	155,220	288,664	228,154
11 Textiles and textile articles	285,896	332,866	343,269
12 Footwear, headgear, and artificial flowers	948,404	987,960	1,037,495
13 Articles of stone or ceramics; glass and glassware	63,287	61,756	70,914
14 Pearls; precious stones and metals; jewelry, coin	79,312	112,090	132,867
15 Base metals and articles of base metals	686,053	1,004,765	1,003,352
16 Machinery and mechanical appliances; electrical equipment; parts and accessories thereof;	961,816	1,270,645	1,184,741
17 Vehicles, aircraft, and other transport equipment	951,813	1,198,540	1,130,917
18 Optical, photographic, measuring and medical apparatus; clocks and watches; musical instruments .	39,473	49,702	85,541
19 Arms and ammunition; parts and accessories thereof ...	25,070	28,249	28,314
20 Miscellaneous manufactured articles	41,094	52,181	62,109
21 Works of art, collectors' pieces, and antiques	4,259	4,924	21,539
22 Special classification provision	70,079	63,343	85,629
Total	7,612,206	9,058,916	8,483,765

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

"special 301" provision of the 1988 Trade Act. U.S. officials identified 8 countries—Brazil, China, India, Mexico, Saudi Arabia, South Korea, Taiwan, and Thailand—for failing to provide adequate protection for intellectual property rights (IPR). The Brazilian practices the United States specifically objected to included lax law enforcement against piracy of intellectual property; restricted market access for foreign motion pictures; limited patent protection for all classes of inventions; and Brazil's failure to participate constructively in multilateral IPR negotiations, especially in the Uruguay Round.

Brazil and the other seven countries were given special attention in the 5 months following their designation on the priority watch list. These countries were made subject to a review ending on November 1, 1989. As a result of this review, Brazil remained on the watchlist, whereas South Korea, Taiwan, and Saudi Arabia were removed in recognition of their efforts to crack down on piracy. The inadequacy of patent protection in Brazil, especially for pharmaceuticals, thus continued to be a key bilateral issue.¹²⁸

Informatics

On October 6, 1989, the USTR announced that it had terminated the 4-year-old investigation of Brazil's informatics policies. The announcement was accompanied by the following words of the USTR: "We welcome Brazil's efforts to modify its informatics policies in response to our concerns."¹²⁹ Earlier, on September 13, 1989, Brazil agreed to allow payments for imported computer operating programs (as well as other imports) to be made at more realistic exchange rates than before. In addition, Brazil has expressed willingness to open part of its informatics market to foreign investment.

Small computers and software are part of a broad category called "informatics" in Brazil, which includes all telecommunications and data-processing equipment with a digital component, and related services. Brazil's efforts to establish a domestic informatics industry under a protectionist umbrella are now more than a decade old. Brazil's controversial informatics law, which formalized preexisting protective regulations, became effective in 1984, and will

¹²⁸ In October 1988, the U.S. Government levied \$39 million in trade sanctions against Brazil—100-percent tariffs on imports of nonbenzenoid drugs, consumer electronics, and some paper products. This action was preceded by a section 301 petition of the Pharmaceuticals Manufacturers Association (PMA) in 1987 over Brazil's lack of protection for pharmaceuticals. (See the USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, 1989 USITC Publication 2208, p. 134.) However, in June 1990 the USTR lifted these punitive tariffs, in response to the new Brazilian Government's commitment to protecting foreign intellectual property.

¹²⁹ USTR press release 89-55, Oct. 6, 1989.

expire in 1992.¹³⁰ As a result of such heavy protection, Brazil's computer and software market grew into the largest one in the Third World. Computers have been one of the few Brazilian growth industries in a decade marked by serious economic problems. However, much of the equipment produced behind protective walls is now believed to be overpriced and dated.

The reserved character of Brazil's market for small computers, restrictions on foreign investment in the informatics industry, and lack of copyright protection for computer software in Brazil generated frequent trade disputes between the U.S. and Brazilian Governments. This conflict first reached critical proportions in September 1985. At that time, the United States opened an investigation of Brazil's informatics policies under section 301 of the Trade Act of 1984. Since the announcement of this investigation, U.S. authorities were on the verge of retaliatory action several times. However, such action was delayed each time in response to concessions made by Brazil. Brazil's "Law of Similar," which prohibits imports of products "similar" to those already made in Brazil, has proven to be the major problem in the bilateral informatics conflict because of the arbitrary, protectionist interpretation of "similarity" by Brazilian authorities.¹³¹

When the United States announced in early October 1989 that the investigation was closed, the parties agreed that they would consult at least four times a year on computers and related issues. Later in October, during bilateral talks on a wide range of trade issues, the United States raised problems that had not been resolved prior to the closing of the section 301 case. These included difficulties encountered by U.S. companies in Brazil when trying to register computer operating systems (specifically AT&T's UNIX system) for sale.¹³² Bilateral discussions will continue on a quarterly basis to address these and other impediments to U.S. interests.

Steel

In 1985, Brazil entered into a voluntary restraint agreement (VRA) on steel with the United States, limiting Brazil's exports of carbon and alloy steel products through September 30,

¹³⁰ Brazil's 1984 informatics law provided that the Brazilian market for products incorporating digital technology is reserved for Brazilian-owned and Brazilian-controlled companies. Foreign firms and imports are excluded from large sections of the Brazilian computer, peripheral equipment, data processing services, electronic components, and software markets.

¹³¹ See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 134.

¹³² Under Brazil's informatics law, a program must be registered with the Special Informatics Secretariat (SEI) before it can be sold in Brazil to ensure that there is no functionally equivalent local product under the "Law of Similar."

1989. In exchange for Brazil's restraining exports, the United States terminated or removed all antidumping and countervailing duty investigations and orders on affected Brazilian steel products. A June 1987 accord added specialty steel products to the items originally covered by the steel agreement. However, Brazil continued to press for an increase in its quotas.¹³³

The United States reached an agreement with Brazil in December 1989 to extend the VRA for an additional 2 1/2 years. Brazil made specific commitments to eliminate subsidies and other market-distorting practices in the steel sector. In exchange, the United States granted Brazil a significant increase in tonnage under the extended VRA. Brazil has been one of the countries that made the greatest use of its quota.

Maritime Agreement

In December 1989, the United States and Brazil extended their maritime agreement for 18 more months. This agreement went into effect in 1970 and had been subsequently modified several times. The last version, effective since

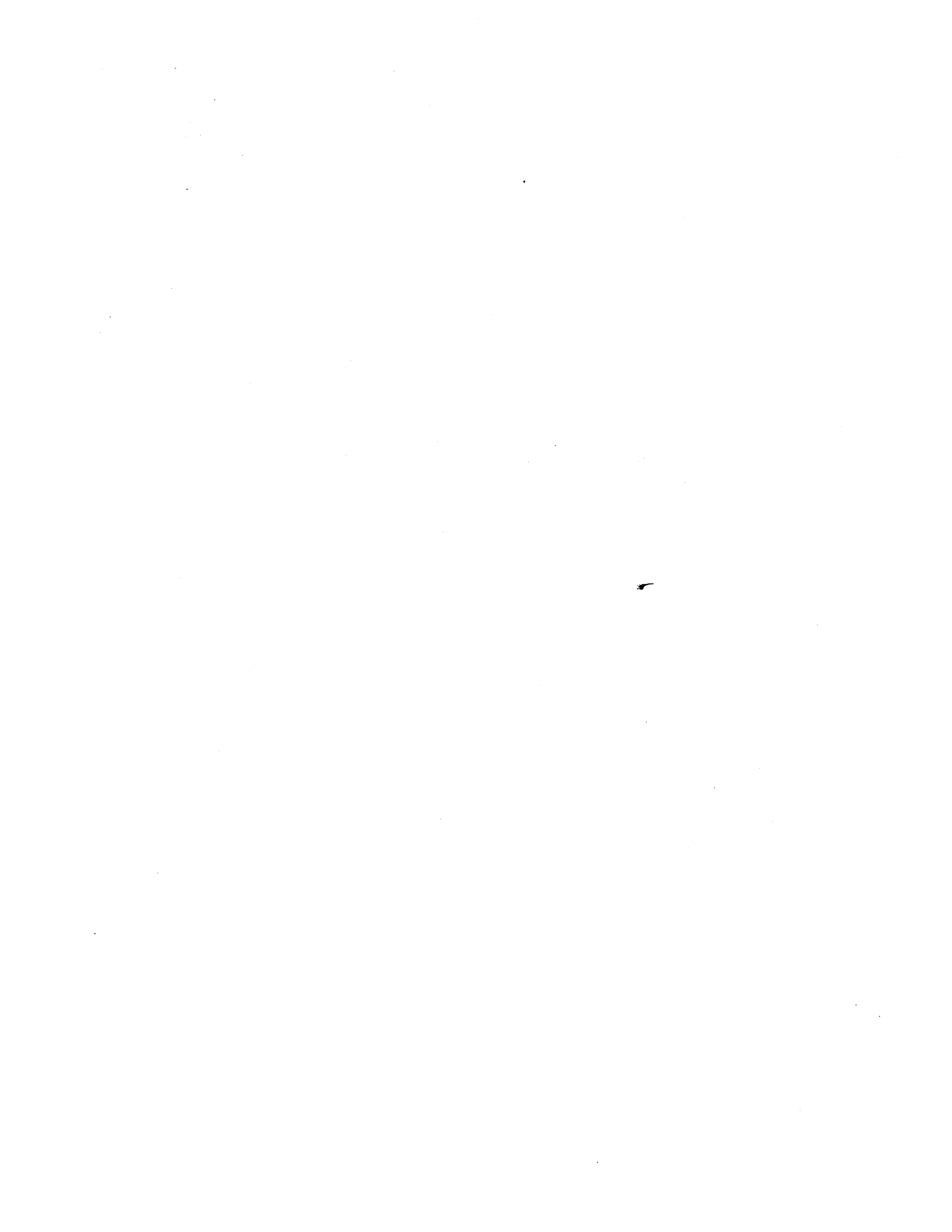
¹³³ See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 134.

December 1986, would have expired on December 31, 1989.¹³⁴ Without the 1989 accord, U.S. flag-carriers would have lost access to certain cargoes that, under Brazilian law, are reserved only to Brazilian flag-carriers. Negotiations for a new maritime pact are expected to resume under Brazil's new administration in 1990.

U.S. Lending

In October 1989, the United States Export-Import Bank (Eximbank) ceased to process new public-sector loans and guarantees for Brazil and established a policy not to extend existing preliminary credits beyond February 28, 1990. Two-thirds of the \$2 billion Brazil owed to Eximbank at the time were allocated to the public sector. While halting public-sector loans and guarantees, Eximbank made no changes or posed no new restrictions for loans and guarantees to Brazil's private-sector customers in 1989. The new policy on public-sector loans was a U.S. response to Brazil's lack of progress in negotiating a bilateral agreement to implement the 1987 "Paris Club" debt accord and to the country's growing arrears to Eximbank.

¹³⁴ See USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, p. 4-50.



Chapter 5

Administration of U.S. Trade Laws and Regulations

Introduction

This chapter reviews activities related to the administration of U.S. trade laws during 1989. The chapter is subdivided into sections on (1) import relief laws (the escape clause, market disruption, and adjustment assistance provisions of the Trade Act of 1974); (2) unfair trade laws; and (3) certain other trade law provisions. The latter includes section 22 of the Agricultural Adjustment Act (interference with programs of the U.S. Department of Agriculture), section 232 of the Trade Expansion Act of 1962 (impairment of national security), the Caribbean Basin Economic Recovery Act (CBERA), and the U.S. Generalized System of Preferences (GSP). In addition, U.S. programs regulating imports of both textiles and steel are reviewed.

Import Relief Laws

Safeguard Actions

Section 201 et seq. of the Trade Act of 1974 (19 U.S.C. § 2251 et seq.) is the so-called U.S. "escape clause" law. It is based on article XIX of the General Agreement on Tariffs and Trade (GATT), which permits a country to "escape" from its obligations with respect to a particular article of merchandise when certain conditions exist. The Commission conducts investigations under section 201 upon receipt of a petition from an entity such as a trade association, firm, certified or recognized union or other group of workers that is representative of an industry; upon request from the President or the United States Trade Representative (USTR); upon resolution of the House Committee on Ways and Means or the Senate Committee on Finance; or upon its own motion. Under section 201 the International Trade Commission determines within 120 days after receipt of the petition, request, resolution, or institution on its own motion, whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury or threat of serious injury to a domestic industry.

If the Commission finds such injury or threat, it recommends to the President the action that it believes will facilitate positive adjustment by the industry to import competition.¹ Within 180 days

¹ The Commission may recommend Presidential action in the form of: an increase in or imposition of a duty; a tariff-rate quota; a modification or imposition of a quantitative restriction; one or more appropriate adjustment measures including the provision of trade adjustment assistance; initiation of international

after receipt of the petition, request, resolution, or institution on its own motion, the Commission transmits its findings or recommendation, together with any dissenting or separate views, to the President.²

Within 60 days from receipt of an affirmative Commission determination and recommendation of relief, the President is to take "all appropriate and feasible action" that will "facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs."³ If the President takes action that differs from that recommended by the Commission or takes no action at all, Congress may, through a joint resolution within 90 days, direct the President to proclaim the action recommended by the Commission.

The Commission monitors developments in industries for which action is taken. Upon its own request or upon the request of the President, the Commission conducts followup investigations to advise the President on the probable economic effects of the extension, reduction, or termination of actions previously taken. In certain circumstances, the President may terminate or modify action or may take additional action to eliminate circumvention of action previously taken.

The Commission did not conduct any investigations under section 201 in 1989. The most recent section 201 investigation was undertaken in 1988 and concerned certain knives.⁴ The most recent follow-up investigation was also in 1988, and concerned Western red cedar shakes and shingles.⁵

¹—Continued

negotiations to address the underlying cause of the increase in imports or otherwise to alleviate the injury or threat; or any combination of the above actions.

² The statute also provides for the possibility of "provisional relief" in cases involving either perishable agricultural products or "critical circumstances," as defined in the statute.

³ In addition to taking any of the kinds of actions the Commission is authorized to recommend, the President may provide relief in the form of: an orderly marketing agreement limiting imports to the United States; an auction of import licenses; submission of legislative proposals; any other appropriate and feasible action; or a combination of the above actions.

A rate of duty may not be increased by more than 50 per cent ad valorem above the prior rate. Any quantitative restriction must allow the importation of at least the quantity or value of the article entered during the most recent period that the President finds is representative of imports of that article. The period for action may be extended one time, but the total period, including any extension, may not exceed 8 years.

⁴ USITC, *Certain Knives: Report to the President on Investigation No. TA-201-61 Under Section 201 of the Trade Act of 1974*, USITC Pub. 2107, September 1988.

⁵ USITC, *Western Red Cedar Shakes and Shingles: Report to the President on Investigation No. TA-203-18 Under Section 203 of the Trade Act of 1974*, USITC Pub. 2131, Oct. 1988.

Market Disruption

Under section 406 of the Trade Act of 1974,⁶ the Commission conducts investigations to determine whether imports of an article produced in a Communist country are causing market disruption with respect to an article produced by a United States industry. "Market disruption" is defined to exist whenever imports of an article like or directly competitive with an article produced by a domestic industry are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury or threat of material injury to the domestic industry.⁷

The Commission did not conduct any investigations under section 406 in 1989. The most recent investigation under section 406 was in 1987, concerning ammonium paratungstate and tungstic acid from the People's Republic of China.⁸

Adjustment Assistance

The trade Adjustment Assistance Program—Title II of the Trade Act of 1974—provides for adjustment assistance to workers, firms, and industries adversely affected by international import competition. The program—initially authorized through the Trade Expansion Act of 1962—is scheduled to expire September 30, 1993. The program and certain eligibility standards were modified by the Omnibus Budget Reconciliation Act of 1981 (OBRA) and by the Deficit Reduction Act of 1984.⁹ The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) discontinued financial assistance to firms effective April 7, 1986.¹⁰ Additional modifications,

⁶ 19 U.S.C. §2436.

⁷ If the Commission makes an affirmative determination, it finds and recommends to the President the import restriction necessary to prevent or remedy the disruption. In general, if the Commission makes an affirmative determination, the President is authorized to provide relief in the same manner and amount as if the Commission had made an affirmative determination under section 201 (as it existed prior to the 1988 Act), except that the relief would be limited to imports from the subject Communist country.

⁸ USITC, *Ammonium Paratungstate and Tungstic Acid from the People's Republic of China, Report to the President on Investigation No. TA-406-11 under Section 406 of the Trade Act of 1974*, USITC Publication 1982, June 1987.

⁹ The OBRA and Deficit Reduction Act made changes in the law designed to tighten the criterion used to determine eligibility. The principal change affecting petitions filed retroactive to Oct. 25, 1982, stipulated that increased imports must be determined to be a cause no less important than any other cause of worker separations, as opposed to simply an important cause.

¹⁰ Authorization for the trade adjustment assistance program expired on Dec. 19, 1985, but the COBRA reinstated the program effective Apr. 7, 1986. The adjustment assistance provisions of the program were made retroactive to Dec. 19, 1985, and with the exception of financial assistance to firms are scheduled to remain in effect through Sept. 30, 1993.

primarily in job training assistance and in coverage of certain workers in the oil and gas industries, were made law through provisions of the Omnibus Trade and Competitiveness Act of 1988.¹¹ Adjustment assistance to workers is administered by the Department of Labor through its Office of Employment and Training Administration in the form of cash benefits for direct trade readjustment allowances and service benefits that include allocations for job search, relocation, and training. Trade adjustment technical services are provided to certified firms through consultants under direct contract with the Department of Commerce. Industry-wide technical consultation provided through Commerce Department-sponsored programs is designed to improve the international viability of U.S. industries adversely affected by import competition.¹²

Assistance to Workers

The Department of Labor instituted 2,282 investigations in fiscal year 1989 on the basis of petitions filed for eligibility to apply for trade adjustment assistance, representing an increase of 124 percent from the 1,019 investigations instituted in fiscal 1988. Petition activity surged during the fiscal year as certain oil and gas industry workers took advantage of special provisions of the Omnibus Trade and Competitiveness Act of 1988 giving them a 90-day period in which to file petitions for eligibility retroactive to 1985.¹³ Over 1,100 petitions were filed with the Trade Adjustment office in response to this special provision. The results of investigations completed or terminated in fiscal 1989, including those instituted in the previous year, are shown in the following tabulation:¹⁴

¹¹ See Public Law 100-418, Sec 1421-1430. The Trade and Competitiveness Act of 1988 also provided for the imposition of an import fee, the proceeds of which are to be used to fund adjustment programs. The President is directed to negotiate an agreement to permit the fee under GATT. Given the lack of an agreement, the fee would go into effect 2 years from date of passage of the act, unless the President certifies that it is not in the national economic interest. With a joint resolution the Congress could impose the fee, the President's certification notwithstanding.

¹² Certified firms are eligible to apply for technical services necessary to implement programs of economic recovery. Technical services include legal consultation designed to assist firms in assessing the appropriateness of pursuing remedies available through various trade statutes, and in-depth technical consultation in engineering, marketing, production methods, and financial management.

¹³ Section 1421 of the Trade and Competitiveness Act of 1988 provided that employees of independent firms engaged in the exploration and drilling of oil and natural gas, which were separated after Sept. 30, 1985, had 90 days in which to file petitions requesting cash benefits for trade readjustment allowances covering the period. Petitions were accepted from Aug. 23 through Nov. 18, 1988.

¹⁴ Derived from official statistics of the U.S. Department of Labor.

Item	Number of investigations or petitions	Estimated number of workers
Completed certifications	1,101	86,011
Partial certifications	14	3,010
Petitions denied	1,096	95,095
Petitions terminated or withdrawn	157	2,071
Total	2,368	186,187

The number of completed certifications in fiscal 1989, both fully granted and partial, increased to 1,115 from 367 in fiscal 1988. The increase according to Department officials primarily reflects certification activity in the petroleum and related products industries. As a result of lower rates of eligibility stemming in part from the Deficit Reduction Act of 1984 and subsequent Omnibus Acts,¹⁵ preliminary figures indicate that Department of Labor expenditures in fiscal 1989 on direct cash benefits to certified workers decreased significantly to \$125.4 million, approximately \$39.6 million less than the estimated total expenditure in fiscal 1988. In addition to direct financial assistance, the Department of Labor provided job search, training, and relocation services valued at a preliminary estimate of \$62.8 million in fiscal 1989 for worker activities in the areas shown in the following tabulation:

Item	Estimated number of workers ¹
Job search	900
Relocation allowances	1,000
Training	15,200
Total	17,100

¹ Preliminary figures.

Preliminary data for fiscal 1989 indicate an estimated 17,100 workers utilized available service benefits in 1989, representing an increase of 40.2 percent from the 12,200 workers receiving such services in the previous year. The principal change in the trade adjustment assistance program, resulting from the Omnibus Act of 1988, stipulated that the receipt of trade readjustment allowances is contingent on the worker's participation in job training. Since workers must engage in job training in order to receive cash benefits, all certified workers are now automatically entitled to this assistance, eliminating a separate procedure used to determine eligibility for job training assistance. Further, States no longer are required to match Federal assistance funds received for job training.

¹⁵ The Omnibus and Deficit Reduction Acts made changes in the law designed to tighten the criterion used to determine eligibility. The principal change affecting petitions filed retroactive to Oct. 25, 1982, stipulated that increased imports must be determined to be a cause no less important than any other cause of worker separations, as opposed to simply an important cause.

Assistance to Firms and Industries

The Department of Commerce through its Office of Trade Adjustment Assistance certified 175 firms as eligible to apply for trade adjustment assistance during fiscal year 1989, representing a small increase from the 171 firms certified in the previous fiscal year. Firms in an increasingly wide variety of industries have been certified under the Trade Adjustment Assistance Program retroactive to its inception in April 1975. Industrial sectors with the largest concentration of certified firms include apparel, leather goods, textiles, primary metals, fabricated metals, and machinery.

The Office of Trade Adjustment Assistance administers its programs through a nation-wide network of 12 Trade Adjustment Assistance Centers. Certified firms continued to utilize available consultation services in fiscal 1989. According to official statistics of the U.S. Department of Commerce, 800 trade-impacted firms¹⁶ received trade adjustment technical services, valued at \$11 million, through consultants under direct contract with the International Trade Administration. The Department of Commerce also awarded trade adjustment technical assistance grants totaling \$240,940 to three industry associations. These associations represented meter and equipment manufacturers and producers of semiconductors and electronics. Trade adjustment technical assistance programs initially funded in previous years continued in effect throughout fiscal year 1989 for industries that produce textile and wire machinery, electronics, apparel, auto parts, die castings, and foundry products.

Laws Against Unfair Trade Practices

As a result of antidumping and countervailing duty (CVD) investigations conducted in 1989 by the United States International Trade Commission (the Commission) and the Department of Commerce (Commerce), 23 new antidumping orders and five new CVD orders were issued. During 1989, the Commission completed 19 investigations under section 337 of the Tariff Act of 1930 involving allegations of patent, trademark, or copyright infringement or other unfair methods of competition. Five of those investigations resulted in the issuance of exclusion orders prohibiting the importation of merchandise; in one investigation, cease and desist orders were issued enjoining further violation of section 337.

In 1989, two section 301 investigations were instituted upon petitions filed by private parties, and seven investigations were self-initiated by the President. Six of the self-initiated investigations were pursuant to the Super 301 provision contained in the 1988 Trade Act. Bilateral settlements were reached in several pending cases.

¹⁶ This figure includes firms certified in years previous to fiscal 1989.

Antidumping Investigations

The antidumping law provides relief in the form of special additional duties that are intended to offset margins of dumping.¹⁷ Antidumping duties are imposed when (1) the administering authority (under present law, Commerce) determines that imports are being, or are likely to be, sold at less than fair value (LTFV) in the United States, and (2) the Commission determines that a United States industry is being materially injured or threatened with material injury, or that the establishment of an industry in the United States is being materially retarded, by reason of such imports.

In general, imports are considered to be sold at LTFV when the United States selling price is less than the foreign market value, which is usually the home-market price or, in certain cases, the price in a third-country market or the cost of production of the merchandise. The antidumping duty equals the difference between the United States price and the foreign market value. In determining whether an article is being sold at LTFV, appropriate adjustments are made to reflect freight and shipping costs, normal import duties, tax rebates, etc. Investigations generally are conducted on the basis of a petition filed by an industry or on behalf of one with Commerce and the Commission.

Both Commerce and the Commission conduct preliminary and final antidumping investigations.¹⁸ In 1989, the Commission completed 25 preliminary and 38 final antidumping injury investigations.¹⁹ Imported products investigated included antifriction bearings, industrial belts, small business telephone systems, and manmade-fiber sweaters. Antidumping orders were imposed as a result of 23 of these investigations on a total of 9 products from 14 countries. Details of antidumping actions

¹⁷ The present antidumping law is contained in title VII of the Tariff Act of 1930 (19 U.S.C. §1673 et seq.), which was enacted in the Trade Agreements Act of 1979. The 1979 provisions superseded the Antidumping Act of 1921.

¹⁸ Upon the filing of a petition, the Commission has 45 days to make a preliminary determination concerning whether there is a reasonable indication of material injury or threat of material injury to an industry or material retardation of the establishment of an industry. If this determination is affirmative, Commerce continues its investigation and makes preliminary and final determinations concerning whether the imported article is being, or is likely to be, sold at LTFV. If Commerce makes an affirmative final determination, the Commission must make a final injury determination. If Commerce's final determination is negative, the proceedings end and the Commission does not make a final injury determination.

¹⁹ This figure does not count court-remanded cases on which new votes were taken.

and orders, including suspension agreements²⁰ in effect in 1989, are presented in appendix tables A-26 and A-27. The following tabulation summarizes antidumping investigations in 1988 and 1989:

Antidumping Duty Investigations	Number ¹	
	1988	1989
Petitions filed	18	13
Preliminary Commission negative determinations	2	5
Preliminary Commission affirmative determinations	36	20
Final Commerce determinations:		
Negative	1	2
Affirmative	16	36
Terminated	0	0
Suspended	1	0
Final Commission determinations:		
Negative	3	15
Affirmative (includes partial affirmatives)	8	23
Terminated	0	0
Suspended	1	0

¹ When a petition alleges dumping with respect to more than one product and/or by more than one country, separate investigations generally are instituted for imports of each product from each country. For this reason, the numbers of investigations instituted and determinations made generally exceed the number of petitions filed.

Countervailing Duty Investigations

The United States CVD law is set forth in sections 303 and 701 et seq. (title VII) of the Tariff Act of 1930. It provides for the levying of special additional duties to countervail or offset foreign subsidies²¹ on products imported into the United States. In general, procedures for such investigations are similar to those of antidumping investigations. Petitions are filed with Commerce (the administering authority) and the Commission. Commerce must find a countervailable subsidy and the Commission must find material injury or threat thereof caused by the subsidized imports before a CVD order can be issued.

Investigations are conducted under section 701 of the Tariff Act if the subject article is imported from a country that has signed the GATT Code on Subsidies and Countervailing Duties,²² or has otherwise been designated as a

²⁰ An antidumping investigation may be suspended through an agreement prior to a final determination by the Department of Commerce. An investigation may be suspended if exporters accounting for substantially all of the imports of the merchandise under investigation agree either to eliminate the dumping, or to cease exports of the merchandise to the United States within 6 months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of the imports. A suspended investigation is reinstated should LTFV sales recur. See 19 U.S.C. §1673c.

²¹ A subsidy is defined as a bounty or grant bestowed directly or indirectly by any country, dependency, colony, province, or other political subdivision on the manufacture, production, or export of products. See 19 U.S.C. §1303(a)(1), 1677(5), and 1677-1(a).

²² Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade.

"country under the Agreement."²³ Investigations with respect to imports from other countries are conducted under section 303 of the Tariff Act. Such imports are subject to an injury investigation by the Commission only if (1) they enter free of duty, and (2) international obligations of the United States require an injury investigation.²⁴ For imports not in this category, a CVD order may be issued under section 303 on the basis of an affirmative subsidy determination by Commerce alone.

As a result of CVD investigations completed in 1989, CVD orders were imposed on pork and steel rails from Canada, aluminum sulfate from Venezuela, and certain antifriction bearings from Singapore and Thailand. In 1989, the Commission completed 3 preliminary and 9 final injury investigations.²⁵ Details of CVD actions and outstanding orders, including suspension agreements²⁶ in effect in 1989, are presented in appendix tables A-28 and A-29. The following table is a summary of CVD investigations in 1988 and 1989:

Countervailing Duty Investigations	Number ¹	
	1988	1989
Petitions filed	8	7
Preliminary Commission negative determinations	0	0
Preliminary Commission affirmative determinations	10	3
Final Commerce determinations:		
Negative	5	2
Affirmative (includes partial affirmatives)	5	8
Terminated	1	1
Suspended	0	0
Final Commission determinations:		
Negative	1	4
Affirmative (includes partial affirmatives)	1	5
Terminated	0	0
Suspended	0	0

¹ The numbers of investigations instituted and determinations made generally exceed the number of petitions filed. See *supra*, note on antidumping duty investigations.

²³ See 19 U.S.C. §1671.

²⁴ Section 303(a)(2) provides: "[i]n the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there are affirmative [injury] determinations by the Commission... except that such a determination shall not be required unless a determination of injury is required by the international obligations of the United States." 19 U.S.C. §1303(a)(2).

²⁵ This figure does not count court-remanded cases on which new votes were taken.

²⁶ A CVD investigation may be suspended through an agreement prior to a final determination by Commerce if (1) the subsidizing country, or exporters accounting for substantially all of the imports of the merchandise under investigation, agree to eliminate the subsidy, to completely offset the net subsidy, or to cease exports of the merchandise to the United States within six months; or (2) extraordinary circumstances are present and the government or exporters described above agree to completely eliminate the injurious effect of the imports of the merchandise under investigation. A suspended investigation is reinstated if subsidization recurs. See 19 U.S.C. §1671c.

Reviews of Outstanding Antidumping and Countervailing Duty Orders

Section 751 of the Tariff Act of 1930, as amended, requires Commerce (the administering authority), if requested, to review annually outstanding antidumping and CVD orders and suspension agreements in order to determine the amount of any net subsidy or dumping margin and compliance with any suspension agreement.²⁷ Section 751 also authorizes Commerce and the Commission, as appropriate, to review certain outstanding determinations and agreements after receiving information or a petition that shows changed circumstances. The party seeking revocation or modification of an antidumping or CVD order or suspension agreement has the burden of persuasion before the Commission as to whether or not there are changed circumstances sufficient to warrant revocation. Based on either of the reviews above, Commerce may revoke a CVD or antidumping order in whole or in part, or terminate or resume a suspended investigation.

The Commission did not complete any investigations under section 751 in 1989. The last such investigation by the Commission was completed in 1987 and concerned liquid crystal display televisions. As a result of reviews conducted under section 751 in 1989, Commerce revoked antidumping orders on such articles as certain codfish and choline chloride from Canada, and cell-site transceivers from Japan. In 1989, Commerce revoked CVD orders on such articles as nitrocellulose from France, offshore platform jackets and piles from the Republic of Korea, and bricks from Mexico.²⁸

Section 337 Investigations

Section 337 of the Tariff Act of 1930, as amended,²⁹ authorizes the Commission, on the basis of a complaint or on its own initiative, to conduct investigations with respect to certain practices in import trade. Section 337 declares unlawful the importation, sale for importation, or sale after importation of articles that infringe a valid and enforceable U.S. patent, registered trademark, registered copyright, or registered mask work, for which a domestic industry exists or is in the process of being established. Also unlawful under section 337 are other unfair methods of competition or unfair acts³⁰ in

²⁷ 19 U.S.C. §1675.

²⁸ In addition, Commerce revoked a CVD order on industrial fasteners from India after it found that the order was "no longer of interest to interested parties." 54 Fed. Reg. 36839-40 (Sept. 5, 1989).

²⁹ 19 U.S.C. §1337.

³⁰ Examples of "other" unfair acts are common law trademark or copyright infringement, false advertising, false designation of origin, and trade secret misappropriation. Unfair practices that involve the importation of dumped or subsidized merchandise must be pursued under antidumping and CVD provisions and not under section 337.

importation or sale, the threat or effect of which is to destroy or substantially injure a domestic industry, to prevent the establishment of an industry, or to restrain or monopolize trade and commerce in the United States.

If the Commission determines that a violation exists, it can issue an order to exclude the subject imports from entry into the United States or can order the violating parties to cease and desist from engaging in the unlawful practices.³¹ The President may disapprove a Commission order within 60 days of its issuance for "policy reasons."

The Commission is required to complete section 337 investigations within 12 months of publishing notice of investigation in the Federal Register, but may take up to 18 months to complete investigations it designates "more complicated." When a complainant requests temporary exclusion and/or cease and desist orders, the Commission must decide whether to issue that relief within 90 days from the notice of investigation or within 150 days in a case it designates "more complicated".

In 1989, as in previous years, most complaints filed with the Commission alleged infringement of a United States patent by imported merchandise. The Commission completed a total of 19 investigations under section 337 in 1989, compared with 16 in 1988. These investigations pertained to such products as erasable programmable read-only memories (EPROMs), recombinant erythropoietin, and strip lights. Five investigations resulted in exclusion orders; in one investigation, cease and desist orders were issued. Several investigations were terminated by the Commission without determining whether section 337 had been violated. Generally, these terminations were based on settlement agreements or consent orders. At the close of 1989, there were 19 section 337 cases pending before the Commission. Commission activities involving section 337 actions in 1989 are presented in appendix table A-30.

As of December 31, 1989, a total of 50 outstanding exclusion orders based on violations of section 337 were in effect. All but 15 of these involved patent violations. Appendix table A-31 also lists the investigations that preceded the issuance of the orders.

³¹ Under present Commission practice, proceedings are conducted before an administrative law judge in accordance with the Administrative Procedure Act, 5 U.S.C. §551 et seq. The administrative law judge conducts an evidentiary hearing and makes an initial determination, which is transmitted to the Commission. The Commission may adopt the determination by deciding not to review it, or it may choose to review it. If the Commission finds a violation, it must determine the appropriate remedy, the amount of any bond to be collected while its determination is under review by the President, and whether certain public interest considerations preclude the issuance of any remedy.

Enforcement of Trade Agreements and Responses to Unfair Foreign Practices³²

Chapter 1 of title III of the Trade Act of 1974, as amended³³ (section 301) gives the USTR,³⁴ subject to any direction by the President, the authority and means to enforce U.S. rights under trade agreements or to respond to unjustifiable, unreasonable or discriminatory acts by a foreign country or instrumentality that burden or restrict U.S. commerce.³⁵ If the USTR finds that the foreign practice is "unjustifiable" and burdens or restricts U.S. commerce or finds that U.S. rights under a trade agreement are being violated, the USTR must take all appropriate and feasible action to enforce such rights or try to obtain the elimination of such act, policy, or practice. For "unreasonable" or "discriminatory" acts, the USTR has discretion over whether to take action.³⁶ An interdepartmental committee headed by the USTR conducts these investigations (including hearings, if requested), usually on the basis of petitions by interested parties alleging violations of section 301. However, an investigation may also be initiated by the USTR even if a petition is not filed. If the foreign entity does not agree to change its practices, the USTR is empowered to (1) deny it the benefits of trade-agreement concessions, (2) impose duties, fees, or other

³² Significant portions of this section were taken from two reports published by the Office of the United States Trade Representative: "Section 301 Table of Cases", (January 11, 1990), and the "Report to Congress of Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974", (Jan.-June 1989). Additional information was taken from USITC, *Operation of the Trade Agreements Program, 40th Report, 1988*, USITC Publication 2208, July 1989.

³³ 19 U.S.C. §2411, et seq.

³⁴ Prior to the enactment of the Omnibus Trade and Competitiveness Act of 1988 in August 1988, authority to act under section 301 resided with the President, while USTR was effectively responsible for administration of the investigations. The new trade law placed section 301 authority directly in the hands of USTR. In another significant development, the new law enacted a so-called "Super 301" provision that called for investigation of certain countries that are identified by USTR as "priority countries" and "priority practices" that restrict U.S. exports and investment. Most of the investigations described in this section were undertaken under the section 301 provisions in effect before passage of the 1988 amendments. See ch. 1 of this report for details on "Super 301" investigations initiated in 1989.

³⁵ Within this context, "commerce" includes services associated with international trade, regardless of whether such services are related to specific products, and foreign direct investment by U.S. persons with implications for international trade.

³⁶ The statute provides a number of procedures and time limits for action by the USTR. The USTR has 45 days from receipt of a petition to determine whether or not to initiate an investigation. In all investigations, consultations are requested with the foreign country or instrumentality involved. If a case involves issues arising under a trade agreement, the United States employs the dispute settlement provisions of such agreements. The time period for a determination by the USTR concerning the practice in question, and any action to be taken, varies according to the type of practice alleged.

import restrictions on products and services, when appropriate, and (3) enter into an agreement with the subject country to eliminate the practice or to provide compensatory benefits for the United States. The USTR monitors compliance of foreign countries with the steps they have agreed to take under these provisions and may modify or terminate action under section 301 in certain circumstances.

In 1989, nine new section 301 cases were initiated by the USTR. Two of the new cases responded to petitions filed by private parties.³⁷ One case was brought by the U.S. Cigarette Export Association alleging that the Royal Thai Government and its instrumentality, the Thailand Tobacco Monopoly (TTM), engage in practices that are unreasonable or discriminate against imports and burden and restrict US commerce. The other case initiated by petition was filed on behalf of Amtech Corporation alleging, inter alia, that practices by the Government of Norway deny the United States' rights under the GATT Government Procurement Code, adversely affecting U.S. trade in the sale of highway toll electronic identification systems. The third case initiated in 1989 was self-initiated by the USTR on EC canned fruit as result of a provision contained in the Omnibus Trade and Competitiveness Act of 1988 (1988 act). Further developments occurred in 15 of the cases initiated prior to 1989.

Therefore, 24 section 301 cases were active during 1989. In four cases, bilateral settlements were obtained and the cases were consequently terminated or withdrawn. Several of the cases active in 1989 were being pursued under GATT dispute settlement mechanisms. Several long dormant—but not formally terminated—cases in which no further activity was reported in 1989 are listed at the end of this section.³⁸ Table 14 summarizes the activity on section 301 cases during 1989 that is described in greater detail below.

In one instance, the USTR determined that it would not institute an investigation in response to a petition filed during 1989.³⁹ That petition concerned foreign government subsidization of shipbuilding industries in the Federal Republic of Germany, Japan, Korea, and Norway.⁴⁰

³⁷ As noted above, six of the investigations initiated in 1989 were pursuant to "Super 301". These investigations are discussed in chapter 1, *supra*.

³⁸ Section 301 cases not discussed below were resolved prior to 1989. Since the enactment of section 301 provisions from 1974 through the end of 1989, a total of 79 investigations have been handled.

³⁹ See USTR, "Report to Congress on Section 301 developments required by section 309(a)(3) of the Trade Act of 1974," Jan.-June 1989.

⁴⁰ Filed on June 8, 1989 by the Shipbuilders' Council of America. In reviewing the Shipbuilder's petition, USTR learned that the four countries that were the subject of the petition were willing to engage in negotiations aimed at reaching a multilateral agreement on shipbuilding subsidies.

Cases Initiated in 1989

*EC: Canned fruit subsidies*⁴¹

On May 8, 1989, the USTR self-initiated an investigation regarding compliance by the European Community (EC) with a 1985 trade agreement in which the EC had agreed to limit processing subsidies granted on canned fruit. The 1985 agreement was part of a settlement reached with the EC as a result of an earlier investigation [Docket No. 301-26] in which a GATT panel ruled that the EC subsidies impaired the benefit of tariff concessions granted by the EC.

On June 9, 1989, the USTR held a public hearing⁴² concerning EC compliance with the 1985 agreement and the appropriateness of subjecting certain products of the EC to increased U.S. tariffs. In June 1989, the EC agreed to reduce its 1989-90 subsidy levels on canned peaches and pears and to modify its regulations for future years. In addition, the United States and the EC clarified their interpretation of the 1985 canned fruit agreement.

Effective October 1, 1989, the USTR determined that the EC subsidies had denied the United States rights under the GATT, but that the EC was taking satisfactory steps to resolve the matter. Therefore, the section 301 investigation was terminated on October 1, 1989.⁴³

*Thailand: Cigarettes*⁴⁴

On April 10, 1989, the U.S. Cigarette Export Association filed a petition alleging that the Royal Thai Government and its instrumentality, the TTM, engage in practices affecting imports of cigarettes that are unreasonable and discriminate against imports and burden and restrict U.S. commerce.

The USTR initiated an investigation on May 25, 1989, and requested public comment.⁴⁵ Consultations with Thai Government officials began on July 31, 1989. A public hearing on the issues raised in the CEA petition was held on September 19, 1989. A second round of consultations was held on October 3-4, 1989.

*Norway: Toll equipment*⁴⁶

On July 11, 1989, a petition was filed on behalf of Amtech Corporation alleging, inter alia, that practices by the Government of Norway deny the U.S. rights under the GATT Government Procurement code, adversely affecting United States trade in the sale of highway toll electronic identification systems.

⁴¹ USTR Docket No. 301-71.

⁴² See 54 F.R. 20219.

⁴³ See 54 F.R. 41708.

⁴⁴ USTR Docket No. 301-72.

⁴⁵ See 54 F.R. 23724.

⁴⁶ USTR Docket No. 301-79.

Table 14
Summary of activity on sec. 301 investigations during 1989

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/ country</i>	<i>Status at yearend 1989</i>
301-79 July 1989	Amtech Corp.	Highway toll electronic ID systems/Norway.	On August 25, 1989, the United States requested consultations with Norway under the GATT Procurement Code.
301-72 April 1989	U.S. Cigarette Export Assoc.	U.S. cigarettes/ Thailand.	Consultations with the Thai government officials began on July 31, 1989. A public hearing was held in September and a second round of consultations was held on October 3-4, 1989.
301-71 May 1989	No petition. Self-initiated by USTR	Canned Fruit/EC.	In October 1989, the USTR determined that the EC subsidies had denied the U.S. rights under the GATT, but that the EC was taking satisfactory steps to resolve the matter. Therefore, investigation was terminated.
301-70 Nov. 1988	Copper and Brass Fabricators Council	Metal scrap/EC- United Kingdom	After the first GATT settlement panel met in November 1989, the U.S. and the EC resumed settlement negotiations, resulting in an agreement which was concluded on January 4, 1990.
301-69 Nov. 1988	Required by sec 1305 of Omnibus Trade and Competitiveness Act of 1988	Construction services/Japan	On November 21, 1989, the USTR determined that certain acts, policies, and practices with respect to the procurement of architectural, engineering and related consulting services by the Japanese Government are unreasonable and burden or restrict U.S. commerce. No retaliatory measures taken at this time, because of certain commitments made by the Government of Japan.
301-68 Aug. 1988	Pharmaceutical Manufactrs Assoc.	Patent protection/ Argentina	As a result of talks in August and September, petition was withdrawn on September 23, 1989.
301-67 Apr. 1988	Wine Inst. & Assoc. of American Vintners	Wine practices/ Korea.	Agreement reached on January 18, 1989 in which Korea agreed to provide foreign manufacturers of wine and wine products with non-discriminatory and equitable access to the Korean market. Investigation terminated on January 18, 1989.
301-65 Feb. 1988	American Meat Institute	Beef licensing/ Korea	In May, 1989, GATT panel issued a report favorable to the US. At meetings in June and July, Korea did not agree to adopt report. In November 1989, Korea allowed the GATT panel report to be adopted. Consultations began on implementation schedule.
301-63 Dec. 1987	American Soybean Assoc.	Oilseeds/EC	A GATT panel ruled in favor of the United States in a report circulated to GATT Contracting Parties on December 14, 1989.
301-62 Nov. 1987	President acted on his own motion	Animal Hormone Directive/EC	In February 1989, the United States and the EC established a task force of high-level governmental officials to seek a resolution to the hormones dispute. Its work continues. Effective July 28, 1989, the USTR suspended the additional duty on pork hams and shoulders, since the EC enabled non-treated U.S. beef to enter the EC. Effective December 8, 1989, the USTR suspended the application of the increased duty on imports of certain tomato sauces from the European Community.
301-61 June 1987	Pharmaceutical Manufacturers Association	Lack of patent protection/Brazil	Pending. Retaliatory measures implemented in October 1988. No action reported in 1989.
301-60 July 1987	American Meat Inst., et al.	Third Country Meat Directive/EC	Pending. GATT Council agreed to establish a dispute settlement panel in December 1987. In 1988, the EC took steps to provide access by granting export authorization to 117 U.S. plants. No action reported in 1989.
301-55 Apr. 1986	Icicle Seafoods and Associated Processors	Ban on unprocessed herring and salmon exports/ Canada	In May 1989, the U.S. and Canada agreed to submit Canada's landing requirements to an FTA dispute settlement panel. The panel found that the landing requirements violated FTA Article 407, which prohibits GATT-inconsistent export restrictions:
301-54 Mar. 1986	USTR initiatedA at President's direction	cession of Spain and Portugal/EC.	Settlement reached Jan. 30, 1987. U.S. continuing to monitor EC compliance with the agreement.
301-53 Apr. 1986	National Soybean Processors Association	Soybean and soybean product export taxes/ Argentina	Pending. In February 1988, Argentina reduced the export tax differential, but in July, established a tax rebate. The USTR then resumed consultations and Argentina suspended the rebate. Consultations continue.

Table 14—Continued
Summary of activity on sec. 301 investigations during 1989

Doc. No., date filed	Petitioner	Product or service/ country	Status at yearend 1989
301-52 Nov. 1985	No petition. Self-initiated by USTR	Intellectual property/Korea	Implementation of the agreement continues to be monitored. Follow-up discussions are being held with the Korean Government.
301-50 Sept. 1985	USTR initiated at President's direction	Tobacco products/ Japan	In October 1986, the U.S. and Japan concluded an agreement. On October 6, 1986, the President approved the agreement and suspended the investigation, directing that it be termi- nated when Japan fully implements the agreement. No action reported in 1989.
301-49 Sept. 1985	USTR initiated at President's direction	Informatics policy/Brazil	Pending. In November 1987, President proposed retaliatory duty increases. Hearings on retaliation held in December 1987. In February and June 1988 retaliation was postponed. The investigation was terminated in October 1989.
301-48 June 1985	Semiconductor Industry Association	Semiconductors/ Japan	Agreement reached and investigation suspended in 1986. Case reactivated in 1987 due to failure of Japan to fulfill the agreement. Increased duties imposed on certain Japanese products in April 1987. Some duties removed in June and November 1987. Other duties remain in effect. In August 1988, the U.S. Government modified some aspects of implementation of the semiconductor agreement at the request of U.S. industry. USTR continues to monitor this case.
301-47 Aug. 1984	Fertilizer Institute	Triple super- phosphate/EC	Pending. Consultations under the GATT Standards Code started in December 1984. No action reported in 1989.
301-44 Sept. 1983	Air Courier Conference of America	Air transpor- tation of time- sensitive com- mercial docu- ments/ Argentina.	On May 25, 1989, agreement reached which provides for non- discriminatory treatment of foreign air couriers in Argentina. When fully implemented, ACCA is expected to withdraw its petition.
301-42 Apr. 1983	National Soybean Processors Association	Soybean oil and meal/Spain	Pending. U.S. and Spain consulted under GATT Art. XXII on December 1, 1983. No action reported in 1989.
301-41 Apr. 1983	National Soybean Processors Association	Soybean oil and meal/Portugal	U.S. and Portugal consulted under GATT Art. XXII on Nov. 29, 1983. In June 1984, Portugal began lifting its restric- tions on soymeal imports. No action reported in 1989.
301-40 Apr. 1983	National Soybean Processors Association	Soybean oil and meal/Brazil	Pending. GATT Subsidies Code consultations initially held to confirm Brazil's claim that barriers were eliminated. No action reported in 1989.
301-36 Oct. 1982	Footwear Indus- tries of America, Inc.	Nonrubber foot- wear/Japan	In December 1985, Japan agreed to provide an estimated \$236 million in compensation through reduced (or bound) Japanese tariffs. The U.S. has raised tariffs on an estimated \$24 mil- lion in imports into the U.S. of leather and leather goods from Japan. No action reported in 1989.
301-35 Oct. 1982	Footwear Indus- tries of America, Inc	Nonrubber foot- wear/Brazil	Pending. In November 1985, Brazil offered to liberalize its import surcharge and reduce tariffs. No action reported in 1989.
301-34 July 1982	J.I. Case Co.	Front-end loaders/ Canada	Pending. Following informal GATT consultations, the USTR returned to the petitioner for further information. No action reported in 1989.
301-26 Oct. 1981	California Cling Peach Advisory Board et al.	Canned fruit/EC.	Technical talks continued in 1989 regarding EC calculation of its subsidies. Since the matter remained unresolved as of May 1989, a new investigation was initiated. See Docket 301-71. This investigation (301-26) terminated October 1, 1989.
301-23 Sept. 1981	National Broiler Council	Poultry/EC	Pending. No action in 1989. Agricultural export subsidies are being addressed in the Uruguay Round negotiations.
301-18 May 1979	American Institute of Marine Under- writers	Marine insurance/ Argentina	The USTR suspended the investigation on July 25, 1980 upon Argentina's commitment to participate in multilateral nego- tiations. No action reported in 1989.
301-14 Nov. 1977	American Institute of Marine Under- writers	Marine insurance/ USSR	On July 12, 1979, the USTR suspended the investigation pending review of the operation of the US-USSR agreement. The suspension remains in effect. No action reported in 1989.

Table 14—Continued
Summary of activity on sec. 301 investigations during 1989

<i>Doc. No., date filed</i>	<i>Petitioner</i>	<i>Product or service/country</i>	<i>Status at yearend 1989</i>
301-13 Aug. 1977	Tanners Council of America	Leather/Japan	In December 1985, Japan agreed to provide about \$236 million in compensation through reduced (or bound) Japanese tariffs. The U.S. raised tariffs on an estimated \$24 million in imports of leather and leather goods from Japan effective March 31, 1986. No action reported in 1989.
301-11 Nov. 1976	Florida Citrus Commission	Citrus fruits and juices/EC	Settlement reached August 1986. Full implementation of agreement effected following passage of the Omnibus Trade and Competitiveness Act of 1988. Accordingly, the President issued the implementing tariff proclamation in December 1988.
301-6 Nov. 1975	Millers National Federation	Wheat flour/EC	Pending. No action in 1989. GATT Subsidies Code panel declined to rule whether EC violated code rules. The issues raised by the panel report are the subject of the Uruguay negotiations.

The USTR initiated an investigation on August 2, 1989, and requested public comment.⁴⁷ On August 25, the United States also requested consultations with Norway under the GATT Procurement Code.

Other Cases Active In 1989

*EC: Copper scrap restrictions*⁴⁸

In November 1988, the Copper and Brass Fabricators Council, Inc., filed a petition regarding restrictions maintained by Brazil and the EC, and separate restrictions maintained by the United Kingdom, on the export of copper scrap, copper alloy scrap, and zinc scrap. The petitioner subsequently withdrew the petition with regard to Brazil and zinc scrap. The petitioner asserted that export restrictions maintained by the EC and the United Kingdom depress the price of EC scrap and elevate the price of non-EC scrap, and thereby provide a cost advantage to EC brass fabricators.

In December 1988, the USTR initiated an investigation.⁴⁹ A public hearing was held on January 27, 1989. At the hearing, the USTR representative announced that USTR would not proceed separately against the UK because the UK had represented that its restrictions were not being maintained independently of the EC restrictions.

Consultations with the EC under GATT Article XXIII:1 were held on April 26, 1989. A dispute settlement panel was established by the GATT Council on July 19, 1989. After the first panel meeting was held in November 1989, the U.S. and the EC resumed settlement negotiations, resulting in an agreement which was concluded on January 4, 1990.

⁴⁷ See 54 F.R. 36089.

⁴⁸ USTR Docket No. 301-70.

⁴⁹ See 54 F.R. 338.

⁵⁰ USTR Docket No. 301-69.

*Japan: Construction-related services barriers*⁵⁰

Section 1305 of the 1988 Act required the USTR to investigate whether acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, are barriers to offering or performance of U.S. architectural, engineering, construction and consulting services in Japan.

The USTR initiated an investigation in November 1988 and requested public comment.⁵¹ The public hearing was held on March 13, 1989. Several consultations with Japan were held.

On November 21, 1989, the USTR determined that certain acts, policies, and practices relating to the procurement of architectural, engineering and construction services, and related consulting services by the Japanese Government are unreasonable and burden or restrict U.S. commerce.

The USTR further determined that no responsive action under section 301 of the act was appropriate at the time in light of certain commitments made by the Government of Japan. The USTR announced that she would monitor Japan's implementation of these commitments pursuant to section 306 of the Trade Act. Also, the USTR announced that she would seek a satisfactory resolution of all remaining concerns through bilateral negotiations beginning January 19, 1990, including a full review in May 1990 of the "Major Projects Arrangements" concluded by the United States and Japan in 1988. The USTR announced that if Japan's implementation of its undertakings or progress in ongoing negotiations were unsatisfactory, the USTR would consider at that time what further action may be appropriate under section 301 of the Trade Act.

⁵¹ See 53 F.R. 47897.

*Argentina: Patent protection for pharmaceuticals*⁵²

In August 1988, the Pharmaceutical Manufacturers Associations (PMA) filed a petition complaining of Argentina's denial of product patent protection for pharmaceuticals and Argentina's discriminatory product registration practices. In September 1988, the USTR initiated an investigation and requested public comment as preparation for consultations with the Argentine Government.⁵³ Consultations between the United States and Argentina began in December 1988.

The first round of consultations was held in Buenos Aires in December 1988; further talks were held in 1989. On August 16, 1989, public comment was requested on the issue of actionability under 301.⁵⁴ As a result of talks in August and September, PMA withdrew its petition on September 23, 1989, on the basis of Argentina's willingness to modify its pharmaceutical product registration procedures and to address the issue of patent protection for pharmaceutical products.

*Korea: Wine practices*⁵⁵

In April 1988, the Wine Institute and the Association of American Vintners filed a petition complaining that certain policies and practices of the Korean Government unreasonably deny access to the Korean wine market and burden or restrict U.S. commerce. In June, the USTR initiated an investigation and requested consultations with the Korean Government.⁵⁶ Public comments were requested to aid in consultations.

Consultations were held on October 11-12, 1988, in Washington and on October 25, 1988, in Seoul. Further consultations resulted in an agreement on January 18, 1989, in which Korea agreed to provide foreign manufacturers of wine and wine products with nondiscriminatory and equitable access to the Korean market. The investigation was terminated on January 18, 1989.⁵⁷

*Korea: Beef licensing system*⁵⁸

In February 1988, the American Meat Institute filed a petition alleging that Korea maintains a restrictive licensing system on imports of all bovine meat, in violation of GATT article XI. In March 1988, the USTR initiated an investigation.⁵⁹ The United States had

already consulted with Korea under GATT article XXIII:1. In May 1988, the GATT Council agreed to establish a dispute settlement panel. Australia was also authorized a panel on the same matter.

The GATT panel held its first meeting on November 28, 1988;⁶⁰ the second meeting was January 20, 1989. The panel issued a report favorable to the United States on May 27, 1989. However, at GATT Council meetings in June and July 1989, Korea did not agree to the adoption of the panel report. Public comment on section 304 determinations was requested on August 25, 1989.⁶¹

Effective September 28, 1989, the USTR determined under section 304 that rights to which the United States is entitled were being denied by Korea and that the appropriate action under section 301 was to suspend tariff concessions.⁶² Implementation of such action was delayed to allow additional time for the GATT process. The USTR announced that if there was not substantial movement toward a resolution by mid-November, a proposed retaliation list would be published. On November 8, 1989, Korea allowed the GATT panel report to be adopted, and consultations commenced on an acceptable implementation by Korea of the panel results.

*EC: Oilseeds*⁶³

On December 16, 1987, the American Soybean Association (ASA) filed a petition complaining that the EC's policies and practices relating to oilseeds and oilseed substitutes nullify and impair benefits accruing to the United States under GATT and, specifically, are inconsistent with a zero tariff binding agreed to by the EC. ASA alleged that the practices also are unjustifiable, unreasonable and burden or restrict U.S. commerce.

On January 5, 1988, the USTR initiated an investigation and requested consultations with the EC.⁶⁴ The United States consulted with the EC several times, both formally and informally, under GATT article XXII:1. The EC blocked the U.S. request for a panel at the May 1988 GATT Council, but acquiesced at the June 1988 Council. The first oral arguments before the panel were held on June 27, 1989.

On July 5, 1989, the USTR determined that there was reason to believe that rights of the United States under a trade agreement were being denied by the EC's production and processing subsidies on oilseeds and animal feed proteins. The USTR delayed implementation of any action to be taken under section 301, pending the outcome of the GATT panel. The

⁵² USTR Docket No. 301-68.

⁵³ See 53 F.R. 37668.

⁵⁴ See 54 F.R. 33809.

⁵⁵ USTR Docket No. 301-67.

⁵⁶ See 53 F.R. 22607.

⁵⁷ See 54 F.R. 4099.

⁵⁸ USTR Docket No. 301-65.

⁵⁹ See 53 F.R. 10995.

⁶⁰ See also the "Dispute Settlement" section of ch. 2 of this report.

⁶¹ See 54 F.R. 35422.

⁶² See 54 F.R. 40769.

⁶³ USTR Docket No. 301-63.

⁶⁴ See 53 F.R. 984, January 14, 1988.

panel ruled in favor of the United States in a report that was circulated to GATT Contracting Parties on December 14, 1989.

*EC: Animal hormone directive*⁶⁵

On November 25, 1987, the President announced his intention to raise customs duties to a prohibitive level on as much as \$100 million in EC exports to the United States. This action was in response to the EC's implementation of the Animal Hormone Directive scheduled for January 1, 1988.

On December 24, 1987, on his own motion, the President proclaimed, but immediately suspended, increased duties on specified products of the EC, pending EC implementation of its Directive.⁶⁶ The EC implemented its directive on January 1, 1989. In response, the USTR terminated the suspension of the increased duties, effective January 1, 1989, with some modifications.⁶⁷ On January 12, 1989, the United States and the EC agreed to make an exception for goods exported, or meat certified for export, prior to January 1, 1989, and entered before February 1, 1989.

On February 18, 1989, the United States and the EC established a task force of high-level Government officials to seek a resolution to the hormones dispute by May 4, 1989. In May, the task force's mandate was extended.

Effective July 28, 1989, the USTR suspended the additional duty on pork hams and shoulders,⁶⁸ because the EC enabled nontreated U.S. beef to enter the EC. Effective December 8, 1989, the USTR suspended the application of the increased duty on imports of certain tomato sauces from the European Community.⁶⁹

*Canada: Salmon and herring*⁷⁰

Icicle Seafoods and nine other seafood processors filed a petition in April 1986 alleging that the Canadian prohibition on exports of unprocessed herring and salmon violates GATT article XI, covering quantitative restrictions, and provides Canadian processors with an unfair cost advantage that burdens U.S. exports in third-country markets. The USTR initiated an investigation in May 1986.⁷¹ Following consultations between the USTR and Canadian

officials under GATT article XXIII:1, the United States requested and obtained a GATT dispute settlement panel.

In late November 1987, after reviewing briefs and oral arguments by the parties, the panel ruled in favor of the United States and the report was adopted in February 1988. In March 1988, the GATT Council adopted the panel report. Canada announced that it planned to terminate the export restrictions by January 1, 1989, but that it would replace these with new landing and inspection requirements prior to export. In August 1988, the USTR requested public comments on whether the new Canadian requirements deny the U.S. rights under the GATT.⁷²

Canada failed to remove its export prohibition by January 1, 1989, and bilateral consultations in early 1989 did not result in any agreement on replacement measures. The USTR determined on March 28, 1989, that Canada's export prohibition denied a right to which the United States was entitled under the GATT. At the same time, the USTR sought public comments on possible U.S. trade action as a result of this determination and directed the Section 301 Committee to conduct a public hearing on such action. The public hearing was held on April 26, 1989.

On April 25, 1989, Canada repealed its export prohibition and replaced it with regulations requiring all Pacific roe herring and salmon caught in Canadian waters to be brought to shore in British Columbia prior to export. In an exchange of letters dated May 23 and 30, 1989, the United States and Canada agreed to submit Canada's landing requirements to an FTA dispute settlement panel. On October 13, 1989, the panel issued its final report, in which it found that the landing requirements violated FTA article 407, which prohibits GATT-inconsistent export restrictions.

*Argentina: Differential export taxes on soybeans and soybean products*⁷³

The USTR initiated the investigation in April 1986 at the request of the National Soybean Processors Association.⁷⁴ The petitioner complained of Argentina's system of differential export taxes, under which soybeans are charged a higher export tax than soybean oil.⁷⁵ Following bilateral discussions in which Argentina assured the United States that it planned to

⁶⁵ USTR Docket No. 301-62.

⁶⁶ See 52 F.R. 49131.

⁶⁷ One of the product subheadings previously slated for increased duties was excluded, because the EC agreed not to apply the directive to the import of products to be used in pet foods. USTR, "Report to Congress on Section 301 Developments required by Section 309(a)(3) of the Trade Act of 1974," Jul.-Dec. 1988.

⁶⁸ See 54 F.R. 31398.

⁶⁹ See 54 F.R. 50673.

⁷⁰ USTR Docket No. 301-55.

⁷¹ See 51 F.R. 19648, May 30, 1986.

⁷² See 53 F.R. 33207, Aug. 30, 1988.

⁷³ USTR Docket No. 301-53.

⁷⁴ See 51 F.R. 16764, May 6, 1986.

⁷⁵ The petition alleged that Argentina's differential export tax system distorted trade by providing the Argentine soybean processing industry with a guaranteed crushing margin, permitting Argentine crushers to capture ever increasing shares of the world export market. The petitioner argued that this advantage burdens U.S. exports to third-country markets.

eliminate the export taxes causing the differential, the President suspended the investigation in May 1987.⁷⁶ In November and December 1987, further discussions were held with Argentina, because the export tax had not yet been eliminated.

In February 1988, Argentina reduced the export tax differential by 3 percent. However, Argentina established a tax rebate in July 1988 on oil and meal exports to third countries that subsidize these products. As a result, the USTR resumed consultations with Argentina, which then suspended the rebate payments.⁷⁷ Consultations with Argentina were continuing as of the end of 1989.

*Brazil: Informatics policies*⁷⁸

In September 1985, the USTR initiated an investigation into Brazil's "informatics" policy.⁷⁹ The policy encompasses a variety of measures such as investment restrictions, subsidies, and import restrictions. The first consultations with Brazil on its policies took place in February 1986. In October 1986, the President determined that Brazil's policies were unreasonable and directed the USTR to notify the GATT of the U.S. intention to suspend tariff concessions for Brazil under GATT article XVIII, and to effect the suspension when appropriate.⁸⁰ In December 1986, the President terminated the portion of the investigation dealing with Brazilian administrative procedures.⁸¹

In February 1987, the USTR held hearings on the intellectual property and investment aspects of the case.⁸² The President suspended the intellectual property portion of the investigation in June 1987.⁸³ However, in November 1987, the President announced plans to take retaliatory measures because Brazil had breached certain understandings that were the basis for the June suspension action.⁸⁴ Hearings on proposed retaliation were held in December 1987.⁸⁵

⁷⁶ See 52 F.R. 18685, May 16, 1987.

⁷⁷ USTR, "Section 301 Table of Cases," Nov. 15, 1988.

⁷⁸ USTR Docket No. 301-49.

⁷⁹ See 50 F.R. 37608, Sept. 16, 1985. Informatics includes computer software, computer hardware, and digital microelectronic items.

⁸⁰ See 51 F.R. 35993, Oct. 8, 1986.

⁸¹ The Brazilian reforms included simplification of the licensing process, the creation of an appeals process, and a narrowing of the scope of import restrictions. The December determination also directed the USTR to continue negotiations with Brazil to eliminate restrictions on U.S. investment in the informatics sector and obtain adequate protection of intellectual property rights. See 52 F.R. 1619, Jan. 15, 1987.

⁸² See 52 F.R. 4207, Feb. 10, 1987.

⁸³ See 52 F.R. 24971, Jul. 2, 1987.

⁸⁴ The President proposed measures that included banning imports of Brazilian informatics products and raising duties or otherwise restricting imports of about \$105 million more in Brazilian products. See 52 F.R. 44937, Nov. 23, 1987.

⁸⁵ See 52 F.R. 47071, Dec. 11, 1987.

In February 1988, retaliation was postponed to review Brazil's regulations implementing its software law enacted in December 1987. In June 1988, the USTR announced that it would not pursue retaliation at that time while monitoring whether U.S. companies were able to obtain fair and equitable access to the Brazilian market under the new regulations.⁸⁶ The investigation was terminated on October 6, 1989.

*Argentina: Air couriers*⁸⁷

The Air Courier Conference of America (ACCA) filed a petition on September 21, 1983, alleging that Argentina had acted unreasonably in granting its postal system exclusive control over the international air transportation of time-sensitive commercial documents.

The USTR initiated an investigation on November 7, 1983.⁸⁸ On March 22, 1984, consultations with Argentina were held. On October 24, 1984, the USTR held a public hearing on proposals for action under section 301. On November 16, 1984, the President determined that Argentina's practices were unreasonable and a restriction on U.S. commerce. He directed the USTR again to consult, as requested by Argentina, and to submit proposals for action under section 301 within 30 days.⁸⁹ Prior to the 30-day period, Argentina lifted its prohibition for a 90-day period. In March 1985, these restrictions were permanently lifted, but were replaced by heavy discriminatory taxes. Following additional consultations on September 1, 1988, Argentina reduced the tax and improved the transparency of its air courier regulations.

On May 25, 1989, the United States and Argentina reached an agreement with respect to Argentina's fees, providing for nondiscriminatory treatment of foreign air couriers in Argentina. When this agreement is fully implemented, ACCA is expected to withdraw its petition.

*EC: Canned fruit production subsidies*⁹⁰

The California Cling Peach Advisory Board et. al. filed a petition on October 23, 1981, concerning EC production subsidies to EC member states' canned peaches, canned pears, and raisins. The petition alleged that the subsidies violated GATT article XVI in that the subsidized products displace sales of non-EC products within the EC and that the subsidies impair tariff bindings on those products. The USTR initiated an investigation on December 10, 1981.⁹¹

⁸⁶ USTR, "Section 301 Table of Cases," Nov. 15, 1988.

⁸⁷ USTR Docket No. 301-44.

⁸⁸ See 48 F.R. 52664.

⁸⁹ See 49 F.R. 45733.

⁹⁰ USTR Docket No. 301-26.

⁹¹ See 46 F.R. 61358.

The United States consulted with the EC under GATT article XXIII:1 on February 25, 1982. The United States requested a dispute settlement panel under article XXIII:2 on March 31, 1982. On August 17, 1982, the President directed the USTR to expedite dispute settlement.⁹² The panel met on September 29 and October 29, 1982. The panel report was submitted to the United States and the EC on November 21, 1983. The panel met again with the parties on April 27, 1984. An additional panel was held on June 28, 1984. A final panel report was issued on July 20, 1984. The United States requested adoption of the panel report at the GATT Council meetings of April 30, May 29, June 5, and July 16. However, Council action was deferred, because the EC was not yet ready to act on the report.

On September 7, 1985, the President directed the USTR to recommend retaliation unless the case was resolved by December 1, 1985. In December 1985, the United States and the EC reached a settlement under which, in addition to subsidy reductions already implemented on canned pears, the EC agreed to phase out processing subsidies for canned peaches.

In October and November 1988, the USTR consulted with the EC regarding its failure to fully implement the settlement agreement. Technical talks continued in 1989 regarding EC calculation of its subsidies, and the matter was raised at the ministerial level on February 18, 1989. Since the matter remained unresolved as of May 1989, a new investigation (301-71) was initiated. A public hearing was held June 9, 1989.

Consultations with the EC resulted in a resolution that included three elements. First, beginning July 1, 1989, the EC lowered its 1989/90 subsidy rates for canned peaches and pears to comply with the terms of the 1985 Canned Fruit Agreement. Second, U.S. and EC officials clarified their interpretation of that agreement to forestall future disputes. Finally, the EC Commission modified its regulations to limit canned peach and pear subsidies in future years.

In accordance with the GATT panel report, USTR determined that rights of the United States under the GATT were being denied by EC processing subsidies, but that the EC was taking satisfactory measures to grant those rights. Accordingly, the two investigations arising from the EC practices with respect to canned fruit production subsidies were terminated.⁹³

Follow-Up on Cases Settled Prior to 1988

*EC: Enlargement*⁹⁴

Following a January 21, 1987 proclamation of dramatic duty increases on a number of EC

⁹² See 47 F.R. 36403.

⁹³ See 54 F.R. 41708-9 (Oct. 11, 1989).

⁹⁴ USTR Docket No. 301-54.

products,⁹⁵ the United States and the EC settled the issue of U.S. compensation for the effect of EC enlargement on U.S. trade.⁹⁶ The agreement was reached on January 30, 1987, the eve of the deadline for the duty hikes to take effect.⁹⁷ As a result of the agreement, the USTR suspended the increased duties.⁹⁸

During 1988, the EC experienced start-up problems with implementing the agreement with the United States. Unable to ensure imports of U.S. feedgrain at the agreed-upon levels by the deadline of February 29, 1988, the EC was granted an extension until June 30. The USTR is continuing to monitor EC compliance with the terms of the agreement. Also, the continued EC maintenance of restrictions of soybeans into Portugal is being monitored by the USTR to determine whether U.S. soybean exports into Portugal are affected.

On December 13, 1989, to avoid a more damaging effect on EC trade than was warranted by the operation of the EC restrictions in Portugal, the USTR increased the levels of permissible imports, for 1989 and subsequent years, of certain ale, porter, stout and beer products that had been subject to quantitative restrictions.⁹⁹

*Korea: Intellectual property rights*¹⁰⁰

On November 4, 1985, the USTR self-initiated an investigation of Korea's lack of effective protection of US intellectual property rights.¹⁰¹ The United States consulted with Korea in November and December 1985 and throughout February-July 1986. On July 21, 1986, the White House announced the conclusion of an agreement with Korea aimed at improving protection of intellectual property rights in Korea. The President approved the agreement and terminated the investigation on August 14, 1986.¹⁰² The final agreement was signed August 28, 1986.

Implementation of the agreement continues to be monitored, and on June 13, 1988, the USTR formed an interagency task force to examine Korean practices related to obtaining and enforcing patent rights. The task force made a

⁹⁵ See 52 F.R. 2663, Jan. 26, 1987.

⁹⁶ For further details see the "EC Enlargement" section of ch. 4 of USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, July 1989.

⁹⁷ The EC agreed to ensure annual imports of corn and sorghum in Spain of 2 million and 300,000 metric tons, respectively. The EC also agreed to rescind the requirement in Portugal that 15 percent of the Portuguese grain market (about 400,000 metric tons) be reserved for sales from EC member countries. Moreover, the EC agreed to reduce duties on 26 other products and to extend all current EC tariff bindings to Spain and Portugal.

⁹⁸ See 52 F.R. 3523, Feb. 4, 1987.

⁹⁹ See 54 F.R. 51277.

¹⁰⁰ USTR Docket No. 301-52.

¹⁰¹ See 50 F.R. 45883.

¹⁰² See 51 F.R. 29446.

preliminary report to the USTR in December 1988. Followup discussions are being held with the Korean Government.

*Japan: Barriers to the domestic sale of foreign semiconductors*¹⁰³

In June 1985, the Semiconductor Industry Association filed a petition with the USTR alleging that the Japanese Government had created a protective structure that acts as a major barrier to the sale of foreign semiconductors in Japan.¹⁰⁴ The USTR initiated an investigation in July 1985,¹⁰⁵ and consulted with Japan. The United States and Japan reached an agreement on semiconductors under which Japan made a commitment to increase access to the Japanese market for U.S. firms and to prevent dumping of semiconductors in U.S. and third-country markets. Consequently, the President suspended the investigation.¹⁰⁶

In March 1987, the USTR reactivated the case and held hearings on whether Japan was meeting the terms of the agreement.¹⁰⁷ In April, the President determined that Japan had not implemented or enforced the agreement¹⁰⁸ and proclaimed retaliatory duty increases.¹⁰⁹ Some of the duty increases were subsequently removed,¹¹⁰ but other sanctions imposed in April 1987 remain in effect.

In August 1988, the United States Government responded to requests by industry associations to modify some aspects of implementation of the agreement on semiconductor trade. The associations argued that by setting minimum price levels based on cost of manufacture, the agreement discouraged Japanese suppliers from increasing manufacturing capacity, thus causing artificial shortages and exorbitant prices. In close consultation with U.S. industry and the Department of Commerce in particular, USTR continues to monitor this case very closely.¹¹¹

¹⁰³ USTR Docket No. 301-48.

¹⁰⁴ See 50 F.R. 28866.

¹⁰⁵ Id.

¹⁰⁶ See 51 F.R. 27811, Aug. 4, 1986.

¹⁰⁷ See 52 F.R. 10275, Mar. 31, 1987.

¹⁰⁸ See 52 F.R. 13419, Apr. 22, 1987.

¹⁰⁹ He proclaimed increased duties on Japanese imports, including certain color televisions, power hand tools, and automatic data processing machines, and authorized the USTR to modify, suspend, or terminate the duties. See 52 F.R. 13412, Apr. 22, 1987.

¹¹⁰ In June 1987, the USTR suspended the increased duties on imports of 20 inch color television sets, because of Japan's improved conformity with the agreement. See 52 F.R. 22693, June 15, 1987. In November 1987, USTR suspended duties on certain power hand tools, certain other color television sets, and low performance 16 bit desktop computers, once it was determined that Japan was no longer dumping semiconductors. See 52 F.R. 43146, Nov. 9, 1987.

¹¹¹ USTR, "Report to Congress on Section 301 Developments Required by Section 309(a)(3) of the Trade Act of 1974," Jan-June 1989.

Cases Inactive in 1989

Outstanding cases in which no further action occurred in 1989 include:¹¹²

EC: Export Subsidies on Wheat Flour¹¹³;
Japan: Leather¹¹⁴;
USSR: Marine Insurance¹¹⁵;
Argentina: Marine Insurance¹¹⁶; EC: Sugar Export Subsidies¹¹⁷;
EC: Poultry Export Subsidies¹¹⁸;
Canada: Tax And Customs Measures On Front-End Loaders¹¹⁹;
Brazil: Import Restrictions On Nonrubber Footwear¹²⁰;
Japan: Import Restrictions On Nonrubber Footwear¹²¹
Korea: Import Restrictions On Nonrubber Footwear¹²²
Brazil¹²³, Portugal¹²⁴, and Spain¹²⁵: Barriers To U.S. Exports Of Soybean Oil And Meal:
EC: Technical Standards For Fertilizers¹²⁶;
Japan: Tobacco Production¹²⁷
EC: Third Country Meat Directive¹²⁸
Brazil: Pharmaceuticals¹²⁹

Other Import Administration Laws

Agricultural Adjustment Act

Section 22 of the Agriculture Adjustment Act (7 U.S.C. 624) requires the President to take action to prevent imports from undermining the integrity of U.S. Department of Agriculture (Agriculture) programs designed to support domestic agricultural commodity prices. The President acts on the basis of a formal investigation and recommendation by the U.S. International Trade Commission. Following receipt of the Commission's report, the President

¹¹² For further details on these cases see Operation of the Trade Agreements Program, 38th Report, 1986, USITC Publication 1995, Jul. 1987, pp. 5 10 and 4 7.

¹¹³ USTR Docket No. 301-6.

¹¹⁴ USTR Docket No. 301-13. Initiated in Aug. 1977.

¹¹⁵ USTR Docket No. 301-14. Initiated in June 1978.

¹¹⁶ USTR Docket No. 301-18. Initiated in July 1979.

¹¹⁷ USTR Docket No. 301-22.

¹¹⁸ USTR Docket No. 301-23.

¹¹⁹ USTR Docket No. 301-34. Initiated in Oct. 1982.

¹²⁰ USTR Docket No. 301-35. Initiated in Dec. 1982.

¹²¹ USTR Docket No. 301-36. Initiated in Dec. 1982.

¹²² USTR Docket No. 301-37. Initiated in Dec. 1982.

¹²³ USTR Docket No. 301-40. Initiated in May 1983.

¹²⁴ USTR Docket No. 301-41. Initiated in May 1983.

¹²⁵ USTR Docket No. 301-42. Initiated in May 1983.

¹²⁶ USTR Docket No. 301-47. Initiated in Oct. 1984.

¹²⁷ USTR Docket No. 301-50. Initiated in Sept. 1985.

¹²⁸ USTR Docket No. 301-60. Initiated in July 1987.

¹²⁹ USTR Docket No. 301-61. Initiated in July 1987.

may impose, when necessary, quantitative restrictions on imports. He may also impose compensatory fees, not to exceed 50 percent of the imported product value, to protect relevant Agriculture programs. In instances in which the Secretary of Agriculture determines that an emergency exists, the President may take action before completion of the Commission's investigation and report. Such emergency action continues in effect during the pendency of the above proceedings.

The International Trade Commission in 1989 initiated two section 22 investigations. In Investigation No. 22-50 the Commission investigated the import effects of a reconfiguration of present country allocations for ice cream on the milk price-support program. The President, on August 28, 1989, accepted the ITC report, but deferred final action on the Commission's recommendations. Therefore, the findings remained confidential. On July 25, 1989, in response to a second directive from the President, the Commission initiated Investigation No. 22-51 to determine whether the existing import quota on cotton comber waste should be maintained, terminated, or if the current, country-specific allocations should be modified. This investigation with respect to cotton comber waste was ongoing at the end of 1989.¹³⁰

Quantitative import restrictions established pursuant to section 22 authority, through presidential proclamations of previous years, remained in place throughout 1989 on cotton of specified staple lengths, certain cotton waste, certain cotton products; peanuts; certain dairy products; sugar, sugar syrups, and sugar-containing articles. Compensatory import fees remained in effect on refined sugar.¹³¹

Meat Import Act Of 1979

The Meat Import Act of 1979, successor to the Meat Act of 1964, became law on January 1, 1980. The act requires the President to impose quotas on imports of certain meats, mainly fresh, chilled, or frozen beef if the U.S. Department of Agriculture estimates that annual imports of such meats will exceed a specified "trigger" level.¹³² This trigger level is calculated on the basis of a

¹³⁰ The Commission submitted the report to the President on January 25, 1990. It had not been released to the public as of July 25, 1990.

¹³¹ The section 22 cases involving sugar (Investigation No. 22 49) and sugar-containing articles (Investigation No. 22-48) instituted by the International Trade Commission in March 1985 to determine the respective import effects on USDA price-support programs remained unresolved throughout calendar year 1989 pending presidential action. The President as of December 31, 1989, had not indicated what response he wished to make to the Commission's recommendations. Therefore, the report findings remained confidential and the President's emergency actions with respect to sugar and sugar-containing articles temporarily established in 1985 continued in effect.

¹³² The law, which also encompasses imports of veal, mutton, and goat meat, does not apply to imports of pork, lamb, fish, or poultry meat.

Congressionally prescribed formula outlined in the law. Included in the formula is a "counter-cyclical factor" that increases the trigger if U.S. per capita supplies are decreasing, and reduces the maximum import allocation in the event of domestic surpluses. The trigger level is equivalent to 110 percent of the applicable quota for meat imports in a given year. Quantitative limitations will be applied if unrestrained imports exceed trigger levels. Meat import quantities subject to the law are reviewed quarterly by the Secretary of Agriculture for conformance to trigger levels, at which time an estimate is made of total imports for the year. If the annual unrestrained meat import level is projected to exceed the trigger level, attempts are made to negotiate "voluntary restraint agreements" (VRAs) with major suppliers. VRAs, if negotiated, mandate that import totals remain below applicable Meat Import Law trigger levels.

No quotas pursuant to the immediate law have been imposed since the provisions took effect in 1980. The predecessor statute—the Meat Act of 1964—on the basis of a similar formula, also provided authority to the President to impose quotas on imports of meat. In December 1988, Agriculture estimated that imports of quota meat in 1989 would amount to 1,425 million pounds, 12.8 million pounds below the 1989 trigger level of 1,437.8 million pounds mandating imposition of quantitative limitations.¹³³ Canadian imports became exempt from the law on January 1, 1989 effective with the implementation of the United States-Canada Free-Trade Agreement (FTA). The Secretary of Agriculture on April 4, 1989 issued a revised 1989 meat import trigger level of 1,369.8 million pounds and an annual import estimate of 1,315 million pounds, excluding Canada.¹³⁴ Actual imports of meat subject to the Act according to official statistics of the U.S. Customs Service totaled 1,145.5 million pounds in 1989 distributed by source as follows:

	Quantity (million pounds)
Australia	577.6
New Zealand	456.6
Costa Rica	39.4
Guatemala	28.8
Dominican Republic	21.2
Honduras	18.0
El Salvador	1.7
Sweden	1.5
European Community	0.5
Mexico	0.2
Total	1,145.5

The total of 1,145.5 million pounds was significantly below both the trigger level and the Department's official estimate; therefore, no quotas were imposed or VRAs negotiated on the covered categories of meat during calendar

¹³³ See 54 F.R. 320, Jan. 5, 1989.

¹³⁴ See 54 F.R. 13538, Apr. 4, 1989.

year 1989. On December 29, 1989, Agriculture estimated that in the absence of restraints, 1990 meat imports subject to the law would total 1,150 million pounds, 216.2 million pounds less than the 1990 trigger level of 1,366.2 million pounds that would automatically mandate quantitative restrictions.¹³⁵

National Security Import Restrictions

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) authorizes the President, on the basis of a formal investigation and report by the Secretary of Commerce, to regulate the importation of articles that threaten to impair the national security of the United States. The President may enact the Secretary's findings or take any action necessary to control imports of the contested article. He may also reverse the Secretary's recommendations. The predecessor statute of section 232—section 8 of the Trade Agreements Extension Act of 1958—provided the President similar authority to regulate imports in the interest of national security. Section 232 has been administered through the Department of Commerce's Industrial Resource Administration (OIRA) since January 1980. Previous responsibility for the program rested with the Department of Treasury and the Office of Emergency Preparedness. Pursuant to the Omnibus Trade and Competitiveness Act of 1988, Commerce must present its findings and recommendations to the President within 270 days rather than within the 1 year previously allowed. The President has 90 days in which to decide on appropriate action after receipt of the Secretary's findings. Previously no deadline mandating Presidential action was in place. During 1989 the Department of Commerce completed action on section 232 investigations involving petroleum, plastic injection molding machinery, and uranium. A brief discussion of issues related to these cases follows.

Plastic Injection Molding Machinery

The Department of Commerce on January 11, 1989, reported to the President its findings on the section 232 investigation involving plastic injection molding machines. This study, initiated in January 1988 at the request of the plastics industry, was conducted to assess the effects of imported plastic injection molding machinery on national security.¹³⁶ Commerce concluded that adequate supplies of molding machinery would be available to meet projected U.S. requirements in the event of a national emergency. The Secretary recommended that no action pursuant to provisions under authority of Section 232 be

¹³⁵ See 55 F.R. 373, Jan. 4, 1990.

¹³⁶ See the USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 161.

taken to adjust import levels. Commerce announced on February 17, 1989, that the President had agreed with its recommendation to take no action on the plastic industry's petition for import relief. At the same time, the President instructed the National Institute of Standards and Technology, the Department of Justice, and the Defense Department to develop programs to enhance the domestic industry's, productivity, reliability, and competitiveness.

Uranium

The Secretary of Energy requested the Secretary of Commerce on December 30, 1988, to conduct an investigation to determine the effects of uranium imports on the national security.¹³⁷ This request was required by the provisions of section 170(B) of the Atomic Energy Act of 1954, after executed contracts for uranium imports exceeded 37.5 percent of domestic requirements during the period January 1986 through December 1987. The Department of Commerce determined that available supplies of uranium would be sufficient to meet anticipated requirements during a national emergency and concluded that uranium is not being imported in such quantities or under such circumstances as to represent a threat to the national security. The report was submitted to the President on September 26, 1989. The President announced on October 16, 1989, that he concurred with the Department's recommended finding that no action was required to adjust imports under authority of section 232.

Petroleum

The President, on January 3, 1989, following a section 232 investigation conducted by the Department of Commerce on the effects of petroleum imports on the national security, denied the U.S. industry's request for import relief. Commerce's investigation, initiated in response to a petition filed by the National Energy Security Committee, was instituted on December 24, 1987, with findings and recommendations forwarded to the President on December 1, 1988.¹³⁸ The Secretary's report recognized that U.S. energy security had increased substantially since the previous section 232 petroleum finding in 1979. Notwithstanding this improvement, the investigation identified several factors that continue to threaten energy security, including the access to secure supplies of petroleum vital to U.S. economic and defense security. Commerce, therefore, concluded that petroleum imports threaten to impair the national security. The Department recommended, however, that no action be taken to adjust imports in light of the administration's plan to

¹³⁷ Ibid.

¹³⁸ See the USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 160.

improve energy security that had been presented to Congress in May 1987. The President in announcing his decision urged Congress to enact into law the administration's recommendations, including the further deregulation of natural gas prices, greater access to natural gas pipelines, opening of an Alaskan wildlife refuge to exploration and development, increased tax benefits for the petroleum and gas industry, and reform of nuclear power licensing. The embargo on imports of crude petroleum originating in the Libyan Arab Jamahiriya, imposed on December 22, 1983, through Presidential Proclamation No. 5141, and its extension to refined petroleum products imposed on November 5, 1985, through Executive Order 12538, continued in place throughout 1989.¹³⁹ Libyan policies and actions aided and abetted through proceeds from the exportation of oil to the United States were initially declared to be adverse to U.S. national security in March 1982.

Recent Developments

No new cases were initiated in calendar year 1989. Section 232 has been used sparingly in the past by the President. The most notable use of this section has been in connection with the imposition of quotas and fees on imports of petroleum products. The most recent investigation of any significance was the 1986 case that focused on imports of machine tools. The President directed the U.S. Trade Representative to negotiate voluntary restraint agreements with countries showing significant exports to the United States. Agreements were subsequently negotiated with Japan and Taiwan.¹⁴⁰

Caribbean Basin Economic Recovery Act (CBERA)

In 1989 the Caribbean Basin Economic Recovery Act (CBERA) marked its sixth year of operation. It was signed into law in August 1983 and became operative by Presidential proclamation on January 1, 1984.¹⁴¹ A

¹³⁹ The President extended the Libyan state of emergency, which includes U.S. economic sanctions against that country, through calendar year 1989 in a notice issued Dec. 28, 1988. The President last continued the sanctions on Jan. 6, 1988.

¹⁴⁰ Japan and Taiwan agreed in 1986 to limit for a 5-year period, through December 1991, exports of machine tools to the United States. Negotiations with West Germany and Switzerland failed to produce similar agreements prompting notification by the United States that it was prepared to take unilateral action should imports from these countries exceed certain levels. No action to limit machine tool imports from West Germany or Switzerland has been taken by the U.S. Government to date. For further details, see the USITC, *Operation of the Trade Agreements Program*, 38th Report, 1986, USITC Publication 1995, 1987, pp. 4-11; 4-27; and 4-41.

¹⁴¹ Public Law 98-67, title II.

12-year program, the CBERA is designed to encourage economic development in the Caribbean Basin principally by providing trade preferences. The Caribbean Basin Initiative (CBI) refers to a broader program with goals of expanding foreign and domestic investment in nontraditional sectors of Caribbean Basin countries, diversifying their economies, and expanding their exports.¹⁴²

The centerpiece of the CBI is the CBERA one-way trade preference program that allows duty-free access to the U.S. market of eligible products of designated beneficiary countries, provided that at least 35 percent of their value is added in a Caribbean Basin country participating in the program. (U.S. value may be counted up to a level of 15 percent.)¹⁴³ As a result of the Omnibus Trade and Competitiveness Act of 1988, CBERA product eligibility was modified by broadening the President's authority under the program to withdraw, suspend, or limit the application of duty-free entry for a particular import of a beneficiary, in lieu of removing the country entirely from the program. This could occur in instances where, as a result of changed circumstances, a beneficiary would be out of compliance with the program's original designation criteria.¹⁴⁴

The Caribbean Basin is defined as consisting of 28 Caribbean and Central American countries and territories, including the 27 originally specified as potential beneficiaries in section 212(b) of the act, and Aruba. The Caribbean Basin countries are categorized as either "designated," which signifies CBERA beneficiary status, or "nondesignated." In this report, the

¹⁴² In addition to the CBERA, other elements of the CBI program include increased U.S. economic assistance to the region to aid private sector development, a deduction on U.S. taxes for companies that hold business conventions in CBERA-eligible countries to increase tourism, a wide range of U.S. Government, State, and private sector promotion programs, and support from other trading partners and multinational development institutions such as the Inter-American Development Bank, and the World Bank.

¹⁴³ The Tax Reform Act of 1986 required that ethanol producers use at least 30-percent local feedstock in 1987 to qualify for duty-free status, with the minimum rising to 60 percent in 1988 and to 75 percent thereafter.

¹⁴⁴ The program amendment formally: (1) creates a set of options from which the President may select the appropriate action should he decide that a beneficiary is no longer in compliance with the program's criteria for designation, and (2) establishes a process for public comment on the proposed action. The President may decide to: (1) remove the country beneficiary status entirely, or (2) limit product eligibility for the beneficiary. After the President decides on the appropriate action, he must publish a notice in the Federal Register at least 30 days prior to its taking effect. Within the 30 day period, the TPSC shall accept written comments and hold a public hearing regarding the proposed action. See Public Law 100-418, section 1909. For a description of the criteria that the President must consider in designating a country eligible for CBERA benefits, see USITC, *Operation of the Trade Agreements Program*, 35th Report, 1983, USITC Publication 1535, 1984, pp. 27-28.

designated country group (also referred to as "CBERA countries") varies according to the year under discussion. For the years 1985-87, the "CBERA countries" comprised a group of 22 beneficiaries. For 1988, the list of CBERA beneficiaries was expanded to include Guyana, while Panama was removed from the list of designated countries for 1989.¹⁴⁵ The nondesignated country group contains the remaining eligible Caribbean Basin countries that had not received or had lost beneficiary designation for the particular year. The list of all designated and nondesignated Caribbean Basin countries and U.S. imports from these countries during 1985-89 are shown in appendix table A-32.

After declining in each of the previous 3 years, U.S. imports from the Caribbean Basin grew by 13.7 percent in 1989 to total \$7.0 billion, up from \$6.2 billion in 1988. Imports from countries designated as beneficiaries under the CBERA increased by \$576.4 million, accounting for most of the \$848.3 million total increase in the value of imports from the region. Almost all U.S. imports from the Caribbean Basin originate from CBERA beneficiaries. However, the share of imports from CBERA countries dropped from 98.2 percent in 1988 to 94.5 percent in 1989. The decline in CBERA share last year was a result of Panama's removal from the group of beneficiary countries. Nonetheless, imports from the CBERA beneficiaries grew by 9.5 percent in 1989 to total \$6.6 billion, up from \$6.1 billion a year earlier.

The composition of U.S. imports from the CBERA beneficiaries also continued to change last year with strong growth exhibited in textiles, apparel, and chemical imports. In 1989, textile and apparel imports increased by 17.3 percent on a customs value basis to account for 26.1 percent of all U.S. imports from the CBERA countries, up from 24.4 percent in 1988.¹⁴⁶ The value of textile and apparel imports from these countries has more than doubled since 1985, principally under HTS subheading 9802.00.80. (Notably, textiles and apparel are not eligible for duty-free entry under the CBERA.) Chemical imports from CBERA beneficiaries increased sharply (by 88.4 percent) in 1989 to account for 8.3 percent of total imports, up from 4.9 percent the previous year.¹⁴⁷

¹⁴⁵ Guyana was designated as a CBERA beneficiary effective on Nov. 24, 1988. Panama's eligibility was suspended on Apr. 9, 1988, making it the first CBERA beneficiary to lose its designated status. See USITC, *Operation of the Trade Agreements Program*, 40th Report, USITC Publication 2208, July 1989, p. 156. Panama was included in the CBERA country grouping for 1988, because a portion of CBERA duty-free imports originated from Panama prior to its eligibility suspension. Effective Mar. 17, 1990, Panama was reinstated as a CBERA beneficiary. See 55 F.R. 7685, Mar. 2, 1990.

¹⁴⁶ Based on trade figures for chapters 50-63 of the HTS.

¹⁴⁷ Based on trade figures for chapters 28-38 of the HTS.

Imports of animal and vegetable products from the CBERA beneficiaries, consisting primarily of fruit, coffee, shellfish, and meat, continued to decline (by \$29.3 million) in 1989, but at a somewhat slower rate than in previous years.¹⁴⁸ These imports accounted for 21.3 percent of U.S. imports from the CBERA beneficiaries in 1989 compared with 23.8 percent a year earlier and 27.2 percent in 1987.¹⁴⁹ Although imports of mineral products, consisting largely of petroleum and petroleum products, from the CBERA countries rose slightly in 1989, as a share of total imports from the group, they declined from 20.1 percent in 1988 to 18.4 percent in 1989.¹⁵⁰ Imports of petroleum and petroleum products are not eligible for duty-free entry under the CBERA.

In 1989, 68.3 percent of all imports from the CBERA countries entered the United States free of duties, less than half of which (40.9 percent) were duty-free under the column 1-general rate. Out of a total of \$4.5 billion in free of duty imports originating from the program's beneficiaries last year, \$905.8 million worth, or 20.0 percent, entered the U.S. customs territory under the CBERA program (table 15). This is a 14.5 percent increase from the \$790.9 million in CBERA duty-free imports in 1988, and represents 13.6 percent of total imports from the CBERA countries.

As in past years, imports of frozen and fresh meat of bovine animals (HTS subheading 0202.30.60 and 0201.30.60) combined accounted for the largest product category of imports entering the United States under the CBERA (\$118.5 million in CBERA imports) in 1989. The top 20 CBERA duty-free imports are listed in table 16 along with the corresponding figures for total U.S. imports from designated beneficiaries in the region. The second-largest CBERA import category in 1989 was cane sugar, with imports valued at \$106.4 million, up from \$93.1 million the prior year.¹⁵¹ Pineapples totaled \$32.0 million worth of CBERA duty-free imports followed by baseballs and softballs, and

¹⁴⁸ The decline occurred because Panama (which accounted for 10 percent of 1988 imports) was a CBERA beneficiary in 1988 and not in 1989.

¹⁴⁹ Based on trade figures for chapters 1-14 of the HTS.

¹⁵⁰ Based on trade figures for chapters 25-27 of the HTS. Between 1983 and 1986, a 72 percent drop in the value of crude oil and petroleum product imports pushed total U.S. imports from the region sharply downward before leveling off in 1987. After dropping by 23.1 percent in 1988, the value of crude oil and refinery product imports from the CBERA beneficiaries stabilized, dropping by only 1.3 percent in 1989.

¹⁵¹ The combined 1989 sugar import quotas for the CBERA beneficiaries, raw value, was 760,961 metric tons, over double the 1988 quota level of 324,514 metric tons. The total world sugar import quota for 1989 was 2,258,050 metric tons.

Table 15
U.S. Imports for consumption from the world and from the Caribbean Basin, 1986-89

Item	1986	1987	1988	1989
<i>Value (1,000 dollars, customs value)</i>				
Total imports	6,064,745	6,039,030	6,061,054	6,637,440
Dutiable value ²	1,916,553	2,110,950	1,975,850	2,101,839
HTS 9802.00.60 and 9802.00.80	261,632	336,380	427,144	504,882
HTS 9802.00.80.10	693	20,143	57,636	106,055
HTS 9802.00.80.50	260,878	316,234	369,483	398,241
Other	1,654,921	1,774,571	1,548,706	1,596,957
Duty-free value ³	4,148,192	3,928,080	4,085,204	4,535,601
MFN ⁴	2,340,473	2,056,248	1,927,912	1,854,400
CBERA ⁵	670,711	768,467	790,941	905,762
GSP ⁶	476,151	300,531	353,079	415,859
HTS 9802.00.60 and 9802.00.80	612,118	756,115	906,518	1,089,694
HTS 9802.00.80.10	562	58,422	161,708	286,437
HTS 9802.00.80.50	611,513	697,681	744,723	785,766
Other duty free ⁷	48,738	46,719	106,754	269,886
<i>Percent of total</i>				
Total imports	100.0	100.0	100.0	100.0
Dutiable value ²	31.6	35.0	32.6	31.7
HTS 9802.00.60 and 9802.00.80	4.3	5.6	7.0	7.6
HTS 9802.00.80.10	(?)	0.3	1.0	1.6
HTS 9802.00.80.50	4.3	5.2	6.1	6.0
Other	27.3	29.4	25.6	24.1
Duty-free value ³	68.4	65.0	67.4	68.3
MFN ⁴	38.6	34.0	31.8	27.9
CBERA ⁵	11.1	12.7	13.0	13.6
GSP ⁶	7.9	5.0	5.8	6.3
HTS 9802.00.60 and 9802.00.80	10.1	12.5	15.0	16.4
HTS 9802.00.80.10	(?)	1.0	2.7	4.3
HTS 9802.00.80.50	10.1	11.6	12.3	11.8
Other duty free ⁷	0.8	0.8	1.8	4.1

¹ Panama is included as a beneficiary country in figures for 1986 through 1988. Data for Guyana are included in 1988 and 1989 only.

² Reported dutiable value has been reduced by the duty-free value of imports entering under HTS items 9802.00.60 and 9802.00.80 and increased by the value of ineligible items that were reported as entering under the CBERA and GSP programs.

³ The total duty-free value is calculated as total imports less dutiable value.

⁴ Figures for MFN duty free represent the value of imports which have a col. 1-general duty rate of zero.

⁵ Values for CBERA and GSP duty-free imports have been reduced by the value of MFN duty-free imports and ineligible items that were misreported as entering under the programs.

⁶ The value for other duty-free imports was calculated as a remainder and represents imports entering free of duty under special rate provisions. For example, data for 1989 includes \$264.6 million worth of U.S. imports of aromatic drugs derived from carboxylic acids (HTS item 2918.90.30) from the Bahamas that entered the United States duty free, most probably under a special duty-rate suspension for one product in the group.

⁷ Less than 0.05 percent.

Note.—Because of rounding, figures may not add to totals given.

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

medical instruments, with \$28.8 million and \$27.1 million in CBERA imports, respectively. The list of leading CBERA imports in 1989 also includes cigars, electrical apparatus for switching, ethyl alcohol (ethanol), electrical variable resistors, and jewelry.

CBERA preferences constitute one of three major duty-remission or duty-reduction programs afforded to Caribbean Basin countries by the United States. The other two, which have been in effect for years and apply to other countries as

well, are the Generalized System of Preferences (GSP)¹⁵² and HTS subheadings 9802.00.60 and 9802.00.80 (806.30 and 807.00 of the former TSUS). Table 16 separately lists imports from the CBERA beneficiaries which entered the United States under special programs during 1986-89. Duty-free imports under the GSP program rose in value from \$353.1 million in 1988 to \$415.9 million in 1989.

¹⁵² For a discussion of the GSP, see the following section of this chapter.

Table 16
Leading U.S. Imports for consumption entered under CBERA provisions, by descending duty-free value, 1989

(Customs value, in thousands of dollars)

HTS Item	Description	Total U.S. imports for consumption from CBERA countries ¹	Duty free under CBERA	Percent of CBERA duty-free to total from CBERA	Leading source ²
1701.11.00	Cane sugar, raw, not containing added flavoring or coloring	172,401	106,446	61.7	Dominican Republic
0202.30.60	Non retail cuts of meat of bovine animals, frozen, boneless, nesl	73,134	70,804	96.8	Costa Rica
0201.30.60	Non retail cuts of meat of bovine animals, fresh/chld, boneless, nesl	49,576	47,685	96.2	Costa Rica
0804.30.40	Pineapples, fresh or dried, not reduced in size, in crates, other pkgs	36,571	32,000	87.5	Costa Rica
9506.69.20	Baseballs and softballs	37,078	28,833	77.8	Haiti
9018.90.80	Instruments and appliances used in medical, surgical, dental, other	63,353	27,054	42.7	Dominican Republic
2402.10.80	Cigars, cheroots and cigarillos containing tobacco, valued over \$.23	32,516	25,613	78.8	Dominican Republic
8536.90.00	Electrical apparatus nesl, for switching or making connections	38,691	21,326	55.1	Haiti
2207.10.60	Undenatured ethyl alcohol of 80 percent vol. alcohol, non-beverage use	21,093	21,093	100.0	Jamaica
8533.40.00	Electrical variable resistors, nesl, including rheostats, potentiometers	19,855	18,240	91.9	Costa Rica
7116.20.10	Articles of jewelry of precious or semiprecious stones	17,848	17,254	96.7	Dominican Republic
7113.19.50	Articles of jewelry and parts thereof, nesl, of precious metal	42,245	16,106	38.1	Dominican Republic
4303.10.00	Articles of apparel and clothing accessories, of furakin	13,713	12,751	93.0	Dominican Republic
2905.11.20	Methanol, other than to produce synthetic natural gas or use as fuel	28,550	12,542	43.9	Trinidad and Tobago
0807.10.20	Cantaloupes, fresh, if entered other than from August 1 to September 15	18,936	12,167	64.3	Honduras
8532.24.00	Ceramic dielectric fixed capacitors, multilayer	22,504	12,149	54.0	El Salvador
6406.10.65	Footwear uppers, other than formed, of leather	71,488	11,877	16.6	Dominican Republic
8538.90.00	Parts nesl, suitable for use solely or principally with apparatus of heading 8535, 8536, 8537	19,077	11,850	62.1	Dominican Republic
0302.69.40	Fish, nesl, excl. filets, livers and roes, fresh or chilled	24,174	11,054	45.7	Costa Rica
2009.11.00	Orange juice, frozen, unfermented and not containing added spirit	9,793	9,627	98.3	Belize
	Total of above items	812,595	526,468	64.8	
	Total, all items entering under CBERA	1,720,223	905,762	52.7	

¹ CBERA countries refers to designated beneficiaries.

² Indicates leading CBERA source based on total U.S. imports for consumption.

Note.—Because of rounding, figures may not add to total given.

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

HTS subheading 9802.00.80 provides a deduction from dutiable value, in imposing U.S. customs duties, of the value of U.S. components in imported products that have been assembled in a foreign country and then returned to the United States. HTS subheading 9802.00.60 provides similar treatment for certain U.S. metal products processed abroad and returned for additional processing. Considering the significance of textiles and apparel for the region's economy, in February 1986, the President announced a "special access program" under HTS subheading 9802.00.80 to liberalize the quotas of the CBERA beneficiaries. The program was designed to provide greater access to the U.S. market for textile and apparel products that CBERA countries would ordinarily ship under HTS subheading 9802.00.80 and that were assembled solely from fabric produced and cut in the United States.¹⁵³ Items imported under the special access program (formerly referred to as 807-A or Super-807) enter the United States under HTS statistical reporting number 9802.00.8010.

The growth of imports from CBERA beneficiaries entering the United States under HTS subheading 9802.00.80 largely reflects the upward trend in textile and apparel imports from these countries in recent years. In 1989, the customs value of HTS subheading 9802.00.80 imports from CBERA beneficiaries grew by 18.2 percent, reaching \$1.6 billion and accounting for 23.8 percent of total imports from these countries. Out of the HTS subheading 9802.00.80 imports in 1989, imports reported under HTS statistical reporting number 9802.00.8010 accounted for \$392.5 million worth, an increase of 78.9 percent over the value in 1988. Imports from CBERA beneficiaries under HTS statistical reporting number 9802.00.8050 totaled \$1.2 billion in 1989, an increase of 6.3 percent over the prior year. The corresponding duty-free values of imports under HTS statistical reporting number 9802.00.8010 and 9802.00.8050 in 1989 were \$286.4 million and \$785.8 million, respectively.

On March 2, 1989, "CBI-II" legislation (H.R. 1233 and S. 504) was introduced in the U.S. Congress to expand benefits of the CBERA. The bills originally included provisions to extend the CBERA program indefinitely and to grant

¹⁵³ CBERA countries were invited to enter into bilateral agreements with the United States that would guarantee levels of access for their textile and apparel exports that qualify. These guaranteed access levels (GALS) are separate from quotas applicable to those products that were not assembled solely from U.S.-made and U.S.-cut fabric. Costa Rica, the Dominican Republic, Haiti, Jamaica, and Trinidad and Tobago have had GAL agreements for several years. Guatemala signed a GAL agreement with the United States on Nov. 9, 1989. The agreement with Guatemala provided for a transition period; the GAL limits did not become effective until Mar. 1, 1990.

duty-free treatment to many of the products that are currently excluded from the program. Under the current CBERA, articles ineligible for duty-free treatment include petroleum and petroleum products; textiles and apparel; tuna; footwear; certain handbags, luggage, and flatgoods; work gloves; certain leather wearing apparel; and watches and watch parts if any component originated in a communist country. In 1989, these items (excluding watches) accounted for approximately \$2.9 billion worth, or 43.3 percent, of total U.S. imports from CBERA beneficiaries.¹⁵⁴

In October 1989, the U.S. House of Representatives approved a less comprehensive version of the original CBI-II legislation, as part of the fiscal 1990 deficit-reduction package (H.R. 3299). The CBI-II provisions were subsequently removed in conference from the budget package. On April 24, 1990, the Senate approved CBI-II legislation as part of H.R. 1594, a bill containing a variety of changes in tariffs and trade regulations. The two versions of the bill are being reviewed in conference before final passage.

As part of the CBI, the United States assists eligible countries in improving their business climate, and in facilitating private investment in the area. In 1989, the activities of the Caribbean Basin Information Center (CBIC) of the Department of Commerce continued. CBIC supplies information on trade and investment opportunities in the region to the U.S. business community and assists Caribbean firms by organizing exhibitions for their products and promoting their participation in trade shows.

Generalized System of Preferences

The U.S. GSP is a temporary tariff preference scheme designed to offer nonreciprocal duty-free entry for designated articles shipped directly from beneficiary developing countries, provided that at least 35 percent of their value is added in the beneficiary country. The objective of the system is to help these countries become more competitive in U.S. markets and to diversify their economic structures away from production of primary goods. Twenty-six other industrial countries also maintain GSP programs. The Office of the USTR chairs an interagency Trade Policy Staff Committee (TPSC), which administers the U.S. GSP program. The original U.S. GSP was established under the Trade Act of 1974 for a period of 10 years, beginning January 3, 1975. The current GSP program, the result of amendments to and renewal of the original act by the Trade and Tariff Act of 1984, has been in effect since January 4, 1985. The program is scheduled to expire on July 4, 1993. GSP benefits

¹⁵⁴ Figures do not include imports of ineligible watches, which could not be estimated from available trade statistics.

are afforded to approximately 4,150 products from 135 countries.¹⁵⁵

In 1989, U.S. imports from beneficiaries totaling \$24.4 billion were nominally eligible for duty-free entry under the GSP program (table 17). Of these imports, \$9.1 billion worth were subject to statutory competitive-need exclusions.¹⁵⁶ Of the remaining \$15.2 billion in GSP-eligible imports, \$10.0 billion actually entered the United States free of duties, down from \$18.4 billion a year earlier.¹⁵⁷ The substantial decline in GSP imports in 1989 is attributable principally to the removal of four of the program's top five beneficiaries (Taiwan, Korea, Hong Kong, and Singapore), effective January 1, 1989.¹⁵⁸ GSP imports receiving duty-free access in 1989 represented 41.1 percent of all eligible products, and

¹⁵⁵ Based on the HTS nomenclature structure which became effective Jan. 1, 1989. Approximately 3,000 imports were eligible under the program based on the TSUS tariff classification.

¹⁵⁶ The so-called competitive need provisions of the GSP law state that if, in any calendar year, imports from an eligible country of an eligible article either (1) account for more than a specified percentage of total U.S. imports of that article for that year or (2) exceed a given dollar value (adjusted for changes in the nominal U.S. GNP), the imports of that article from that country cannot receive duty-free entry under GSP in the following year. For the year under review, the general percentage and dollar limits were 50 percent and \$82,526,480, respectively. Countries that were found during the 1986 general review to be "sufficiently competitive" in certain products are subject to lower competitive need limits of 25 percent and \$32,221,250 for those products. The competitive need limits have been applied at the 8-digit HTS level.

¹⁵⁷ Some items that are eligible for GSP duty-free entry enter the United States under other preference programs, such as the CBERA and U.S.-Israel FTA.

¹⁵⁸ In 1988, these countries accounted for over one-half (\$9.9 billion) of the duty free imports that entered the United States under the GSP program.

accounted for 11.6 percent of total imports from beneficiary countries and 2.1 percent of U.S. imports from the world.

The list of leading GSP beneficiaries in 1989 also reflects the loss of program benefits by the four Asian Newly Industrializing Economies (NIEs) as the remaining beneficiaries shifted upward in ranking. The 10 beneficiaries last year in descending order of GSP duty-free imports were Mexico, Brazil, Malaysia, Thailand, Philippines, Israel, India, Argentina, Yugoslavia, and Venezuela.¹⁵⁹ GSP duty-free imports from these beneficiaries collectively amounted to \$8.2 billion, or 82.0 percent of all U.S. imports that received duty-free entry under the program in 1989. Table 18 shows separately the value of GSP duty-free imports from each of the top ten beneficiary countries and the ratio of such imports to the GSP-eligible and total U.S. imports from each of these countries.

In 1989, Mexico accounted for \$2.5 billion, or 24.7 percent, of the value of GSP duty-free imports and became the top GSP beneficiary after occupying third position following Taiwan and Korea in 1988. GSP imports from Mexico constitute a small portion (9.3 percent) of total U.S. imports from that country. One reason for the low ratio of GSP duty-free imports to total imports for Mexico is the dominance of petroleum in the total. Petroleum is not a GSP-eligible article. Nonetheless, the value of GSP duty-free imports from Mexico grew by 12.9 percent in 1989.

¹⁵⁹ In 1988, Taiwan, Korea, Hong Kong, and Singapore were ranked first, second, fourth and fifth. See USITC, *Operation of the Trade Agreements Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 153.

Table 17
U.S. imports for consumption¹ from GSP beneficiaries and the world, 1989

Item	All GSP beneficiaries	World
	Value (1,000 dollars)	
Total	86,085,497	466,379,052
GSP eligible products	24,351,643	172,774,812
Duty-free under GSP	10,015,390	10,015,390
GSP program exclusion	9,111,494	9,111,494
Other	5,224,759	153,647,928
Noneligible product imports	61,733,854	293,604,240
	Ratio of (percent)	
GSP-eligible to total imports	28.3	37.0
GSP duty-free to GSP-eligible imports	41.1	5.8
GSP exclusions to GSP-eligible imports	37.4	5.3
Other imports to GSP-eligible imports	21.5	88.9
GSP duty-free to total imports	11.6	2.1

¹ Customs value basis.

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

Table 18
U.S. Imports for consumption under the GSP from leading beneficiaries, 1989

Rank	Beneficiary	GSP-eligible imports			GSP duty-free imports		
		Total imports	Value	Share of total	Value	Share of eligible	Share of total
		Million dollars	Million dollars	Percent	Million dollars	Percent	Percent
1	Mexico	26,556	11,684	44.0	2,470	21.1	9.3
2	Brazil	8,484	2,569	30.3	1,173	45.7	13.8
3	Malaysia	4,669	1,403	30.0	1,044	74.4	22.4
4	Thailand	4,362	1,565	35.9	1,009	64.1	23.0
5	Philippines	3,051	897	29.4	692	77.1	22.7
6	Israel	3,236	1,266	39.2	541	42.6	16.7
7	India	3,281	457	14.0	409	89.5	12.5
8	Argentina	1,371	518	37.8	348	67.2	25.4
9	Yugoslavia	1,792	413	52.2	317	76.7	40.0
10	Venezuela	6,493	232	3.6	222	95.7	3.4
	Top 10	62,297	21,002	33.7	6,227	39.1	13.2
	Beneficiaries	86,085	24,352	28.3	10,027	41.1	11.6
							82.0
							100.0

Note.—Because of rounding, figures may not add to the totals shown.

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

Product coverage may also be modified annually in response to petitions filed by U.S. producers and trade associations, under the President's discretionary authority to "graduate" countries for particular products, or to remove or add products entirely from the list of eligible articles. Under this authority, the President graduated one beneficiary, Mexico, from eligibility on imports of hexamine (HTS subheading 2933.90.47) valued at \$1.4 million in 1988 trade. As part of the 1988 review, the President also removed steel pipe fittings (HTS subheading 7307.93.30) worth \$11.9 million from the list of GSP eligible products, and added 9 products to the list affecting \$10.8 million in 1988 trade. Imports of phenol (HTS subheading 2907.11.00) and mixed alkylbenzenes (HTS subheading 3817.10.00) valued at \$8.2 million and \$2.3 million, respectively, accounted for most of the additions.

On March 22, 1989, the USTR requested that the USITC institute an investigation for the purpose of providing advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the removal of GSP status for cigarette leaf tobacco provided for in a subheading of HTS subheading 2401.20.40. Subsequently, on July 6, 1989, President Bush announced the withdrawal of duty-free entry for this product.¹⁷³

On October 31, 1989, President Bush announced amendments to the Generalized System of Preferences adding 22 categories of watches as articles eligible for preferential treatment, after concluding that these imports would not cause material injury to the watch band, strap, or bracelet manufacturing and assembly operations in the United States.¹⁷⁴ In addition, the President waived the percentage competitive-need limit for 14 of the watch categories since no like or directly competitive article was produced in the United States on January 3, 1985.¹⁷⁵

¹⁷³ Presidential Proclamation 5997, July 6, 1989 published in 54 F.R. 28999, July 11, 1989. HTS subheading 2401.20.40 was replaced in the tariff schedule by HTS subheading 2401.20.30 (cigarette leaf tobacco) which was not GSP-eligible and HTS subheading 2401.20.50 (other including cigar leaf) which is GSP eligible. As a result, Brazil's eligibility, which had been removed for HTS subheading 2401.20.40, was reinstated for HTS subheading 2401.20.50.

¹⁷⁴ See 54 F.R. 46348-46353, Nov. 2, 1989. Previously, watch imports were ineligible for GSP treatment. Section 1903 of the Omnibus Trade and Competitiveness Act of 1988 amended Section 503 (c)(1)(B) of the Trade Act of 1974 to allow GSP treatment for those watches entering the United States after June 30, 1989, which the President specifically determined, after public notice and comment, would not cause material injury to the watch band, strap, or bracelet manufacturing and assembly operations in the United States or its insular possessions. A review was initiated by the TPSC in late 1988.

¹⁷⁵ See 54 F.R. 46593, Nov. 6, 1989.

As part of President Bush's Andean Region Trade Initiative, the TPSC initiated a special GSP review on November 14, 1989 for countries of the Andean region.¹⁷⁶ The special review is to consider requests from the Governments of Bolivia, Colombia, Ecuador, and Peru for changes in GSP product coverage.¹⁷⁷ Any modifications to the GSP resulting from the special review will be announced on or about July 13, 1990, and will take effect on or about August 1, 1990. The trade initiative also provided that benefits resulting from the 1989 GSP annual review be implemented on an accelerated schedule for these countries.

1989 Annual Review

On August 10, 1989, the TPSC announced that it had accepted, for its 1989 annual review, petitions to reexamine the GSP duty-free status of Benin, Indonesia, Nepal, Thailand, and the Dominican Republic based on their compliance with internationally recognized worker rights.¹⁷⁸ In addition, the worker rights cases that were extended for Haiti, Liberia, and Syria were also included as part of the 1989 review. The TPSC also accepted requests filed by the following groups or individuals to review the GSP status of various countries based on each country's practices concerning expropriation without compensation: American International Group, Inc. (Peru), Charles Sayous (Uruguay), and Administradora Commercial (Costa Rica).¹⁷⁹ The review of Peru's eligibility stemming from its expropriation of certain U.S. owned properties was subsequently terminated at the request of the petitioner, as was the review of Venezuela that had been carried over from the 1988 annual review.¹⁸⁰ On April 27, 1990, the USTR announced the results of the 1989 annual review.

The Steel Import Program

Background of Voluntary Restraint Arrangement Program

On September 18, 1984, the President determined, following an investigation under section 201 of the Trade Act of 1974 (the U.S. escape clause law) by the Commission, that import relief for the steel industry was not in the national economic interest (49 F.R. 36813). In this Investigation (No. TA-201-51), the

¹⁷⁶ See 54 F.R. 47433, Nov. 14, 1989. For a discussion of the trade initiative, see "Statement on Andean Region Trade," Nov. 1, 1989, *Presidential Documents*, 1989, pp. 1659-1660.

¹⁷⁷ Petitions will only be accepted from the governments of these countries, and may include requests that the President designate additional articles as eligible for GSP treatment; waive the competitive-need limits with respect to specific GSP-eligible articles; and otherwise expand GSP coverage.

¹⁷⁸ See 54 F.R. 32892, Aug. 10, 1989.

¹⁷⁹ *Ibid.* at 32893.

¹⁸⁰ See 54 F.R. 50465, Dec. 6, 1989 and 55 F.R. 4932, Feb. 12, 1990.

Commission found that imports of certain steel products were a substantial cause of serious injury or threat thereof to certain domestic steel industries. Instead of granting formal import relief in the form of quotas or higher import duties, the President outlined a program of voluntary restraint agreements (VRAs) particularly designed to assist the domestic steel industry in competing with imports.¹⁸¹ Under the program the President directed the USTR to negotiate VRAs with countries whose steel exports to the United States had increased significantly due to an unfair surge in imports. VRAs were to be negotiated for the period October 1, 1984, to September 30, 1989. Imports of finished steel products, under VRAs, were expected to fall to a level of around 18.0 million tons or 18.5 percent of the domestic market. That share excluded semifinished steel which were expected to be limited to about 1.7 million tons annually.¹⁸²

As of 1988, VRAs were negotiated with 19 countries and the EC, excluding Spain and Portugal, which negotiated separate agreements. The agreements contained market share arrangements and quotas or a combination thereof. Arrangements differed between countries with considerable variations in the number of products subject to limitation. Each arrangement, however, involved an agreement by the foreign country to limit exports of certain steel products to the United States. To bring these agreements into effect, U.S. producers withdrew their pending unfair trade petitions and the U.S. Government suspended antidumping and countervailing duties that were in effect on steel products.

Current Status of the VRAs

On July 25, 1989, the President announced a Steel Trade Liberalization Program under which the VRAs were extended until March 31, 1992. Also, under the program, the President directed the U.S. Trade Representative to negotiate bilateral agreements (called Bilateral Consensus Agreements), with all major steel trading countries to open their markets and eliminate government subsidies that distort competition. Bilateral Consensus Agreements include commitments by countries to prohibit subsidies for steel production and keep markets open for steel through the elimination of nontariff measures. They also contain a binding arbitration mechanism that will provide quick and effective remedies if countries violate these agreements.

VRA extensions have been concluded with 16 countries and the EC and cover a transitional period of 2 1/2 years ending on March 31, 1992.

¹⁸¹ For additional details on the steel import program, see the *Operation of the Trade Agreements Program*, 36th Report, 1984, USITC publication 1725, 1985, pp. 16-26.

¹⁸² USITC, *Monthly Report on the Status of the Steel Industry*, March 1990, USITC Publication 2262.

VRAs have been concluded at a base restraint level of 18.4 percent of the domestic market (which is the same as the 1988 VRA import penetration level). However, in order to provide incentives for countries to eliminate trade-distorting practices and in order to respond to concerns of steel consumers for adequate supplies of raw materials, the President authorized up to an additional one percent import penetration annually that would be available to countries that entered into bilateral consensus agreements.

On December 12, 1989, the United States Trade Representative announced that negotiations had been completed with the European Community and the 16 other countries that previously had VRAs. South Africa was the only country with which the United States did not renew the VRA. Imports of steel from South Africa were reduced by the Comprehensive Anti-Apartheid Act of 1986, which embargoes certain steel products. As a result of these negotiations, the restraint levels for steel mill products (including semifinished steel) increased to a 19.1 percent share of domestic consumption in the first period of the new VRA program (table 19). Additional increases in restraint levels have been authorized for subsequent years for countries that have entered into bilateral consensus agreements with the United States. Countries with which the United States has negotiated bilateral consensus agreements are the EC, Japan, South Korea, Brazil, Mexico, Australia, Trinidad and Tobago, Austria, Finland, and Yugoslavia. These countries account for more than 90 percent of steel imports from countries included in the VRA program. Product coverage under the VRAs remains essentially unchanged though the agreements have been modified to include those specialty steel products that were previously subject to relief under section 203 of the Trade Act of 1974.

During 1984-89 when the VRAs were in effect, conditions in the domestic steel industry improved—imports decreased 31.8 percent, and exports increased 342 percent. Domestic demand increased, and as a result domestic producers' shipments rose by 14.3 percent. Imports as a percentage of apparent consumption declined from almost 26.9 percent to 18.6 percent. During 1985-89, imports from VRA countries as a percentage of apparent consumption fell from 19.5 percent to 12.4 percent while imports from non-VRA countries increased from 4.5 to 4.8 percent. In 1985-89, Canada was the largest non-VRA supplier, followed by Sweden, Argentina, Turkey, Taiwan, India, Norway, Singapore, New Zealand, and Indonesia. Table 19 shows countries subject to VRAs and their respective limits, under initial and extended restraint arrangements.

GSP duty-free imports from Brazil decreased by 11.1 percent in 1989, although the country was the second-largest GSP beneficiary with \$1.2 billion worth of imports entering under the program. Of the top 10 beneficiaries, Malaysia (third) and Thailand (fourth) experienced the most dramatic growth under the program. GSP duty-free imports from each country totaled about \$1.0 billion, representing an increase of 64.6 percent and 40.5 percent, respectively, over the prior year. The share of imports entering free of duty under GSP provisions to the overall imports from each of the top ten beneficiaries ranged from 3.4 percent for Venezuela to 40.0 percent for Yugoslavia (table 18).

Removal of the four Asian NIEs from the program also affected the composition of imports entering free of duty under the GSP program last year. Based on the eight-digit (rate line) level of HTS, cane sugar (HTS subheading 1701.11.00) was the leading GSP import in 1989 followed by jewelry of precious metal other than silver (HTS subheading 7113.19.50), wooden furniture other than bent-wood (HTS subheading 9403.60.80), leather footwear uppers (HTS subheading 6406.10.65), Christmas tree lighting sets (HTS subheading 9405.30.00), and artificial flowers (HTS subheading 6702.90.40) (see appendix table A-33). In contrast, four of the top five GSP imports for 1988 were electronic and mechanical goods, such as switchboards, air-conditioners, telephone sets, and data processing machines, originating principally from the Asian NIEs. Appendix table A-34 lists GSP-eligible imports in 1989 aggregated by HTS sections, showing also the percentage of duty-free imports in total U.S. imports for the articles in question. Appendix table A-35 gives comparable information by divisions of the Standard Industrial Classification (SIC) system.

Country Eligibility Changes in 1989

Effective January 1, 1989, Taiwan, Korea, Hong Kong, and Singapore were removed from the list of GSP beneficiaries.¹⁶⁰ This action was taken following a review of a broad range of economic and competitiveness indicators, including per capita GNP, economic growth rates, and the beneficiaries' ability to export manufactured items into the United States. In deciding to discontinue GSP benefits to these NIEs, the President determined that they had sufficiently advanced in economic development and improved in trade competitiveness that preferential treatment under the GSP was no longer warranted. These four countries had

¹⁶⁰ See USITC, *Operation of the Trade Agreement Program*, 39th Report, 1987, USITC Publication 2095, 1988, pp. 5-14, and USITC, *Operation of the Trade Agreement Program*, 40th Report, 1988, USITC Publication 2208, 1989, p. 154.

accounted for over one-half of all U.S. imports entering under the GSP program in each of the last several years.

In all decisions relating to country eligibility and product specific benefit levels, consideration is given to the beneficiary's laws and practices relating to market access for U.S. goods and services, protection of intellectual property rights, foreign investment, international trade, and worker rights. In addition, a respect for "internationally recognized worker rights" is a mandatory criterion for GSP country eligibility. In response to private sector requests made as part of the 1988 GSP annual review process, the eligibility status of Burma, the Central African Republic, Israel, Malaysia, Haiti, Liberia, and Syria was reexamined based on the worker rights criteria.¹⁶¹ As a result of the review, GSP benefits were suspended indefinitely for Burma and the Central African Republic, effective July 1, 1989.¹⁶² The President determined, however, that sufficient action had been taken on the part of Israel and Malaysia regarding worker rights to warrant their retention of GSP privileges.¹⁶³ The reviews of worker rights in Haiti, Liberia, and Syria were carried over into the 1989 annual review.

The GSP beneficiary status of Venezuela was also reviewed, based on a petition alleging that the Government of Venezuela expropriated the property of Occidental Petroleum Company without compensation. This marks the first time that the U.S. has raised the possibility of discontinuing duty-free GSP privileges on grounds that a beneficiary has expropriated a U.S. firm's property. The review of Venezuela's eligibility was also extended into the 1989 annual review.

In June 1989, the TPSC solicited public comment regarding the potential designation of Poland and Hungary as GSP beneficiaries.¹⁶⁴ On November 1, 1989, President Bush announced the designation of Hungary as a GSP beneficiary, effective November 3, 1989.¹⁶⁵

¹⁶¹ The petitioner against Israel was the American Arab Anti Discrimination Committee, against Liberia the Lawyer's Center For Human Rights, and against the rest of the countries the AFL-CIO.

¹⁶² Presidential Memorandum, Apr. 13, 1989 published in 54 F.R. 15361, Apr. 18, 1989.

¹⁶³ *Ibid.* In the presidential memorandum, it was noted that in the case of Israel, the President "did not review worker rights matters concerning the West Bank and Gaza Strip because they are not a part of the "country" of Israel as contemplated in section 502(b)(7) of the [Trade] Act [of 1974]. The United States has consistently refrained from formal determinations that would have the effect of recognizing, either impliedly or expressly, the de jure incorporation of the occupied territories into Israel."

¹⁶⁴ See 54 F.R. 24612, June 8, 1989.

¹⁶⁵ Presidential Proclamation 6060, Nov. 1, 1989, published in 54 F.R. 46357, Nov. 3, 1989. Subsequently, Poland was granted GSP eligibility, effective January 9, 1990. Presidential Proclamation 6087, Jan. 5, 1990, published in 55 F.R. 709, Jan. 9, 1990. Also, Panama was reinstated as a GSP beneficiary effective March 17, 1990. Presidential Proclamation 6103, Feb. 28, 1990, published in 55 F.R. 7685, Mar. 2, 1990.

As a result of legislation implementing the Compact of Free Association (the Compact) entered into by the United States and the Governments of the Marshall Islands and of the Federated States of Micronesia (the freely associated states), these countries were removed from the list of GSP beneficiaries, effective October 18, 1989. The Compact separately provides duty-free entry for most articles from the freely associated states that are imported into the United States.

Product Coverage Changes in 1989

In response to two private sector requests made during the 1987 annual review proceedings, a review of Thailand's practices regarding intellectual property rights was initiated.¹⁶⁶ That review continued through 1988 and culminated in President Reagan's January 19, 1989 finding, that Thailand had not provided adequate and effective means to secure, exercise, and enforce exclusive rights in intellectual property. Presidential action pursuant to this finding, consisted of three main elements affecting imports valued at about \$160 million in 1988 trade: the denial of Thailand's outstanding request for a competitive-need waiver on certain jewelry items; the revocation of four competitive-need waivers granted to Thailand as part of the 1986 GSP general review; and the application of lower competitive-need limits on selected imports of wood furniture, ceramic floor tile, and artificial flowers. Future requests for competitive-need waivers from Thailand are not expected to be approved until such time as the TPSC determines that Thailand is providing adequate and effective intellectual property rights protection.

On April 13, 1989, the USTR released the results of the customary annual review procedures that modify GSP benefits in response to petitions from interested parties and by automatic adjustments based on the previous year's level of GSP imports.¹⁶⁷ As a result of the 1988 review, duty-free entry was terminated for imports from beneficiaries worth a total of \$229.6 million in 1988 trade, while GSP eligibility for items valued at \$19.5 million were either reinstated or newly added to the list of eligible products.¹⁶⁸ The GSP

¹⁶⁶ The review was prompted by petitions submitted to the TPSC by the Pharmaceutical Manufacturers Association and the International Intellectual Property Alliance.

¹⁶⁷ The 1988 annual review did not include imports from Taiwan, Hong Kong, Korea, and Taiwan, since they were graduated from the program effective Jan. 2, 1989.

¹⁶⁸ Comparisons cannot be made between the value of imports affected by the 1988 review and the reviews of earlier years because of the substantial change in the size of the program that resulted from the removal of the Asian NIEs.

modifications mandated by the annual review took effect on July 1, 1989.¹⁶⁹

Under the mandatory competitive-need procedure, the annual review resulted in new exclusions from GSP eligibility of imports valued at \$216.3 million in terms of 1988 trade. Combined with competitive-need exclusions already in place, the affected trade totaled \$6.1 billion in imports from 15 countries. Imports from Mexico accounted for \$79.0 million, or 36.5 percent, of the new exclusions and \$4.7 billion (77 percent) of all competitive-need exclusions. Thailand followed Mexico with \$72.5 million worth of 1988 trade affected by new exclusions. Brazil ranked second in terms of total exclusions with \$894.9 million in affected trade. As a result of the GSP *de minimis* provision, imports of \$150.4 million (based on 1988 trade) from 17 countries were exempted from the percentage competitive-need limit.¹⁷⁰ This waiver was denied to imports valued at \$124.1 million.

At the President's discretion, countries previously excluded from receiving GSP duty-free entry for particular products may be redesignated as eligible for GSP benefits if their shipments to the United States of these individual items subsequently falls below the competitive-need limits. In the course of the 1988 GSP annual review, three products from two countries, valued at \$8.7 million in 1988 trade, were redesignated to receive GSP duty-free entry.¹⁷¹ This accounted for 0.4 percent of the total amount of trade that was eligible for redesignation. The remaining \$2.5 billion worth of trade eligible for redesignation was "graduated."¹⁷²

¹⁶⁹ In administering the GSP program, the TPSC conducts annual reviews in which petitions are received from any interested party (foreign governments, U.S. producers, exporters, and importers) for modification of the list of items eligible for GSP duty-free entry. The review also covers the application of the competitive need criteria, which can result in products of certain beneficiary countries being excluded from, or reinstated to, eligibility for GSP treatment.

¹⁷⁰ The President has discretionary power to waive the percentage competitive-need limit for eligible GSP products for which U.S. imports in a calendar year fall below a minimum level. The *de minimis* level applicable for the 1988 review was \$9,691,811. Further, the 50 percent provision is waived for certain GSP-eligible articles which were not produced in the U.S. on January 3, 1985. Beneficiaries may petition for a waiver of competitive need limits on a product-specific basis.

¹⁷¹ Imports of medicaments (HTS subheading 3004.90.60) accounted for most of the total, \$6.7 million worth from the Bahamas and \$10,366 worth from Turkey. Imports of aromatic drugs of cyclic amides (HTS subheading 2924.29.39) from the Bahamas accounted for the remaining \$2.0 million in affected trade.

¹⁷² Graduation is the discretionary removal from the GSP list of beneficiary countries on a product-by-product basis. It is a recognition that a beneficiary country does not currently need GSP treatment for particular products in order to be competitive. This authority may also be applied by the President in denying redesignation to countries eligible for reinstatement of GSP status on specific articles.

Table 19
Countries subject to VRAs and their respective limits, under initial and extended restraint arrangements, 1984-92

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

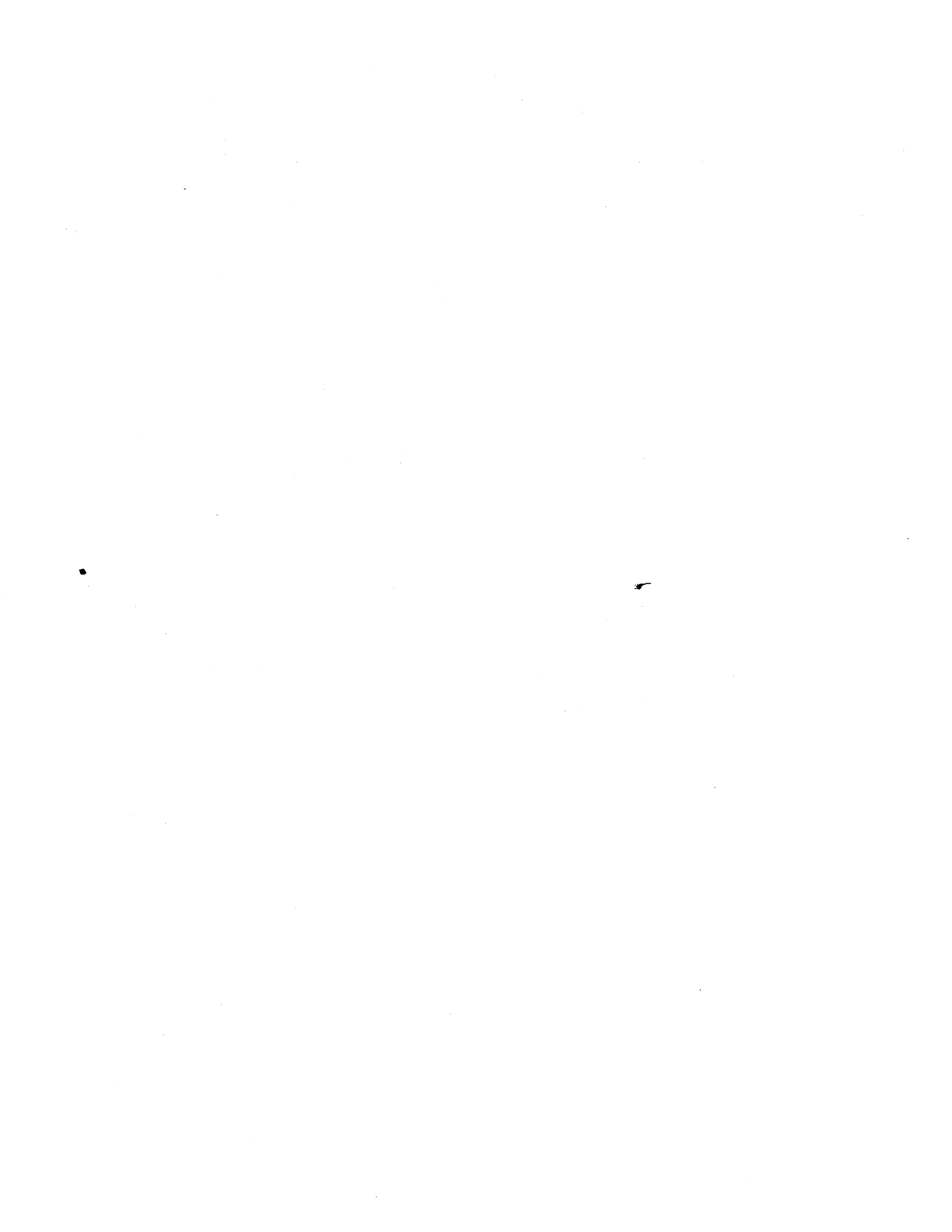
Note.—Percentages are approximate because some VRAs were negotiated for two 15-months periods, and others were negotiated for other combinations totaling 30 months. Market shares are based on 1989 apparent consumption.

Source: U.S.T.R. press release, December 12, 1989, and the Monthly Report on the Status of the Steel Industry, USITC Publication No. 2262.

Specialty Steel

On July 19, 1983 the President announced his decision to grant import relief to the specialty steel industry for a period of 4 years (53 Federal Register 52897). The relief program was scheduled to expire on July 19, 1987. Under the relief program, quotas were placed on imports of stainless steel bars, stainless steel wire rods, and certain alloy tool steel products; and increased duties were imposed on stainless steel plates and stainless steel sheets and strip. On July 16, 1987,

the President extended the import relief program in the form then in effect for a period from July 20, 1987, through September 30, 1989. Since the import relief program was not extended after its expiration on September 30, 1989, product coverage of the VRAs was extended to include specialty steel products that were previously subject to import relief. Countries which signed the VRAs agreed to limit their exports of stainless steel plates, sheets and strips to their market share level.



APPENDIX
STATISTICAL TABLES

Table A-1

U.S. trade with Eastern Europe,¹ by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	4,610	4,677	9,723
2. Vegetable products	224,339	328,308	202,343
3. Animal or vegetable fats, oils, and waxes	749	21	1,008
4. Prepared foodstuffs, beverages, and tobacco	52,563	30,159	21,455
5. Mineral products	64,086	79,418	96,411
6. Products of the chemical or allied industries	64,558	55,489	70,140
7. Plastics and rubber, and articles thereof	7,475	8,097	11,176
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	34,970	59,958	78,660
9. Articles of wood, cork, or plaiting materials	1,344	1,141	8,527
10. Wood pulp; paper, paperboard, and articles thereof	7,231	8,779	15,329
11. Textiles and textile articles	24,102	35,416	49,340
12. Footwear, headgear, and artificial flowers	240	538	386
13. Articles of stone or ceramics; glass and glassware	5,666	6,025	5,795
14. Pearls; precious stones and metals; jewelry; coin	435	613	2,907
15. Base metals and articles of base metal	4,252	22,751	7,127
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	122,061	109,760	154,561
17. Vehicles, aircraft, and other transport equipment	23,990	26,533	165,383
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	22,497	34,989	39,838
19. Arms and ammunition; parts and accessories thereof	0	0	231
20. Miscellaneous manufactured articles	1,715	3,572	3,039
21. Works of art, collectors' pieces and antiques	634	1,017	2,512
22. Special classification provisions	45,077	50,957	64,867
Total	712,593	868,219	1,010,758
U.S. imports:			
1. Live animals; animal products	35,087	24,340	28,038
2. Vegetable products	18,802	13,622	19,813
3. Animal or vegetable fats, oils, and waxes	134	27	1,128
4. Prepared foodstuffs, beverages, and tobacco	230,941	209,719	198,323
5. Mineral products	382,619	381,055	251,789
6. Products of the chemical or allied industries	67,464	98,167	94,531
7. Plastics and rubber, and articles thereof	28,496	38,129	36,777
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	10,014	14,923	17,922
9. Articles of wood, cork, or plaiting materials	5,693	4,501	5,592
10. Wood pulp; paper, paperboard, and articles thereof	3,140	3,100	4,891
11. Textiles and textile articles	231,231	233,746	163,610
12. Footwear, headgear, and artificial flowers	52,324	75,924	65,087
13. Articles of stone or ceramics; glass and glassware	47,169	52,598	50,326
14. Pearls; precious stones and metals; jewelry; coin	4,996	3,724	3,646
15. Base metals and articles of base metal	161,495	175,392	125,453
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	85,211	100,855	93,942
17. Vehicles, aircraft, and other transport equipment	52,659	70,022	86,561
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	9,619	9,480	9,366
19. Arms and ammunition; parts and accessories thereof	1,727	930	1,377
20. Miscellaneous manufactured articles	49,767	48,510	40,169
21. Works of art, collectors' pieces and antiques	1,762	4,117	3,427
22. Special classification provisions	9,707	10,793	10,262
Total	1,490,054	1,573,675	1,312,029

¹ Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, and Romania.

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-2

U.S. trade with Bulgaria, by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	68	0	82
2. Vegetable products	42,637	86,437	129,347
3. Animal or vegetable fats, oils, and waxes	0	(¹)	0
4. Prepared foodstuffs, beverages, and tobacco	5,188	9,829	4,266
5. Mineral products	372	410	14,193
6. Products of the chemical or allied industries	8,607	5,241	2,709
7. Plastics and rubber, and articles thereof	187	715	3,376
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	8	1,299	695
9. Articles of wood, cork, or plaiting materials	63	75	190
10. Wood pulp; paper, paperboard, and articles thereof	246	553	4,071
11. Textiles and textile articles	25	186	537
12. Footwear, headgear, and artificial flowers	61	61	0
13. Articles of stone or ceramics; glass and glassware	229	403	264
14. Pearls; precious stones and metals; jewelry; coin	(¹)	141	1,003
15. Base metals and articles of base metal	1,293	1,317	1,245
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	26,106	13,407	15,279
17. Vehicles, aircraft, and other transport equipment	76	1,475	227
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	2,835	4,364	2,622
19. Arms and ammunition; parts and accessories thereof	0	0	0
20. Miscellaneous manufactured articles	30	119	67
21. Works of art, collectors' pieces and antiques	5	66	24
22. Special classification provisions	307	349	536
Total	88,344	126,446	180,733
U.S. imports:			
1. Live animals; animal products	1,615	2,588	1,283
2. Vegetable products	399	215	187
3. Animal or vegetable fats, oils, and waxes	1	1	0
4. Prepared foodstuffs, beverages, and tobacco	21,825	20,339	21,071
5. Mineral products	3,737	0	15,869
6. Products of the chemical or allied industries	5,658	9,764	14,961
7. Plastics and rubber, and articles thereof	22	60	101
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	85	1	117
9. Articles of wood, cork, or plaiting materials	18	20	0
10. Wood pulp; paper, paperboard, and articles thereof	61	43	1
11. Textiles and textile articles	4,704	1,124	565
12. Footwear, headgear, and artificial flowers	11	5	2
13. Articles of stone or ceramics; glass and glassware	104	140	228
14. Pearls; precious stones and metals; jewelry; coin	(¹)	1	387
15. Base metals and articles of base metal	319	725	77
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	1,236	880	1,590
17. Vehicles, aircraft, and other transport equipment	25	122	16
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	8	126	64
19. Arms and ammunition; parts and accessories thereof	7	10	5
20. Miscellaneous manufactured articles	169	163	303
21. Works of art, collectors' pieces and antiques	99	38	25
22. Special classification provisions	203	190	478
Total	40,306	36,554	57,331

¹ Less than \$500.

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-3

U.S. trade with Czechoslovakia, by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	91	20	32
2. Vegetable products	105	216	145
3. Animal or vegetable fats, oils, and waxes	1	1	0
4. Prepared foodstuffs, beverages, and tobacco	3,266	2,385	1,048
5. Mineral products	1,490	248	0
6. Products of the chemical or allied industries	8,247	3,697	9,431
7. Plastics and rubber, and articles thereof	161	386	300
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	14,980	15,654	14,131
9. Articles of wood, cork, or plaiting materials	685	251	419
10. Wood pulp; paper, paperboard, and articles thereof	232	582	390
11. Textiles and textile articles	1,045	2,745	6,586
12. Footwear, headgear, and artificial flowers	6	78	46
13. Articles of stone or ceramics; glass and glassware	964	851	570
14. Pearls; precious stones and metals; jewelry; coin	345	118	180
15. Base metals and articles of base metal	241	291	221
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	9,277	14,897	8,653
17. Vehicles, aircraft, and other transport equipment	848	1,219	1,669
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	3,739	8,962	5,217
19. Arms and ammunition; parts and accessories thereof	0	0	0
20. Miscellaneous manufactured articles	141	228	28
21. Works of art, collectors' pieces and antiques	403	248	762
22. Special classification provisions	676	1,346	1,457
Total	46,942	54,423	51,287
U.S. imports:			
1. Live animals; animal products	458	321	304
2. Vegetable products	8,612	2,434	2,515
3. Animal or vegetable fats, oils, and waxes	0	(¹)	0
4. Prepared foodstuffs, beverages, and tobacco	4,075	4,619	4,862
5. Mineral products	673	580	960
6. Products of the chemical or allied industries	2,302	2,989	532
7. Plastics and rubber, and articles thereof	5,980	6,169	4,827
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	125	318	602
9. Articles of wood, cork, or plaiting materials	68	134	358
10. Wood pulp; paper, paperboard, and articles thereof	729	991	3,495
11. Textiles and textile articles	10,564	13,249	9,450
12. Footwear, headgear, and artificial flowers	9,977	11,345	11,670
13. Articles of stone or ceramics; glass and glassware	8,667	9,123	10,646
14. Pearls; precious stones and metals; jewelry; coin	1,996	1,010	541
15. Base metals and articles of base metal	8,185	13,336	9,120
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	4,253	4,958	6,215
17. Vehicles, aircraft, and other transport equipment	4,237	6,995	6,930
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	709	571	1,151
19. Arms and ammunition; parts and accessories thereof	547	18	641
20. Miscellaneous manufactured articles	3,335	3,502	4,579
21. Works of art, collectors' pieces and antiques	447	496	923
22. Special classification provisions	1,854	1,731	1,794
Total	77,793	84,891	82,117

¹ Less than \$500.

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-4

U.S. trade with East Germany, by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	2,702	2,445	1,652
2. Vegetable products	21,128	65,715	49,751
3. Animal or vegetable fats, oils, and waxes	37	0	0
4. Prepared foodstuffs, beverages, and tobacco	6,107	300	56
5. Mineral products	131	0	112
6. Products of the chemical or allied industries	2,434	2,300	5,442
7. Plastics and rubber, and articles thereof	1,163	368	766
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	444	405	37
9. Articles of wood, cork, or plaiting materials	34	56	101
10. Wood pulp; paper, paperboard, and articles thereof	19	159	1,266
11. Textiles and textile articles	1,557	686	503
12. Footwear, headgear, and artificial flowers	0	12	0
13. Articles of stone or ceramics; glass and glassware	12	0	143
14. Pearls; precious stones and metals; jewelry; coin	0	0	95
15. Base metals and articles of base metal	177	17,808	1,011
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	8,559	7,608	16,555
17. Vehicles, aircraft, and other transport equipment	4,440	4,396	6,503
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	4,122	5,377	7,918
19. Arms and ammunition; parts and accessories thereof	0	0	231
20. Miscellaneous manufactured articles	63	66	188
21. Works of art, collectors' pieces and antiques	0	0	15
22. Special classification provisions	566	493	550
Total	53,695	108,193	92,893
U.S. imports:			
1. Live animals; animal products	33	148	134
2. Vegetable products	160	176	46
3. Animal or vegetable fats, oils, and waxes	6	(¹)	1,123
4. Prepared foodstuffs, beverages, and tobacco	277	325	138
5. Mineral products	1,163	9,125	34,557
6. Products of the chemical or allied industries	17,895	27,214	28,731
7. Plastics and rubber, and articles thereof	11,074	11,449	12,499
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	1,392	1,872	1,879
9. Articles of wood, cork, or plaiting materials	949	743	490
10. Wood pulp; paper, paperboard, and articles thereof	227	499	559
11. Textiles and textile articles	3,404	2,226	1,253
12. Footwear, headgear, and artificial flowers	209	247	173
13. Articles of stone or ceramics; glass and glassware	5,665	6,297	6,830
14. Pearls; precious stones and metals; jewelry; coin	41	6	19
15. Base metals and articles of base metal	26,454	32,592	20,312
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	7,248	9,594	17,050
17. Vehicles, aircraft, and other transport equipment	241	170	214
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	3,701	3,721	3,386
19. Arms and ammunition; parts and accessories thereof	47	65	14
20. Miscellaneous manufactured articles	3,386	3,597	4,585
21. Works of art, collectors' pieces and antiques	31	285	16
22. Special classification provisions	854	1,031	814
Total	84,455	111,382	134,825

¹ Less than \$500.

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-5

U.S. trade with Hungary, by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	1,406	1,640	1,345
2. Vegetable products	591	2,020	3,297
3. Animal or vegetable fats, oils, and waxes	5	6	11
4. Prepared foodstuffs, beverages, and tobacco	19,586	2,019	3,660
5. Mineral products	1,090	463	504
6. Products of the chemical or allied industries	16,123	14,283	17,694
7. Plastics and rubber, and articles thereof	4,024	4,638	3,238
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	1,965	1,432	1,308
9. Articles of wood, cork, or plaiting materials	219	434	8
10. Wood pulp; paper, paperboard, and articles thereof	264	468	1,013
11. Textiles and textile articles	769	2,948	3,901
12. Footwear, headgear, and artificial flowers	109	99	177
13. Articles of stone or ceramics; glass and glassware	3,832	3,554	3,611
14. Pearls; precious stones and metals; jewelry; coin	61	114	425
15. Base metals and articles of base metal	674	631	1,335
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	21,818	19,882	53,069
17. Vehicles, aircraft, and other transport equipment	15,209	12,813	12,637
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	4,117	6,676	9,302
19. Arms and ammunition; parts and accessories thereof	0	0	0
20. Miscellaneous manufactured articles	508	870	453
21. Works of art, collectors' pieces and antiques	187	97	828
22. Special classification provisions	1,551	1,040	1,490
Total	94,107	76,128	119,305
U.S. imports:			
1. Live animals; animal products	3,407	5,379	9,605
2. Vegetable products	3,243	4,223	10,933
3. Animal or vegetable fats, oils, and waxes	126	18	4
4. Prepared foodstuffs, beverages, and tobacco	62,387	53,940	56,635
5. Mineral products	824	961	1,391
6. Products of the chemical or allied industries	24,131	19,955	19,171
7. Plastics and rubber, and articles thereof	8,707	12,817	15,542
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	2,174	2,708	4,333
9. Articles of wood, cork, or plaiting materials	326	147	309
10. Wood pulp; paper, paperboard, and articles thereof	243	627	548
11. Textiles and textile articles	57,075	63,346	66,502
12. Footwear, headgear, and artificial flowers	13,343	17,381	11,243
13. Articles of stone or ceramics; glass and glassware	5,688	6,745	8,086
14. Pearls; precious stones and metals; jewelry; coin	1,476	1,045	993
15. Base metals and articles of base metal	18,613	25,633	29,800
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	31,060	31,743	29,312
17. Vehicles, aircraft, and other transport equipment	33,554	34,067	49,904
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	2,138	1,461	1,596
19. Arms and ammunition; parts and accessories thereof	1,110	798	717
20. Miscellaneous manufactured articles	6,428	7,665	8,242
21. Works of art, collectors' pieces and antiques	328	790	436
22. Special classification provisions	1,266	1,609	1,390
Total	277,647	293,054	326,694

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-6

U.S. trade with Poland, by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	289	506	6,541
2. Vegetable products	77,988	111,984	18,053
3. Animal or vegetable fats, oils, and waxes	706	13	0
4. Prepared foodstuffs, beverages, and tobacco	15,130	9,916	12,088
5. Mineral products	11,528	10,877	9,620
6. Products of the chemical or allied industries	18,694	24,681	28,677
7. Plastics and rubber, and articles thereof	1,271	1,688	3,328
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	4,592	3,569	10,512
9. Articles of wood, cork, or plaiting materials	17	10	83
10. Wood pulp; paper, paperboard, and articles thereof	3,255	6,690	8,540
11. Textiles and textile articles	18,709	28,415	31,797
12. Footwear, headgear, and artificial flowers	4	245	163
13. Articles of stone or ceramics; glass and glassware	628	1,172	1,105
14. Pearls; precious stones and metals; jewelry; coin	6	189	1,191
15. Base metals and articles of base metal	1,360	2,045	2,323
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	32,964	33,823	56,341
17. Vehicles, aircraft, and other transport equipment	3,295	6,291	143,935
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	6,381	8,888	14,129
19. Arms and ammunition; parts and accessories thereof	0	0	0
20. Miscellaneous manufactured articles	473	1,936	1,576
21. Works of art, collectors' pieces and antiques	22	582	837
22. Special classification provisions	40,088	47,263	60,390
Total	237,399	300,785	411,228
U.S. imports:			
1. Live animals; animal products	28,671	15,170	16,465
2. Vegetable products	5,914	6,073	5,569
3. Animal or vegetable fats, oils, and waxes	1	7	0
4. Prepared foodstuffs, beverages, and tobacco	124,617	118,800	107,064
5. Mineral products	2	49	12,776
6. Products of the chemical or allied industries	11,045	29,354	19,048
7. Plastics and rubber, and articles thereof	190	112	252
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	783	842	1,173
9. Articles of wood, cork, or plaiting materials	1,665	1,747	3,157
10. Wood pulp; paper, paperboard, and articles thereof	226	173	255
11. Textiles and textile articles	33,560	60,265	51,334
12. Footwear, headgear, and artificial flowers	5,379	6,214	8,854
13. Articles of stone or ceramics; glass and glassware	9,419	10,914	15,080
14. Pearls; precious stones and metals; jewelry; coin	1,033	690	634
15. Base metals and articles of base metal	37,641	53,366	46,445
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	13,951	24,679	32,071
17. Vehicles, aircraft, and other transport equipment	9,199	22,088	24,018
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	1,505	1,873	1,650
19. Arms and ammunition; parts and accessories thereof	16	40	0
20. Miscellaneous manufactured articles	6,108	10,462	10,725
21. Works of art, collectors' pieces and antiques	778	2,414	1,539
22. Special classification provisions	3,778	4,490	4,754
Total	295,485	369,821	362,862

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-7

U.S. trade with Romania, by HTS sections, 1987, 1988, and 1989

(In thousands of dollars)

Section	1987	1988	1989
U.S. exports:			
1. Live animals; animal products	54	68	72
2. Vegetable products	81,891	61,937	1,750
3. Animal or vegetable fats, oils, and waxes	(¹)	(¹)	997
4. Prepared foodstuffs, beverages, and tobacco	3,287	5,710	338
5. Mineral products	49,475	67,420	71,984
6. Products of the chemical or allied industries	10,453	5,287	6,187
7. Plastics and rubber, and articles thereof	669	301	169
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	12,980	37,599	51,977
9. Articles of wood, cork, or plaiting materials	327	314	7,726
10. Wood pulp; paper, paperboard, and articles thereof	3,215	328	49
11. Textiles and textile articles	1,997	435	6,016
12. Footwear, headgear, and artificial flowers	59	43	0
13. Articles of stone or ceramics; glass and glassware	1	45	100
14. Pearls; precious stones and metals; jewelry; coin	23	51	12
15. Base metals and articles of base metal	507	659	992
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	23,337	20,142	4,663
17. Vehicles, aircraft, and other transport equipment	122	341	412
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	1,302	720	650
19. Arms and ammunition; parts and accessories thereof	0	0	0
20. Miscellaneous manufactured articles	500	353	727
21. Works of art, collectors' pieces and antiques	17	24	46
22. Special classification provisions	1,890	467	444
Total	192,107	202,245	155,312
U.S. imports:			
1. Live animals; animal products	903	736	247
2. Vegetable products	473	503	564
3. Animal or vegetable fats, oils, and waxes	0	0	0
4. Prepared foodstuffs, beverages, and tobacco	17,759	11,697	8,551
5. Mineral products	376,220	870,340	186,236
6. Products of the chemical or allied industries	6,432	8,890	12,088
7. Plastics and rubber, and articles thereof	2,524	7,523	3,555
8. Hides and skins; leather and articles thereof; travel goods, handbags and similar containers	5,455	9,182	9,816
9. Articles of wood, cork, or plaiting materials	2,666	1,710	1,279
10. Wood pulp; paper, paperboard, and articles thereof	1,653	767	32
11. Textiles and textile articles	121,925	93,535	34,507
12. Footwear, headgear, and artificial flowers	23,405	40,731	33,144
13. Articles of stone or ceramics; glass and glassware	17,627	19,379	9,456
14. Pearls; precious stones and metals; jewelry; coin	450	972	1,071
15. Base metals and articles of base metal	70,282	49,739	19,700
16. Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	27,462	29,001	7,702
17. Vehicles, aircraft, and other transport equipment	5,402	6,580	5,479
18. Optical, photographic, measuring, and medical ap- paratus; clocks and watches; musical instruments	1,558	1,728	1,518
19. Arms and ammunition; parts and accessories thereof	0	0	0
20. Miscellaneous manufactured articles	30,340	23,121	11,735
21. Works of art, collectors' pieces and antiques	79	94	488
22. Special classification provisions	1,751	1,742	1,033
Total	714,368	677,973	348,201

¹ Less than \$500.

Note.—Because of rounding, figures may not add to the totals shown.

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

**Table A-8
Countervailing duty actions reported by signatories to the GATT Committee on Subsidies and Countervailing Measures, 1989**

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
Australia	France	Brandy	7-3-89	10-18-89	10-11-89-No injury 9-28-89-No injury
	Israel	Sodium tripolyphosphate	6-12-89		
	Greece	Currants and sultanas	5-29-89		
Canada	Brazil	Polyphase induction motors above 200 h.p	09-03-88	12-29-88	4-28-89-No injury 5-01-89-Definitive duty
	Brazil	Electric motors (R)	3-31-89		
	France	Drywall screws (R)	3-03-89		
	Spain	Wide flange beams	11-23-88		

Note: The symbol (R) is used if an investigation is opened in the context of review of an existing antidumping measure, or after an allegation of a breach of an undertaking.

Source: Compiled from documents of the GATT Committee on Subsidies and Countervailing Measures.

Table A-9

Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1989

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
EC	Austria	Stainless steel tubes	1-29-88		
	Austria	Urea	10-9-87		1-28-89-No Injury
	Brazil	Oxalic acid (R)	12-20-89		2-24-89-Price undertaking
	Canada	Vinyl acetate monomer (R)	4-25-89		
	Czechoslovakia	Potassium permanganate (R)	8-22-89	8-22-89	
	Czechoslovakia	Certain singlephase two speed electric motors	11-14-89		
	Hong Kong	Video cassette tapes and video tape reels	12-18-87	12-24-88	6-22-89-Definitive duty and price undertaking
	Hong Kong	Tungsten urea and concentrates	1-4-89		
	Hong Kong	Audio cassettes and audio cassette tapes	1-4-89		
	Hong Kong	Fertilizer	3-4-89		
Japan	Hong Kong	Silicon metal	7-1-89	7-18-89	
	Japan	Compact disc players	7-7-89		
	Japan	Linear tungsten halogen lamps	7-2-89		
	Japan	Daisy wheel printers (R)	5-7-87	11-6-88	1-7-89-Definitive duty
	Japan	Video cassette recorders	9-26-87	12-23-88	2-28-89-Definitive duty and price undertakings
	Japan	Audio cassette and audio cassette tapes	1-14-89		
	Japan	Tapered roller bearings (R)	6-23-89		
	Japan	Dicumyl peroxide (R)	2-16-89		10-31-89-Price undertakings
	Japan	Mica	12-18-88		10-3-89-No Injury
	Japan	Small hydraulic excavators	6-3-88		8-25-89-No Injury
South Korea	Japan	Wheeled loaders	6-3-88		2-11-89-Case withdrawn
	Japan	Ball bearings (R)	6-30-89		
	South Korea	Video cassette tapes and video tape reels	12-18-87	12-24-88	6-22-89-Definitive duty
	South Korea	Video cassette recorders	9-26-87	12-23-88	2-28-89-Definitive duty
	South Korea	Compact disc players	7-7-89	7-18-89	
	South Korea	Polyester film	1-12-88		10-21-89-No Injury
	South Korea	Small screen colour television receivers	2-17-88		
	South Korea	Audio cassette and cassette tapes	1-14-89	10-28-89	
	South Korea	Fertilizer	3-4-89		
	Mexico	Acrylic fibres (R)	5-4-88	10-19-89	10-19-89-Price undertakings
Romania	Norway	Ferrosilicon (R)	6-2-88		
	Romania	Urea	10-9-87	12-23-88	2-24-89-Price undertaking
	Romania	Welded tubes of iron or non alloy steel	9-16-88	10-13-89	
	Romania	Certain singlephase two speed electric motors	11-14-89		
	Romania	Light sodium carbonate (R)	6-21-88		5-12-89-Definitive duty
	Singapore	Miniature ball bearings (R)	9-20-89		
	Switzerland	Hardboard (R)	6-17-89		
	United States	Urea	10-9-87	8-25-88	2-24-89-Definitive duty
	United States	Vinyl (R)	4-25-89		
	United States	Propylalcohol (R)	6-6-89		
Yugoslavia	United States	Dense sodium carbonate (R)	3-14-89	7-8-89	
	Yugoslavia	Sheets of iron or nonalloy steel (cold rolled)	6-14-89		
	Yugoslavia	Welded tubes of iron or nonalloy steel (cold rolled)	9-16-88	10-13-89	
	Yugoslavia	steel (cold rolled)	3-4-89		
	Yugoslavia	Fertilizer	6-16-89		
	Yugoslavia	Portland cement	6-17-89		
	Yugoslavia	Hardboard (R)	6-17-89		
	Yugoslavia	Hardboard (R)	6-17-89		
	Finland				

Table A-9 —Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1989

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
EC	Hungary	Urea	10-9-87	8-25-88	2-24-89-Price undertaking
	Poland	Methenimine	10-9-87		
Canada	Poland	Fertilizer	-3-4-89		5-13-89-Definitive duty
	Poland	Light sodium carbonate (R)	6-21-89		9-8-89-Definitive duty
	Argentina	Oil and Gas well casing (R)	5-12-89		
	Austria	Alloy tool steel bars, plates and forgings (R)	1-06-89		5-05-89-Definitive duty
		Wide flange beams (R)	11-23-89		3-23-89-Definitive duty
		Hose wire (R)	3-20-89		6-16-89-Definitive duty
	Belgium	Carbon and Alloy steel plate (R)	8-18-89		12-15-89-Definitive duty
	Belgium	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	4-28-89-No Injury
	Brazil	Carbon and Alloy steel plate (R)	8-18-89		12-15-89-Definitive duty
	Brazil	Refill paper	12-8-89		
	Brazil	Tillage tools (R)	9-25-89		12-15-89-Definitive duty
	Brazil	Women's leather boots and shoes (R)	8-25-89		
	Brazil	Electric motors (R)	3-31-89		5-01-89-Definitive duty
	Czechoslovakia	Carbon and Alloy steel plate (R)	8-18-89		12-15-89-Definitive duty
	Czechoslovakia	Rubber footwear (R)	3-28-89		6-26-89-Definitive duty
	Czechoslovakia	Hockey pucks (R)	6-15-89		11-2-89-Definitive duty
	Federal Republic of Germany	Stainless steel bars and wire (R)	1-06-89		5-05-89-Definitive duty
	Federal Republic of Germany	Carbon and Alloy steel plate (R)	8-18-89		12-15-89-Definitive duty
	Federal Republic of Germany	Alloy tool steel bars, plates and forgings (R)	1-06-89		5-05-89-Definitive duty
	Federal Republic of Germany	Oil and gas well casing (R)	5-12-89		9-8-89-Definitive duty
Federal Republic of Germany	Photo albums with pocket sheets (R)	9-1-89		11-30-89-Definitive duty	
Federal Republic of Germany	Gasoline powered chainsaws (R)	10-16-89			
Federal Republic of Germany	Station post insulators (R)	8-8-88	(Amendment)	4-11-88-Price undertaking	
Federal Republic of Germany	Wide flange beam (R)	11-23-88		3-23-89-Definitive duty	
Federal Republic of Germany	Stainless steel pipe (R)	10-2-89			
Federal Republic of Germany	Oil and gas well casing (R)	3-31-88		6-29-88-Definitive duty	
France	Drywall screws (R)	3-03-89		7-1-89-Definitive duty	
France	Carbon and alloy steel plate (R)	12-31-87		3-30-88-Definitive duty	
France	Wide flange beam	11-23-88		3-23-89-Definitive duty	
France	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	4-28-89-No Injury	
France	Alpine ski poles (R)	3-31-89		6-28-89-Definitive duty	
France	Hockey pucks (R)	6-15-89		11-2-89-Definitive duty	
East Germany	Carbon and alloy steel plate (R)	11-10-89			
East Germany	Rubber footwear (R)	3-28-89		6-26-89-Definitive duty	
Hong Kong	Photo albums with pocket sheets (R)	9-1-89		1-30-89-Definitive duty	
Hong Kong	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89-Definitive duty	
Italy	Ski poles (R)	3-31-89		6-28-89-Definitive duty	

Table A-9 —Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1989

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
Canada	Italy	Brass key blanks	3-17-89		10-13-89-Definitive duty
	Luxembourg	Wide flange beams (R)	11-23-88	6-15-89	3-23-89-Definitive duty
	Malaysia	Photo albums with pocket sheets (R)	9-1-89		11-30-89-Definitive duty
	Malaysia	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89-Definitive duty
	Malaysia	Rubber footwear (R)	3-28-89		6-26-89-Definitive duty
	Mexico	Electric motors (R)	3-31-89		6-29-89-Definitive duty
	Mexico	Textured polyester yarn	3-10-89		
	Netherlands	Carbon alloy and steel plate (R)	8-18-89		12-15-89-Definitive duty
	China	Photo albums with pocket sheets (R)	9-1-89		11-30-89-Definitive duty
	China	Rubber footwear (R)	3-28-89		6-28-89-Definitive duty
	China	Paint brushes (R)	5-02-89		7-28-89-Definitive duty
	China	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89-Definitive duty
	China	Women's leather boots and shoes	8-25-89		
	China	Women's nonleather boots and shoes	8-25-89		
	Poland	Rubber footwear (R)	3-28-89		6-26-89-Definitive duty
	Poland	Mini refrigerators	1-19-89	4-19-89	8-15-89-No injury
	Poland	Electric motors (R)	3-31-89		6-29-89-Definitive duty
	Poland	Women's leather boots	8-25-89		
	Romania	Carbon and alloy steel plate (R)	8-18-89		12-15-89-Definitive duty
	Romania	Women's leather boots	8-25-89		
	Singapore	Drywall screws (R)	3-3-89		
	Singapore	Photo albums with pocket sheets (R)	9-1-89		7-7-89-Definitive duty
	Singapore	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89-Definitive duty
	Spain	Carbon and alloy steel plate (R)	1-06-89		11-30-89-Definitive duty
	Spain	Stainless steel bars and wire (R)	11-23-89	8-18-89	12-15-89-Definitive duty
	Spain	Wide flange beams (R)	1-06-89		5-05-89-Definitive duty
	Sweden	Stainless steel pipe (R)	10-2-89		3-23-89-Definitive duty
	Sweden	Polyphase induction motors above 200 h.p. (R)	9-30-88	12-29-88	4-28-89-No injury
	Sweden	Alloy tool steel bars, plates and forgings (R)	1-06-89		5-05-89-Definitive duty
	Sweden	Gasoline powered chainsaws (R)	10-16-89		
	Japan	Wide flange beams (R)	11-23-88		3-23-89-Definitive duty
	Japan	Electric motors (R)	3-31-89		6-29-89-Definitive duty
	Japan	Oil and gas well casing (R)	6-15-89		11-17-89-Price undertaking
	Japan	Drywall screws (R)	3-03-89		7-7-89-Definitive duty
	Japan	Stainless steel butt weld fittings (R)	11-17-89		
	Japan	Stainless steel pipe (R)	10-2-89		
	Japan	Photo albums with pocket sheets (R)	9-1-89		11-30-89-Definitive duty
	Japan	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89-Definitive duty
	Japan	Polyphase induction motors above 200 h.p.	9-30-88		4-28-89-No injury
	Republic of Korea	Alloy tool steel bars, plates and forgings (R)	1-06-89	12-29-88	5-05-89-Definitive duty
	Republic of Korea	Wide flange beams (R)	11-23-88		5-05-89-Definitive duty
	Republic of Korea	Stainless steel bars and wire (R)	1-06-89		3-23-89-Definitive duty
	Republic of Korea	Wide flange beams (R)	11-23-88		6-26-89-Definitive duty
	Republic of Korea	Rubber footwear (R)	3-28-89		7-7-89-Definitive duty
	Republic of Korea	Drywall screws (R)	3-03-89		9-8-89-Definitive duty
	Republic of Korea	Carbon steel welded pipe (R)	5-12-89		9-8-89-Definitive duty
	Republic of Korea	Oil and gas well casing (R)	5-12-89		12-15-89-Definitive duty
	Republic of Korea	Carbon and alloy steel plate (R)	8-18-89		11-30-89-Definitive duty
	Republic of Korea	Leaves for photo albums (R)	9-1-89		11-30-89-Definitive duty
	Republic of Korea	Photo albums with pocket sheets (R)	9-1-89		11-30-89-Definitive duty
	Republic of Korea	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89-Definitive duty
	Republic of Korea	Stainless steel pipe (R)	10-2-89		

Table A-9 — Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1989

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
Canada	Taiwan	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	4-28-89—No Injury
	Taiwan	Dry wall screws (R)	3-03-89		7-7-89—Definitive duty
	Taiwan	Photo albums with pocket sheets (R)	9-1-89		11-30-89—Definitive duty
	Taiwan	Photo albums with selfadhesive leaves (R)	9-1-89		11-30-89—definitive duty
	Taiwan	Womens nonleather boots and shoes	8-25-89		
	Taiwan	Women's leather boots and shoes	8-25-89		6-26-89—Definitive duty
	Taiwan	Rubber footwear (R)	3-28-89		6-29-89—Definitive duty
	Taiwan	Electric motors (R)	3-31-89		4-14-89—No Injury
	Taiwan	Padded clothes hangars	9-16-88	5-12-88	
	United Kingdom	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	4-28-89—No Injury
	United Kingdom	Aluminum offset printing plates (R)	10-25-89		3-23-89—Definitive duty
	United Kingdom	Wide flange beams (R)	11-23-88		5-05-89—Definitive duty
	United Kingdom	Alloy tool steel bars, plates and forgings (R)	1-06-89		4-12-89—Definitive duty
	United Kingdom	Railcar axles (R)	11-07-89		12-15-89—Definitive duty
	United Kingdom	Carbon and alloy steel plate (R)	8-18-89		
	United Kingdom	Stainless steel pipe (R)	10-2-89		6-29-89—Definitive duty
	United Kingdom	Electric motors (R)	6-29-89		4-19-89—Price undertaking
	United States	Metal storage cabinets (R)	1-20-89		
	United States	Stainless steel pipe (R)	10-2-89		9-8-89—Definitive duty
	United States	Oil and gas well casing (R)	5-12-89		
	United States	Frozen prepared pies and compartment dinners (R)	9-25-89		
	United States	Polyphase induction motors above 200 h.p.	9-30-88	12-29-88	4-28-89—No Injury
	United States	Tile backer board (R)	10-2-89		6-5-88—Price undertaking
	United States	Delicious apples	7-8-88	10-6-88	2-03-89—Definitive duty
	United States	Gasoline powered chainsaws (R)	10-16-89		6-30-89—Definitive duty
	United States	Electric motors (R)	3-31-89		4-14-89—No Injury
	United States	Padded clothes hangers	9-16-88	12-15-88	4-28-89—No Injury
	United States	Sour cherries	6-21-88	9-30-88	10-13-89—Price undertaking
	United States	Landing nets	7-17-89		11-30-89—Definitive duty
	United States	Photo albums with selfadhesive leaves (R)	9-1-89		10-3-89—No Injury
	United States	Liquid polyvinyl chloride dispersion	7-7-89		10-31-89—Price undertaking
	United States	Transit concrete mixers	8-4-89		6-28-89—Definitive duty
	United States	Rubber footwear (R)	3-28-89		
	Yugoslavia	Women's leather boots	8-25-89		8-31-89—Price undertaking
	France	Alumina cement	1-13-89		12-21-89—Definitive duty
South Korea	France	Plasterboard	7-25-89		3-09-89 Terminated
New Zealand	Thailand	Plasterboard	12-21-88		6-07-89—Definitive duty
	Papua New Guinea	Plasterboard	12-21-88	3-13-89	6-07-89—Definitive duty
	Belgium	Plasterboard	12-21-88	3-13-89	
	Denmark	Plasterboard	12-21-88		
	Netherlands	Edible rapeseed oil	5-24-88		6-07-89—Definitive duty
	Netherlands	Refined sugar	12-21-88	3-13-89	6-07-89—Definitive duty
	Netherlands	Canned catfood	12-21-88		6-15-89 Terminated
Brazil	Australia	Transmission chains of iron and steel for cycles	12-21-88		4-19-89—Definitive duty
	Czechoslovakia	Transmission chains of iron and steel for cycles	5-9-88		4-19-89—Definitive duty
	India	Transmission chains of iron and steel for cycles	1-01-89		7-24-89—Case withdrawn
	India	Wholesale egg trays	1-19-89		
Finland	Hungary	Building cement	2-28-89		5-10-89—Case withdrawn
	Federal Republic of Germany	Ski boots, Nordic norm 75 mm	5-07-87		
	Czechoslovakia				

Table A-9—Continued
Antidumping actions reported by signatories to the GATT Committee on Antidumping Practices, 1989

Reporting country	Country of origin	Product	Initiation date	Provisional measures	Date and final outcome
Mexico	United States	Singlephase and polyphase wattmeters	7-8-87		3-4-89—No Injury
	United States	Alkaline batteries	3-3-89		4-12-89
Australia	Brazil	Steel bars (carbon steel (SAE 1018 and 1045))	8-31-88		4-3-89—No Injury
	Brazil	Steel bars (low alloy (SAE 4140 and 8620 H))	8-31-88	4-3-89	
	Brazil	Hoop and strip of coldrolled steel	8-29-88	3-17-89	
	Brazil	Brown artificial corundum, with a mesh width of between 6 to 220	9-14-87		4-3-89—Definitive duty
	Brazil	Vat blue No. 1 (73,000)	3-29-89	4-12-89	
	France	USP-grade sorbitol	3-3-89	3-13-89	
	Spain	Graphite electrodes for furnaces	12-18-87	7-27-88	
	Belgium	Outboard motors	1-19-89	5-17-89	
	Belgium	Sodium tripolyphosphate	6-12-89		4-3-89—Definitive duty
	Austria	Geotextiles, nonwoven polypropylene	3-17-89	7-14-89	
	Canada	Milk, evaporated	9-23-88	1-21-89	
	People's Republic of China	Bags, woven polyolefin	3-03-89		7-28-89—No Injury
	People's Republic of China	Silicon	7-10-89		11-9-89—No Injury
	Hong Kong	Video cassette tapes	5-17-88		11-30-88—No Injury
	Singapore	Low Voltage aerial bundled XLPE power cable	8-12-88		3-03-89—No dumping
Republic of Korea	Republic of Korea	Low Voltage aerial bundled XLPE power cable	8-12-88		3-03-89—No dumping
	Republic of Korea	Cement clinker	3-2-88	8-31-88	
	Japan	Cement clinker	3-2-88		1-05-89—Price undertakings
	Japan	Outboard motors	1-19-89	5-17-89	
	Japan	Sodium tripolyphosphate	6-12-89		10-18-89—Price undertakings
	New Zealand	Urea	12-31-87	6-17-88	
	Poland	Pencils, coloured	6-20-88	10-18-88	
	Brazil	Pencils, blacklead	4-17-89		7-28-89—Price undertakings
	Indonesia	Bags, woven polyolefin	3-03-89		7-28-89—No Injury
	Israel	Sodium tripolyphosphate	6-12-89		10-11-89—No Injury
	Italy	Pasta	11-22-89		10-28-88—No Injury
	Hungary	Pencils, coloured	6-20-88	10-18-88	
	Czechoslovakia	Parts for certain Electric motors	10-14-88		7-28-89—Price undertakings
	Czechoslovakia	Multityred rollers	8-29-88		7-28-89—No Injury
	Taiwan	Bags, woven polyolefin	3-03-89	12-22-88	
Sweden	Taiwan	Castors (for furniture)	11-16-89		3-10-89—No Injury
	Philippines	Bags, woven polyolefin	3-03-89		5-17-89—Definitive duty
	Saudi Arabia	Castors (for furniture)	7-4-89		7-28-89—No Injury
	South Africa	Cement clinker	7-10-89		7-28-89—No Injury
	Thailand	Silicon	3-03-89		11-2-89—No Injury
	United States	Bags, woven polyolefin	3-03-89		11-9-89—No Injury
	United States	Outboard motors	1-19-89		10-18-89—Price undertakings
	United States	Transparent, film wound dressings	10-25-89	5-17-89	
	Yugoslavia	Sodium tripolyphosphate	6-12-89		
	Poland	Fibreboard (Hardboard)	1-19-89		
	Poland	PVC pipes (rigid ground sewer pipes)	7-13-89		
	Soviet Union	Fibreboard (Hardboard)	1-19-89		
	Czechoslovakia	PVC pipes (rigid ground sewer pipes)	7-13-89		

Table A-10

Leading Items exported to Israel, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
880330	Parts of airplanes or helicopters, nesi	160,442	133,528	215,737
710239	Diamonds, nonindustrial, worked	77,565	96,527	192,378
100190	Wheat (other than durum wheat), and meslin	54,317	49,151	85,167
871000	Tank & ot armored fight veh, motorized; and parts	0	0	77,715
120100	Soybeans, whether or not broken	88,236	128,455	76,043
847191	Digital process unit with storage, input output un	11,312	20,919	57,470
988000	Estimat of under \$1501 data	39,298	41,149	53,771
841191	Turbojet and turboproller parts	29,880	59,013	49,005
852990	Pts, ex antenna, for trnsmssn, rdr, radio, tv, etc nesi	73,982	132,381	46,646
847330	Parts & accessories for adp machines & units	57,272	58,511	43,896
880230	Airplane & a/c unladen wght > 2000, nov 15000 kg	573	113	42,957
100700	Grain sorghum	22,762	33,550	40,866
930690	Bomb mines ot amrnition projctions etc and parts	28	16	40,536
852520	Transmission appr incorporating reception apparats	11,538	14,964	38,257
852510	Transmission apparatus for radio or television	10,178	13,161	36,714
240220	Cigarettes containing tobacco	12,089	36,793	35,551
854211	Digital monolithic integrated circuits	8,376	16,489	32,024
100590	Corn (maize), other than seed corn	35,153	36,994	30,152
271000	Oil (not crude) from petrol & bitum mineral etc	2,018	13,043	28,741
853890	Pt f elect appr f elect clrcrt; f elct contrl nesi	2,530	1,923	26,706
880320	Uncarrge & pts gliders & a/c, nonpowered/powerd	52	64	25,331
480411	Kraftliner, uncoated unbleached in rolls or sheets	28,784	22,457	25,291
847193	Storage units for automatic data processing machs	13,157	14,597	22,449
840991	Spark-ignition int combustion piston engine parts	1,442	1,961	21,972
840910	Parts for aircraft engines (sp-ign, rot or comp)	11,015	4,514	21,906
980900	Shipment valued not over \$10,000, not indentified	17,827	22,166	21,469
847990	Pts of mach/mechncl appl w indivul function nesi	7,696	11,217	19,298
270112	Bituminous coal, not agglomerated	8,880	8,986	19,087
847192	Input or output units for adp machines	14,547	15,847	18,431
841181	Gas turbines of a power not exceeding 5,000 kW	294	3,285	16,305
854800	Electrical parts of machinery nesi in chapter 85	1,481	1,718	15,210
880212	Helicopters of an unladen weight exceeding 2,000 kg	1,058	167	14,684
852610	Radar apparatus	1,476	4,198	13,808
847989	Mach & mechanical appl w individual function nesi	12,862	17,178	13,653
847120	Digital adp mach w central process, in-output unit	40,603	33,353	13,097
	Total of items shown	858,723	1,048,387	1,532,323
	Total all commodities	2,065,842	2,439,395	2,696,621

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s value in 1989.

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

Table A-11

Leading items imported from Israel, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
710239	Diamonds, nonindustrial, worked	1,035,875	1,208,070	1,282,848
711319	Jewelry and parts thereof, of oth precious metal	82,027	69,261	134,260
854211	Digital monolithic integrated circuits	15,552	32,062	64,388
880330	Parts of airplanes or helicopters, nesi	72,875	53,818	64,171
980100	Imports of articles exported & returned, no change	57,143	66,622	59,997
852520	Transmission appr incorporating reception apparats	11,026	18,058	57,519
880230	Airplane & a/c unladen wght > 2000, nov 15000 kg	31,761	24,622	50,239
851790	Pt elect appr f line telephony or telegraphy etc	30,019	35,342	47,502
841191	Turbojet and turboproller parts	48,590	34,492	36,564
847330	Parts & accessories for adp machines & units	8,364	8,814	33,568
710391	Rubles, sapphires and emeralds, otherwise worked	21,032	27,357	33,240
847120	Digital adp mach w central process, in-output unit	2,245	962	30,030
854380	Elec mach & appr, having individual function nesi	6,797	8,253	27,658
903140	Other optical instruments and appliances	1,626	2,688	25,864
310420	Potassium chloride	18,636	25,677	25,671
850980	Electromech domestic appl sif-cont electr mtr nesi	7	15,641	24,340
852990	Pts, ex antenna, for trnsmssn, rdr, radio, tv, etc nesi	29,829	46,474	19,998
711320	Jewelry and parts, base metal clad w prec metal	23,951	19,965	18,508
901580	Surveying instruments and appliances, nesi	786	10,990	17,417
871000	Tank & ot armored fight veh, motorized; and parts	10,488	16,215	15,928
901819	Electro-diagnostic apparatus nesi, and parts etc	20,540	19,198	15,834
851740	Elect appr f carrier-current line systems, nesi	6,639	7,901	15,446
611241	Women's or girls' swimwear synthetic fibers, knit	13,783	11,224	15,209
852610	Radar apparatus	746	343	13,853
271000	Oil (not crude) from petrol & bitum mineral etc	26,908	31,206	13,562
292421	Ureines and their derivatives; salts thereof	106	296	13,549
401120	New pneumatic tires of rubber, for buses or trucks	6,038	3,292	13,221
847990	Pts of mach/mechncl appl w indivul function nesi	2,620	6,875	12,829
853110	Burglar or fire alarms and similar apparatus	5,893	9,540	12,727
901890	Instr & appl f medical surgical dental vet, nesi	14,258	10,591	12,260
880390	Parts of nonpowered & powered aircraft etc nesi	6,429	19,383	12,246
903180	Meas & checkng instrument, appliances & mach nesi	4,848	7,344	11,991
850440	Static converters	7,266	10,040	11,458
853321	Fixed resistors, nesi	8,177	10,142	11,353
901490	Pts, for direct find compasses, navigational inst	1,984	3,202	11,119
	Total of items shown	1,634,864	1,875,960	2,266,368
	Total all commodities	2,638,050	2,975,232	3,235,744

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-12

Leading items exported to the European Community, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
880240	Airplane & ot a/c, unladen weight > 15,000 kg	2,364,871	3,255,032	5,406,160
847330	Parts & accessories for adp machines & units	3,862,873	5,004,715	4,012,607
880330	Parts of airplanes or helicopters, nesi	1,036,740	1,199,666	2,831,544
841191	Turbojet and turboproller parts	736,049	921,648	2,065,324
270112	Bituminous coal, not agglomerated	1,279,053	1,630,945	1,920,901
120100	Soybeans, whether or not broken	2,009,901	1,942,963	1,639,321
847191	Digital process unit with storage, input output un	731,829	913,658	1,599,367
988000	Estimate of under \$1501 data	872,714	962,491	1,316,155
847193	Storage units for automatic data processing machs	721,032	833,082	1,150,263
847192	Input or output units for adp machines	1,077,597	1,258,686	1,149,555
847120	Digital adp mach w central process, in-output unit	852,832	1,140,918	1,107,514
854211	Digital monolithic integrated circuits	311,208	617,221	1,043,186
240220	Cigarettes containing tobacco	600,629	767,902	963,473
470321	Chemical woodpulp, soda etc n dis s bl & bl conf	534,598	633,494	810,646
230310	Residues of starch mfr and similar residues	529,053	579,477	644,266
930690	Bomb mines of ammntion projctions etc and parts	501	787	576,299
841112	Turbojets of a thrust exceeding 25 kN	112,222	173,140	562,971
841199	Gas turbine parts nesi	738,914	925,235	531,294
870899	Parts and accessories of motor vehicles, nesi	129,822	190,997	509,909
901890	Instr & appl f medical surgical dental vet, nesi	446,797	557,106	493,155
240120	Tobacco, partly or wholly stemmed/stripped	310,637	448,136	461,692
870323	Pass veh spk-lg int com rcpr p eng >1,500 nov 3m cc	142,210	297,879	458,185
847989	Mach & mechanical appl w individual function nesi	202,704	253,416	432,477
880230	Airplane & a/c unladen wght > 2,000, nov 15,000 kg	158,803	112,524	431,437
847199	Adp mach & unit; magntc//ptcl readers etc, nesi	436,965	561,347	417,694
711210	Waste & scrap gold excl swpngs cntng oth prec mtls	261,559	293,034	411,334
970110	Paintings, drawing, and pastels exc of heading 4906	131,660	187,856	390,569
980900	Shipment valued not over \$10,000, not identified	390,646	495,498	360,808
310000	Fertilizers	236,308	169,781	356,523
901819	Electro-diagnostic apparatus nesi, and parts etc	153,136	204,819	351,798
520100	Cotton, not carded or combed	326,704	370,323	321,095
271000	Oil (not crude) from petrol & bitum mineral etc	314,738	232,771	308,724
841182	Gas turbines of a power exceeding 5,000 kW	76,538	107,612	307,371
490199	Printed books, brochures, etc, nesi	172,598	228,303	294,682
470329	Chem woodpulp, soda etc, n dis s bl & bl nonconf	189,781	239,523	293,664
	Total of items shown	22,454,221	27,711,985	35,931,961
	Total all commodities	57,230,077	71,305,625	82,524,708

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-13

Leading Items Imported from the European Community, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
870323	Pass veh spk-ig int com rcpr p eng >1500 nov 3m cc . . .	8,008,479	5,544,885	5,182,101
980100	Imports of articles exported & returned, no change	2,059,042	2,033,397	2,315,892
271000	Oil (not crude) from petrol & bitum mineral etc	1,891,090	2,214,764	2,194,927
870324	Pass veh spk-ig int com rcpr p eng > 3,000 cc	2,701,751	2,453,466	1,710,656
841112	Turbojets of a thrust exceeding 25 kN	167,290	124,021	1,435,395
880240	Airplane & ot a/c, unladen weight > 15,000 kg	551,136	795,000	1,301,446
270900	Crude oil from petroleum and bituminous minerals	2,055,312	1,387,728	1,227,008
710239	Diamonds, nonindustrial, worked	951,680	1,117,705	1,156,574
711319	Jewelry and parts thereof, of oth precious metal	683,667	714,800	1,150,126
841191	Turbojet and turboproller parts	569,639	735,688	1,101,288
880330	Parts of airplanes or helicopters, nesi	746,638	431,243	1,057,756
870899	Parts and accessories of motor vehicles, nesi	992,235	1,094,054	945,695
970110	Paintings, drawing and pastels exc of heading 4906	472,294	555,626	726,941
999995	Estimated imports of low valued transactions	686,208	724,636	718,844
847330	Parts & accessories for adp machines & units	330,046	294,789	635,040
880230	Airplanes & a/c unladen wght > 2,000, nov 15,000 kg . . .	878,537	859,887	621,282
870190	Tractors, nesi	394,734	539,103	619,945
220421	Wine, fr grape nesi & gr musk w alc, nov 2 liters	537,455	521,135	559,610
640359	Footwear, outer sole & upper of leather nesi	126,482	121,842	526,876
854211	Digital monolithic integrated circuits	224,612	361,785	516,940
640399	Footwear, outer sole rub etc & leather upper nesi	732,282	701,366	488,884
220300	Beer made from malt	466,687	504,717	463,440
970600	Antiques of an age exceeding 100 years	377,823	383,345	445,736
220830	Whiskies	366,601	367,084	374,949
220890	Cordials, liqueurs, kirschwasser, ratafia, etc	388,360	380,593	370,848
490199	Printed books, brochures, etc, nesi	305,450	323,308	366,916
847193	Storage units for automatic data processing machs	408,165	391,680	363,277
401110	New pneumatic tires of rubber, for motor cars	295,370	316,353	339,601
902211	Appts base on x-ray for medical,dental,etc uses	216,062	253,327	338,499
848180	Taps cocks etc f pipe vat inc thermo control nesi	276,414	309,273	331,153
870840	Gear boxes of motor vehicles	408,584	518,638	329,925
840734	Spark-igntn recprctng piston engine etc > 1000 cc	389,275	431,069	297,286
843149	Parts and attachments nesi for derricks etc	42,032	44,427	296,414
293490	Heterocyclic compounds nesi	76,126	100,549	290,258
220410	Sparkling wine of fresh grapes	308,110	293,769	282,623
	Total of items shown	30,085,667	27,945,055	31,084,150
	Total all commodities	80,144,348	84,036,204	84,025,352

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-14

Leading items exported to Canada, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
989000	Adjustment for undocumented exports	6,429,102	10,647,754	15,637,500
870323	Pass veh spk-ig int com rcpr p eng >1,500 nov 3m cc ..	3,253,790	3,834,804	4,291,924
988000	Estimate of under \$1501 data	2,787,233	3,272,580	4,010,043
870899	Parts and accessories of motor vehicles, nesi	628,638	734,957	2,534,412
870324	Pass veh spk-ig int com rcpr p eng > 3,000 cc	1,261,507	992,853	1,643,770
870431	Mtr veh trans gds spk ig in c p eng, gvw nov 5 mtn	1,567,107	1,512,841	1,590,361
870829	Pts & access of bodies of motor vehicles, nesi	840,906	965,142	1,574,701
980900	Shipment valued not over \$10,000, not indentified	1,872,562	2,105,359	1,192,518
870840	Gear boxes for motor vehicles	839,458	1,107,122	1,133,572
854211	Digital monolithic integrated circuits	164,657	311,123	932,680
847330	Parts & accessories for adp machines & units	1,342,848	1,295,497	908,604
270112	Bituminous coal, not agglomerated	641,461	774,515	682,909
880330	Parts of airplanes or helicopters, nesi	252,125	296,264	637,262
847191	Digital process unit with storage, input output un	227,127	237,065	573,632
840734	Spark-igntn recprctng piston engine etc > 1,000 cc	726,065	721,351	543,087
880240	Airplane & ot a/c, unladen weight > 15,000 kg	14,344	557,830	542,231
840991	Spark-ignition int combustion piston engine parts	413,259	583,690	481,531
271000	Oil (not crude) from petrol & bitum mineral etc	410,069	330,998	452,107
490199	Printed books, brochures, etc, nesi	268,658	338,383	380,325
870810	Bumpers and parts, for motor vehicles	1,073,774	1,196,636	373,637
870850	Drive axles with differential for motor vehicles	109,401	106,721	373,140
760611	Aluminum nonalloy rect plates etc, over 2mm thick	132,930	192,255	371,156
490290	Newspapers, etc appearing less than 4 times per wk ...	328,197	356,294	345,460
840820	Compression-igntn int combustion piston engine etc	336,086	322,819	320,751
841191	Turbojet and turboproller parts	124,620	145,161	273,326
710812	Gold, nonmonetary, unwrought nesi	512,769	430,412	265,821
847192	Input or output units for adp machines	266,397	264,203	259,283
281820	Aluminum oxide, except artificial corundum, nesi	88,547	90,090	254,597
310000	Fertilizers	121,638	127,352	245,407
847193	Storage units for automatic data processing machs	213,800	195,360	243,663
854290	Electronic integrated circuits and mcrcssmbis parts	57,242	65,292	241,778
870333	Pass veh com-ig int com eng > 2500 cc	24,091	27,525	214,669
870839	Brakes and servo-brakes, parts, of 8701,8705	123,654	117,694	207,039
870894	Steering wheels, columns & boxes f motor vehicles	628,643	734,966	201,845
847120	Digital adp mach w central process, in-output unit	314,828	334,134	198,904
	Total of Items shown	28,397,534	35,327,043	44,133,645
	Total all commodities	57,001,048	68,243,191	74,977,469

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-15

Leading items imported from Canada, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
870323	Pass veh spk-ig int com rcpr p eng >1,500 nov 3m cc . . .	3,396,891	4,844,581	8,979,657
870431	Mtr veh trans gds spk ig in c p eng, gvw nov 5 mtn	1,412,574	2,744,598	4,645,634
480100	Newsprint, in rolls or sheets	4,123,306	4,553,071	4,382,853
870899	Parts and accessories of motor vehicles, nesi	3,164,067	3,485,635	3,690,155
870324	Pass veh spk-ig int com rcpr p eng > 3,000 cc	6,460,387	7,957,470	3,392,485
270900	Crude oil from petroleum and bituminous minerals	3,399,028	2,997,013	3,132,631
440710	Coniferous wood sawn, sliced etc, over 6 mm thick	2,823,609	2,735,521	2,839,023
980100	Imports of articles exported & returned, no change	2,236,890	2,295,990	2,770,703
470321	Chemical woodpulp, soda etc n dis s bl & bl conif	1,393,904	1,708,665	1,972,811
271121	Natural gas, gaseous	1,642,739	1,732,838	1,576,062
271000	Oil (not crude) from petrol & bitum mineral etc	968,429	1,313,163	1,555,961
847330	Parts & accessories for adp machines & units	285,799	289,481	1,089,810
760120	Unwrought aluminum alloys	549,412	769,725	918,154
710812	Gold, nonmonetary, unwrought nesi	696,675	559,314	868,033
854211	Digital monolithic integrated circuits	408,211	500,083	835,596
750210	Nickel, unwrought, not alloyed	187,994	513,958	809,439
880330	Parts of airplanes or helicopters, nesi	661,704	249,840	759,976
760110	Unwrought aluminum, not alloyed	801,495	934,331	733,235
999995	Estimated imports of low-valued transactions	554,359	655,039	720,136
840734	Spark-igntn recprctng piston engine etc > 1,000 cc	1,139,165	1,347,752	691,982
870600	Chas w eng f trac, mtr veh f pass/gd & special pur	696,858	1,009,434	678,324
840732	Spark-igntn recprctng pistn engine etc nov 250cc	598	925	625,426
271600	Electrical energy	0	0	557,900
480260	Paper nesi, over 10% (wt) fiber by mechan proc uc	185,075	252,125	542,197
870839	Brakes and servo-brakes, parts, of 8701,8705	125,424	133,565	540,212
870322	Pass mtr veh, spark ign eng, >1,000cc but =<1,500cc	141,983	199,944	508,334
740311	Refined copper cathodes and sections of cathodes	135,330	176,302	494,017
870421	Trucks, nesi, diesel eng, gvw 5 metric tons & und	280,076	86,910	486,081
790111	Zinc unwrt nt aly cnt wgt at lst 9,999 percnt zinc	283,617	449,125	470,043
310420	Potassium chloride	381,040	520,890	436,866
840991	Spark-ignition int combustion piston engine parts	366,886	400,174	434,179
030420	Fish fillets, frozen	550,394	460,184	432,916
940190	Parts of seats (ex medical, barber, dental etc)	173,876	194,954	419,360
870810	Bumpers and parts, for motor vehicles	244,104	287,319	387,982
401110	New pneumatic tires of rubber, for motor cars	284,192	286,192	384,023
	Total of items shown	40,156,094	46,646,112	53,762,195
	Total all commodities	70,850,625	80,678,621	87,987,651

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-16

Leading items exported to Japan, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
440320	Coniferous wood in the rough, not treated	1,110,336	1,300,290	1,619,167
100590	Corn (maize), other than seed corn	1,024,595	1,604,766	1,557,981
847330	Parts & accessories for adp machines & units	778,465	1,050,509	1,083,340
880330	Parts of airplanes or helicopters, nesl	389,951	419,907	892,696
240220	Cigarettes containing tobacco	491,857	606,318	871,155
120100	Soybeans, whether or not broken	785,662	1,030,059	866,490
760110	Unwrought aluminum, not alloyed	304,995	664,082	855,746
847191	Digital process unit with storage, input output un	258,688	389,963	790,778
020230	Meat of bovine animals, boneless, frozen	478,118	697,402	713,395
880240	Airplane & ot a/c, unladen weight > 15,000 kg	1,029,586	1,185,773	657,904
030310	Pacific salmon, with bones, frozen	228,293	349,982	620,669
854211	Digital monolithic integrated circuits	198,792	287,998	606,232
270112	Bituminous coal, not agglomerated	484,465	597,548	595,297
440710	Coniferous wood sawn, sliced etc, over 6 mm thick	356,749	432,253	560,743
520100	Cotton, not carded or combed	413,710	483,958	543,659
284420	Uranium enriched in u235 etc plutonium etc	223,151	233,098	542,845
271000	Oil (not crude) from petrol & bitum mineral etc	508,660	485,780	506,085
100190	Wheat (other than durum wheat), and meslin	313,529	378,704	468,634
760200	Aluminum waste and scrap	240,842	367,815	450,584
970110	Paintings, drawing and pastels exc of heading 4906	98,621	125,919	411,169
847120	Digital adp mach w central process, in-output unit	229,936	390,777	407,303
410121	Whole bovine hides and skins nesl, fr or wet salt	328,826	411,102	358,884
470329	Chem woodpulp, soda etc, n dis s bl & bl nonconif	173,923	279,880	358,878
470321	Chemical woodpulp, soda etc n dis s bl & bl conif	162,898	239,516	353,921
260300	Copper ores and concentrates	122,124	256,287	347,781
988000	Estimat of under \$1501 data	203,027	248,625	343,531
841191	Turbojet and turboproller parts	169,665	217,434	342,263
100700	Grain sorghum	181,791	218,458	337,017
240120	Tobacco, partly or wholly stemmed/stripped	295,549	210,307	295,359
847193	Storage units for automatic data processing machs	127,940	160,496	274,940
847989	Mach & mechanical appl w individual function nesl	80,421	165,870	248,777
030614	Crabs, including in shell, frozen	64,261	78,180	228,431
852990	Pts, ex antenna, for trnsmsn, rdr, radio, tv, etc nesl	145,902	200,122	226,127
440121	Wood in chips or particles, coniferous	147,403	202,591	218,934
870323	Pass veh spk-ig int com rcpr p eng >1,500 nov 3m cc	18,137	146,347	212,255
	Total of items shown	12,170,868	16,118,114	19,768,968
	Total all commodities	26,903,632	36,041,575	42,764,273

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-17

Leading Items Imported from Japan, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
870323	Pass veh spk-ig int com rcpr p eng >1500 nov 3m cc . . .	21,260,363	20,947,434	20,859,320
847330	Parts & accessories for adp machines & units	639,983	968,097	3,001,977
847192	Input or output units for adp machines	2,870,084	3,551,284	2,980,465
854211	Digital monolithic integrated circuits	1,232,517	2,312,178	2,925,390
870431	Mtr veh trans gds spk ig in c p eng, gvw nov 5 mtn	4,103,467	3,043,699	2,511,936
852110	Video recording or reproducing apparatus mgtc tape	298,290	228,534	2,014,598
847193	Storage units for automatic data processing machs	1,890,686	1,991,052	1,901,216
852530	Television cameras	193,668	200,541	1,771,371
950410	Video games used w tv rceivr & pts and accessories	133,934	322,902	1,585,654
870322	Pass mtr veh, spark ign eng, >1000cc but =<1500cc	791,433	757,682	1,527,596
870899	Parts and accessories of motor vehicles, nesi	1,170,498	1,524,876	1,323,837
900912	Electrostatic photocopying image, indirect process	953,936	916,801	974,480
851782	Telegraphic apparatus	541,120	955,548	904,853
900990	Part and accessories of photocopying apparatus	512,222	655,965	698,945
847989	Mach & mechanical appl w individual function nesi	128,359	160,646	646,787
841430	Compressors used in refrigerating equipment	363,774	387,569	569,794
980100	Imports of articles exported & returned, no change	358,474	445,035	548,630
870324	Pass veh spk-ig int com rcpr p eng > 3000 cc	350,434	377,136	539,883
851999	Sound reproducing apparatus except cassette, nesi	435,578	505,245	535,478
870829	Pts & access of bodies of motor vehicles, nesi	164,558	196,749	533,237
870840	Gear boxes of motor vehicles	391,257	537,507	528,306
852990	Pts, ex antenna, for trnsmssn, rdr, radio, tv, etc nesi	522,078	508,627	494,757
999995	Estimated imports of low valued transactions	406,285	438,639	470,455
840991	Spark-ignition int combustion piston engine parts	321,344	420,572	455,282
401120	New pneumatic tires of rubber, for buses or trucks	246,271	300,480	417,970
852520	Transmission appr incorporating reception apparats	325,402	336,727	415,726
852721	Radiobroadcast receivers for motor vehicles w rcos	482,506	415,966	409,396
900653	Photo cameras for roll film of a width of 35 mm	317,760	290,372	392,177
852810	Color television receivers	2,878,265	2,139,653	391,278
401110	New pneumatic tires of rubber, for motor cars	255,505	347,395	379,692
845811	Horizontal lathes for removng met numrcal controid	207,396	268,268	333,529
852313	Magnetic tape unrecorded width exceeding 65 mm	556,344	421,025	329,698
880330	Parts of airplanes or helicopters, nesi	171,359	17,636	318,125
842952	Mech shovels excavators etc w 360 degree sprstruc	232,810	233,351	310,571
370790	Chem prep, photo use, meas/rti sale, nesi	5,270	163,356	303,234
	Total of items shown	45,713,229	47,288,546	54,305,644
	Total all commodities	84,008,499	89,110,486	91,841,766

Note—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-18

Leading Items exported to Mexico, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
870899	Parts and accessories of motor vehicles, nesl	215,955	268,981	918,806
988000	Estimat of under \$1501 data	339,334	459,502	675,707
852990	Pts,ex antenna,for trnsmssn,rdr,radio,ty,etc nesl	126,365	177,442	557,668
854430	Insulated wiring sets for vehicles ships aircraft	400,955	503,708	474,954
870829	Pts & access of bodies of motor vehicles, nesl	219,141	278,084	454,108
271000	Oil (not crude) from petrol & bitum mineral etc	380,849	296,537	439,174
100590	Corn (maize), other than seed corn	274,983	388,702	437,030
847330	Parts & accessories for adp machines & units	318,235	421,231	360,408
853890	Pt f elect appr f elect circct; f elct contrl nesl	63,186	109,713	353,571
100700	Grain sorghum	62,040	144,160	320,044
980110	Value of repair/alter articles previous imported	47,953	56,611	314,696
120100	Soybeans, whether or not broken	220,437	350,129	308,896
840991	Spark-ignition int combustion piston engine parts	148,671	197,881	247,311
850490	Pts for elect transformers static converters indct	66,837	109,842	234,575
980900	Shipment valued not over \$10,000, not indentified	154,535	268,281	219,088
880240	Airplane & ot a/c, unladen weight > 15,000 kg	45,106	7,923	209,161
850300	Parts for electric motors, generators & sets	106,697	186,341	208,039
392690	Articles of plastics, nesl	36,899	58,723	182,134
481910	Cartons, boxes & cases corrugated paper & paperbd	59,709	116,371	156,607
903290	Pts, autom regulating/controlling inst & apprts	15,993	16,007	141,928
840999	Spark-ignition reciprocating int com pistn eng pts	176,721	196,327	138,092
870821	Safety seat belts for motor vehicles	320	249	136,528
390210	Polypropylene	81,680	98,314	130,519
854419	Insulated winding wire, nesl	5,491	5,825	129,506
853400	Printed circuits	78,498	94,762	107,214
854011	Cathode-ray tv picture tubes, color inc monitor	16,215	49,280	102,260
390120	Polyethylene having a spec gravity of 094 or more	46,198	84,036	101,395
854211	Digital monolithic integrated circuits	86,251	121,094	99,382
440710	Coniferous wood sawn, sliced etc, over 6 mm thick	39,770	69,107	98,971
830160	Parts of locks, base metal	4,881	7,813	98,566
853290	Parts for electrical capacitors	37,557	45,044	97,917
540720	Synthetic filament yarn fabric from the strip	8,969	11,929	92,313
470710	Waste, scrap unbleach kraft, corrugatd paper/pprbd	33,282	41,726	88,798
470321	Chemical woodpulp, soda etc n dis s bl & bl conif	57,922	63,249	87,051
851790	Pt elect appr f line telephony or telegraphy etc	13,265	18,210	84,317
	Total of items shown	3,990,898	5,323,136	8,806,736
	Total all commodities	14,045,175	19,853,345	24,117,255

Note—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-19

Leading Items Imported from Mexico, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
270900	Crude oil from petroleum and bituminous minerals	3,500,836	2,853,843	3,999,140
870323	Pass veh spk-ig int com rcpr p eng >1500 nov 3m cc	1,109,602	1,434,538	1,334,279
854430	Insulated wiring sets for vehicles ships aircraft	614,822	888,266	1,051,798
980100	Imports of articles exported & returned, no change	569,614	745,454	942,251
852810	Color television receivers	337,219	586,472	768,240
852990	Pts, ex antenna, for trnsmssn, rdr, radio, tv, etc nesi	466,200	518,002	625,335
090111	Coffee, not roasted, not decaffeinated	380,431	282,432	434,184
870324	Pass veh spk-ig int com rcpr p eng > 3000 cc	282,598	307,635	372,552
870821	Safety seat belts and parts of 8701 to 8705	193,605	248,185	363,714
710691	Silver, unwrought nesi	275,890	241,227	337,941
840734	Spark-igntn recprctng piston engine etc > 1000 cc	603,785	490,316	330,381
870899	Parts and accessories of motor vehicles, nesi	239,419	397,685	329,992
852721	Radiobroadcast receiver for motor vehicles w rcos	280,550	426,559	318,413
010290	Bovine animals, live, nesi	252,144	262,004	284,226
030613	Shrimps and prawns, including in shell, frozen	380,388	289,037	279,997
847330	Parts & accessories for adp machines & units	85,504	117,002	276,522
854451	Electrical conductors > 80 but =< 1000v w cnctrs	162,665	165,997	241,556
070200	Tomatoes, fresh or chilled	158,808	150,266	222,316
999995	Estimated imports of low valued transactions	127,366	149,254	213,273
847191	Digital process unit with storage, input output un	67,494	131,522	196,355
940120	Seats of a kind used for motor vehicles	33,535	50,299	179,917
853650	Elect switches f voltage not over 1000 v, nesi	130,760	175,795	175,845
853690	Elect appr f prtct to elect circit nov 1000 v nesi	16,114	28,992	174,768
850140	AC motors, single-phase	112,991	131,105	171,587
220300	Beer made from malt	195,962	175,108	144,423
852510	Transmission apparatus for radio or television	150,250	159,367	143,926
481850	Artcls of apparel/clothing accessors of paper etc	60,669	64,728	139,285
847199	Adp mach & unit; magntc//ptcl readers etc, nesi	55,564	70,890	134,741
854211	Digital monolithic integrated circuits	123,908	116,013	133,261
940190	Parts of seats (ex medical, barber, dental etc)	137,144	204,649	132,212
250310	Sulfur, crude or unrefined	92,555	121,700	122,439
850440	Static converters	174,636	183,977	122,094
271000	Oil (not crude) from petrol & bitum mineral etc	208,156	229,145	121,258
901890	Instr & appl f medical surgical dental vet, nesi	47,355	79,566	121,010
870431	Mtr veh trans gds spk ig in c p eng, gvw nov 5 mtn	88,336	717	118,874
	Total of items shown	11,716,875	12,477,746	15,058,103
	Total all commodities	19,765,789	22,617,177	26,556,570

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-20

Leading items exported to Taiwan, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
100590	Corn (malze), other than seed corn	250,213	461,745	540,457
870323	Pass veh spk-lg int com rcpr p eng >1,500 nov 3m cc	59,790	304,754	529,092
120100	Soybeans, whether or not broken	379,939	476,379	447,177
854211	Digital monolithic integrated circuits	158,143	203,644	406,930
271000	Oil (not crude) from petrol & bitum mineral etc	113,584	217,357	300,348
291736	Terephthalic acid and its salts	12,529	15,951	177,655
270112	Bituminous coal, not agglomerated	190,478	186,541	169,950
847330	Parts & accessories for adp machines & units	185,718	222,194	162,226
100190	Wheat (other than durum wheat), and meslin	92,184	114,227	130,877
840690	Parts for steam and other vapor turbines	5,290	5,856	128,148
410121	Whole bovine hides and skins nesi, fr or wet salt	168,814	153,814	114,813
290250	Styrene	95,520	129,786	109,435
880240	Airplane & ot a/c, unladen weight > 15,000 kg	34,153	37,056	109,217
841191	Turbojet and turboproller parts	9,428	17,805	107,925
847191	Digital process unit with storage, input output un	28,226	37,584	107,568
290531	Ethylene glycol (ethanediol)	9,178	62,108	104,059
871000	Tank & ot armored fight veh, motorized; and parts	0	0	100,620
854219	Monolithic integrated circuits, except digital	55,757	71,174	96,192
840211	Watertube boilers steam production exc 45 t per hr	3	56,793	95,318
988000	Estimat of under \$1501 data	61,054	85,800	92,580
880330	Parts of airplanes or helicopters, nesi	36,008	36,766	90,967
740311	Refined copper cathodes and sections of cathodes	74	747	90,111
930690	Bomb mines ot ammntion projctns etc and parts	19	62	90,075
847989	Mach & mechanical appl w individual function nesi	23,916	34,527	82,598
240120	Tobacco, partly or wholly stemmed/stripped	16,208	49,797	81,261
851730	Telephonic or telegraphic switching apparatus	56,354	55,464	74,882
290243	Para-xylene	15,991	19,530	74,226
293371	6-hexanelactam (epsilon-caprolactam)	21,783	64,100	69,795
520100	Cotton, not carded or combed	137,540	78,626	68,022
870324	Pass veh spk-lg int com rcpr p eng > 3000 cc	22,632	55,744	66,821
284420	Uranium enriched in u235 etc plutonium etc	120	481	66,764
760200	Aluminum waste and scrap	27,825	64,353	65,462
790200	Zinc waste and scrap	35,618	56,184	65,243
845011	Washing mach automatic w dry line cap not ov 10kg	10,209	18,933	62,857
292610	Acrylonitrile	48,506	50,615	61,207
	Total of items shown	2,362,804	3,446,495	5,140,876
	Total all commodities	7,019,239	11,599,286	10,974,696

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-21

Leading items imported from Taiwan, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
847192	Input or output units for adp machines	809,749	831,796	895,302
640299	Footwear, outer sole & upper rubber or plast nesi	1,171,516	1,056,007	699,951
847330	Parts & accessories for adp machines & units	297,392	369,245	660,638
611030	Sweaters, pullovers etc. knit etc. manmade fibers	515,923	386,424	545,515
640399	Footwear, outer sole rub etc & leather upper nesi	365,808	350,759	485,468
847191	Digital process unit with storage, input output un	201,316	323,323	452,471
940360	Wooden furniture, nesi	139,815	120,415	401,048
871200	Bicycles & oth cycles (inc del tricycle) no motor	424,988	323,472	379,808
841451	Table, floor etc fans electric not exceed 125 w	355,604	343,937	350,657
854211	Digital monolithic integrated circuits	218,867	343,809	350,346
852810	Color television receivers	552,795	479,363	289,118
392690	Articles of plastics, nesi	239,995	253,753	260,760
950691	Gymnasium, or oth exercise articles & equip& pts	216,343	200,939	240,882
640391	Footwear, out sole rub etc & up lea nesi, ank cov	138,824	148,904	229,730
392530	Shutters, bilnds etc & pts of plastics	208,396	175,109	223,532
847199	Adp mach & unit; magntc//ptcl readers etc, nesi	132,165	175,384	198,496
950510	Art f christmas festivities and pts & accessories	69,230	80,774	183,086
940320	Metal furniture nesi	203,719	185,088	175,109
731815	Threaded screws and bolts nesi of iron or steel	102,507	136,338	174,898
420292	Other bags, with outer surface plastic/text mater	201,524	170,774	172,287
852510	Transmission apparatus for radio or television	187,752	190,743	164,811
640291	Footwear o sole upp rub or plast nesi, ank covrd	133,017	113,544	158,582
940520	Electric table desk bedside or floor-standing lamp	104,823	99,172	158,039
420212	Trunks, suitcases, etc, surface plastic/text materis	133,771	118,463	152,535
852520	Transmission appr incorporating reception apparats	162,670	161,499	148,556
852731	Radiobroadcast receivers, nesi, with sound recorder	295,563	269,542	142,668
854219	Monolithic integrated circuits, except digital	115,558	119,869	141,813
940510	Chandelier ceiling/wall lghtng ftng ex public lght	89,425	105,766	140,766
392490	Household and toilet articles nesi of plastics	152,056	146,591	139,661
950210	Dolls, whether or not dressed	102,729	99,926	139,476
950639	Golf equip ex clubs & balls; parts and accessories	99,470	128,153	136,107
900410	Sunglasses	106,419	108,566	134,350
940530	Lighting sets of a kind used for christmas trees	123,467	174,496	134,062
853400	Printed circuits	84,444	120,844	132,360
848180	Taps cocks etc f pipe vat inc thermo control nesi	98,419	127,538	128,044
	Total of items shown	8,556,059	8,540,321	9,520,932
	Total all commodities	24,575,682	24,710,730	24,203,285

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-22

Leading Items exported to the Republic of Korea, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
880240	Airplane & ot a/c, unladen weight > 15,000 kg	53,432	441,570	708,301
100590	Corn (maize), other than seed corn	355,940	429,307	640,231
410121	Whole bovine hides and skins nesl, fr or wet salt	566,054	624,180	612,881
520100	Cotton, not carded or combed	313,725	445,111	428,077
854211	Digital monolithic integrated circuits	93,508	143,586	393,948
880330	Parts of airplanes or helicopters, nesl	106,773	150,678	314,733
100190	Wheat (other than durum wheat), and meslin	189,881	254,653	297,903
847989	Mach & mechanical appl w individual function nesl	53,606	93,846	260,648
440320	Coniferous wood in the rough, not treated	148,084	233,949	257,584
720449	Ferrous waste & scrap nesl	140,986	157,918	237,667
847330	Parts & accessories for adp machines & units	169,738	258,396	237,635
120100	Soybeans, whether or not broken	232,188	260,148	219,999
470329	Chem woodpulp, soda etc, n dis s bl & bl nonconf	69,681	120,075	183,928
270112	Bituminous coal, not agglomerated	146,482	158,459	171,786
854219	Monolithic integrated circuits, except digital	53,778	67,545	160,695
720824	Oth fr irn/nas 600mm w orn hr cls npld un 3mm thck	5	79	152,557
847191	Digital process unit with storage, input output un	42,088	38,990	112,454
290250	Styrene	38,690	119,407	110,600
740400	Copper waste and scrap	44,065	109,262	107,609
240220	Cigarettes containing tobacco	6,070	56,382	106,415
292610	Acrylonitrile	74,949	96,522	97,629
271000	Oil (not crude) from petrol & bitum mineral etc	134,008	102,382	90,260
851730	Telephonic or telegraphic switching apparatus	13,841	38,274	90,176
290321	Vinyl chloride (chloroethylene)	36,020	55,188	88,357
847990	Pts of mach/mechncl appl w indivul function nesl	37,535	64,310	83,890
854800	Electrical parts of machinery nesl in chapter 85	3,019	4,744	81,226
470321	Chemical woodpulp, soda etc n dis s bl & bl conf	69,551	69,228	74,028
720421	Stainless steel waste and scrap	939	11,156	73,606
847120	Digital adp mach w central process, in-output unit	55,519	85,537	73,016
988000	Estimat of under \$1501 data	37,821	42,588	67,443
310000	Fertilizers	34,646	38,065	61,762
470720	Waste & scrap paper & paper bd, of bl ch pulp etc	33,949	58,128	58,251
880212	Helicopters of an unladen weight exceeding 2,000 kg	18,632	3,431	56,317
930590	Pts access mtry wpn ot firearm smlr dvcs ex pstls	1,338	1,841	55,900
871000	Tank & ot armored fight veh, motorized; and parts	0	0	55,466
	Total of items shown	3,376,540	4,834,935	6,822,978
	Total all commodities	7,486,064	10,381,436	13,207,742

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-23

Leading Items Imported from the Republic of Korea, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
854211	Digital monolithic integrated circuits	527,316	1,033,255	1,530,950
870323	Pass veh spk-ig int com rcpr p eng >1,500 nov 3m cc ..	1,860,755	2,259,496	974,009
420310	Articles of apparel of leather or composit leather	390,483	567,826	839,342
640399	Footwear, outer sole rub etc & leather upper nesi	374,581	504,519	834,200
640391	Footwear, out sole rub etc & up lea nesi, ank cov	172,191	212,298	725,049
870322	Pass mtr veh, spark ign eng, >1,000cc but =<1,500cc ..	99,876	125,525	608,213
852110	Video recording or reproducing apparatus mgtc tape ...	62,435	63,854	551,535
847192	Input or output units for adp machines	311,512	456,880	533,607
611030	Sweaters, pullovers etc, knit etc, manmade fibers	467,912	412,071	504,843
847191	Digital process unit with storage, input output un	98,410	227,682	413,719
851650	Microwave ovens	329,581	338,575	376,305
950341	Stuffed toys and parts and accessories thereof	482,860	338,486	297,545
620530	Men's or boys' shirts, not knit, manmade fibers	263,584	253,002	275,721
640411	Footwear tex up rubplas sol sport shoes	584,905	900,368	238,325
852520	Transmission appr incorporating reception apparats	183,725	196,671	218,246
611090	Sweaters, pullovers etc, knit etc, textiles nesi	244,538	151,026	196,658
852810	Color television receivers	556,192	587,677	194,377
852721	Radiobroadcast receivers for motor vehicles w rcos	183,902	227,857	191,283
847330	Parts & accessories for adp machines & units	57,848	103,766	182,998
842720	Self-propelled works trucks and forklifts, nesi	35,892	78,333	157,853
852313	Magnetic tape unrecorded width exceeding 65 mm	98,785	144,432	150,440
730630	Pipe etc nesi, weld cir cr sect, iron or nonal st	105,226	172,707	149,508
854219	Monolithic integrated circuits, except digital	128,700	161,706	149,301
852711	Radiobroadcast receivers, battery type, with rcds	72,719	46,037	145,907
620193	M/b anoraks ski jackets & smir art manmade fib,nkt	78,932	91,286	116,324
420221	Handbags, surface of composition/patent leather	160,156	158,407	114,788
852731	Radiobroadcast receivers,nesi,with sound recorder	125,833	183,843	112,584
851710	Telephone sets	131,810	117,422	99,269
640419	Footwear, out sole rub or plast & text upper nesi	74,321	101,086	98,930
731210	Stranded wire, rope etc, no elect insul, lr or st	70,778	94,291	97,236
540760	Wov fab syn fil yn nesi 85% nontex polyester	106,403	122,040	97,056
420321	Gloves, mittens & mitts for use in sports	74,054	88,108	96,902
980100	Imports of articles exported & returned, no change	60,312	83,563	96,319
401120	New pneumatic tires of rubber, for buses or trucks	94,248	99,799	95,325
620640	W/g blouses, shirts & shirt blouses mrmf, not knit	92,662	102,278	94,231
	Total of items shown	8,763,438	10,806,176	11,558,897
	Total all commodities	16,888,153	20,071,989	19,566,725

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-24

Leading Items exported to Brazil, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
880240	Airplane & ot a/c, unladen weight > 15,000 kg	585,476	506,482	304,812
270112	Bituminous coal, not agglomerated	252,428	232,987	259,054
852990	Pts, ex antenna, for trnsmssn, rdr, radio, tv, etc nesi	82,325	98,376	258,410
880330	Parts of airplanes or helicopters, nesi	63,642	97,950	188,194
847330	Parts & accessories for adp machines & units	156,953	201,557	171,157
880230	Airplane & a/c unladen wght > 2000, nov 15000 kg	30,861	58,571	113,073
847191	Digital process unit with storage, input output un	28,659	53,147	95,964
841191	Turbojet and turboproller parts	44,492	44,058	87,130
870899	Parts and accessories of motor vehicles, nesi	20,584	24,989	78,756
843141	Buckets, shovels, grabs & grips for derricks etc	8,150	9,546	60,358
854211	Digital monolithic integrated circuits	23,366	44,248	59,822
988000	Estimate of under \$1501 data	37,819	39,738	54,652
310000	Fertilizers	55,932	51,402	52,173
980320	Exports of military equipment, not identified	0	0	51,363
840999	Spark-ignition reciprocating int com pistn eng pts	30,520	37,236	42,741
260300	Copper ores and concentrates	0	0	42,367
854091	Thermonic cold cathode or photocathode tube parts	22,462	28,507	38,565
283620	Disodium carbonate	16,776	16,685	34,661
843143	Parts for boring or sinking machinery, nesi	48,476	31,989	33,509
980110	Value of repair/alter articles previous imported	36,015	23,270	33,277
150200	Fats, bovine, sheep or goat, raw or rendered	260	4,815	24,936
271000	Oil (not crude) from petrol & bitum mineral etc	9,954	14,387	23,669
847192	Input or output units for adp machines	10,471	13,139	23,657
901819	Electro-diagnostic apparatus nesi, and parts etc	3,088	3,428	22,779
481011	Paper, writ etc, nov 10% mech pr fib nov150g/m2 ct	55	117	22,602
100190	Wheat (other than durum wheat), and meslin	8,584	0	22,600
381121	Additive for lub oil cont petro/bituminous minrl	9,666	11,247	22,452
870829	Pts & access of bodies of motor vehicles, nesi	15,681	19,032	22,160
410429	Bovine & equine leather, tanned etc, nesi	6,215	7,784	21,040
281512	Sodium hydroxide in aqueous solution	14,953	11,933	20,652
841112	Turbojets of a thrust exceeding 25 kN	4,169	6,576	20,488
847120	Digital adp mach w central process, in-output unit	7,684	26,286	20,348
854219	Monolithic integrated circuits, except digital	12,592	15,037	20,220
271312	Petroleum coke, calcined	12,142	8,895	19,943
900990	Part and accessories of photocopying apparatus	7,029	8,799	19,879
	Total of items shown	1,667,479	1,752,214	2,387,460
	Total all commodities	3,889,272	4,106,260	4,636,110

Note.—Data before 1989 are estimated. Top 35 commodities sorted by domestic exports, f.a.s. value in 1989.

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

Table A-25

Leading Items Imported from Brazil, by HTS number, 1987-89

(In thousands of dollars)

HTS No.	Description	1987	1988	1989
640399	Footwear, outer sole rub etc & leather upper nesl	599,486	609,106	764,404
271000	Oil (not crude) from petrol & bitum mineral etc	610,808	710,424	680,301
870323	Pass veh spk-ig int com rcpr p eng >1500 nov 3m cc	388,957	516,738	492,364
090111	Coffee, not roasted, not decaffeinated	482,175	566,211	385,126
200911	Orange juice, frozen, sweetened or not	305,291	354,537	242,959
880230	Aiplane & a/c unladen wght > 2000, nov 15000 kg	100,445	163,835	178,932
470329	Chem woodpulp, soda etc, n dis s bl & bl nonconif	74,089	120,698	153,322
640359	Footwear, outer sole & upper of leather nesl	96,317	96,299	152,300
840820	Compression-igntn int combustion piston engine etc	102,899	185,393	151,175
200919	Orange juice, other than frozen, sweetened or not	101,764	118,291	127,534
720712	Smfd lrm/nal stl lt 25 pct crb rect cs wid 2x thk	14,646	31,715	109,797
852721	Radiobroadcast receivers for motor vehicles w rcos	97,882	98,999	97,973
240120	Tobacco, partly or wholly stemmed/stripped	141,740	120,420	93,198
840999	Spark-ignition reciprocating int com pistn eng pts	44,613	74,860	87,762
800110	Tin, unwrought, not alloyed	87,306	114,411	86,827
841430	Compressors used in refrigerating equipment	45,664	64,679	81,966
870422	Mtr veh trans gds com-ig int c p e gvw >5nov20 mtn	50,875	32,987	76,648
980100	Imports of articles exported & returned, no change	60,252	50,912	76,400
840991	Spark-ignition int combustion piston engine parts	62,498	82,327	72,481
080130	Cashew nuts, frsh or dried, whether/not shelled	79,364	95,634	69,770
180400	Cocoa butter, fat and oil	158,613	114,731	67,267
260111	Iron ore concen nesl & nonagglomerated iron ores	7,215	21,609	64,764
870324	Pass veh spk-ig int com rcpr p eng > 3000 cc	17,026	26,787	62,436
401110	New pneumatic tires of rubber, for motor cars	74,143	76,358	57,332
870839	Brakes and servo-brakes, parts, of 8701,8705	20,112	18,328	55,459
640391	Footwear, out sole rub etc & up lea nesl, ank cov	132,916	145,357	55,337
870899	Parts and accessories of motor vehicles, nesl	134,426	125,173	53,368
180100	Cocoa beans, whole or broken, raw or roasted	87,547	35,776	51,324
843149	Parts and attachments nesl for derricks etc	2,585	2,183	50,315
210110	Coffee extracts, essences etc & prep therefrom	61,581	54,689	49,986
740311	Refined copper cathodes and sections of cathodes	0	941	48,407
160250	Prepared or preserved bovine meat etc nesl	69,090	60,590	47,872
900653	Photo cameras for roll film of a width of 35 mm	79	162	46,996
620462	Women's or girls' trousers etc not knit, cotton	23,384	36,650	46,444
260600	Aluminum ores and concentrates	10,899	20,231	43,122
	Total of items shown	4,346,688	4,948,041	4,981,669
	Total all commodities	7,612,206	9,058,916	8,483,765

Note.—Data before 1989 are estimated. Top 35 commodities sorted by imports for consumption, customs value in 1989.

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

Table A-26
 Antidumping cases active in 1989, filed under authority of title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number

Code used for outcome: Affirmative (A) Partial Affirmative (P) Negative (N) Suspension Agreement (S) Terminated (T)

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action ²
				Commission	ITA ¹	ITA ¹	Commission	
*731-TA-234	Cellular mobile telephones	Japan	11/5/84	A	A	A	A	2/16/89
731-TA-389	Microdisks	Japan	2/26/88	A	A	A	A	3/22/89
731-TA-391	Antifriction bearings	West Germany	3/31/88	A	A	A	A	5/8/89
731-TA-392	Antifriction bearings	France	3/31/88	A	A	A	P	5/8/89
731-TA-393	Antifriction bearings	Italy	3/31/88	A	A	A	P	5/8/89
731-TA-394	Antifriction bearings	Japan	3/31/88	A	A	A	P	5/8/89
731-TA-395	Antifriction bearings	Romania	3/31/88	A	A	A	P	5/8/89
731-TA-396	Antifriction bearings	Singapore	3/31/88	A	A	A	P	5/8/89
731-TA-397	Antifriction bearings	Sweden	3/31/88	A	A	A	P	5/8/89
731-TA-398	Antifriction bearings	Thailand	3/31/88	A	A	A	P	5/8/89
731-TA-399	Antifriction bearings	United Kingdom	3/31/88	A	A	A	P	5/8/89
731-TA-400	Electrolytic manganese dioxide	Greece	5/31/88	A	A	A	A	4/10/89
731-TA-408	Electrolytic manganese dioxide	Japan	5/31/88	A	A	A	A	4/10/89
731-TA-409	Rectangular pipe and tube	Argentina	6/6/88	A	A	A	A	5/15/89
731-TA-410	Rectangular pipe and tube	Taiwan	6/6/88	A	A	A	A	5/15/89
731-TA-413	Industrial belts	Italy	6/30/88	A	A	A	A	3/20/89
731-TA-414	Industrial belts	Japan	6/30/88	A	A	A	A	3/20/89
731-TA-415	Industrial belts	Singapore	6/30/88	A	A	A	A	5/31/89
731-TA-419	Industrial belts	West Germany	6/30/88	A	A	A	P	5/31/89
731-TA-422	Steel rails	Canada	9/26/88	A	A	A	P	5/31/89
731-TA-426	Business telephone systems	Japan	12/28/88	A	A	A	A	9/8/89
731-TA-428	Business telephone systems	Taiwan	12/28/88	A	A	A	A	11/29/89
731-TA-431	Aluminum sulfate	Venezuela	3/29/89	A	A	A	A	12/6/89
731-TA-432	Drafting machines	Japan	4/7/89	A	A	A	A	12/22/89
731-TA-236(9)	12-volt motorcycle batteries	Taiwan	1/11/85	A	A	A	N	8/16/89
731-TA-388	Terrain vehicles	Japan	2/9/88	A	A	A	N	3/10/89
731-TA-390	Digital readout systems	Japan	3/28/88	A	A	A	N	1/9/89
731-TA-400	Probe thermostats	Canada	4/15/88	A	A	A	N	1/25/89
731-TA-402	Probe thermostats	Japan	4/15/88	A	A	A	N	1/25/89
731-TA-403	Probe thermostats	Malaysia	4/15/88	A	A	A	N	1/25/89
731-TA-404	Probe thermostats	Taiwan	4/15/88	A	A	A	N	1/25/89
731-TA-405	Sewn cloth headwear	China	5/26/88	A	A	A	N	5/1/89
731-TA-407	Electrolytic manganese dioxide	Ireland	5/31/88	A	A	N	(*)	3/2/89
731-TA-411	Calcined bauxite proppants	Australia	6/14/88	A	A	A	N	3/28/89
731-TA-412	Industrial belts	Israel	6/30/88	A	A	A	N	5/31/89
731-TA-416	Industrial belts	Korea	6/30/88	A	A	A	N	5/31/89
731-TA-417	Industrial belts	Taiwan	6/30/88	A	A	A	N	5/31/89
731-TA-418	Industrial belts	United Kingdom	6/30/88	A	A	A	N	5/31/89
731-TA-420	Steel wheels	Brazil	7/29/88	A	A	A	(*)	5/24/89
731-TA-423	Generic cephalixin capsules	Canada	10/27/88	A	A	A	N	8/10/89
731-TA-424	Martial arts uniforms	Taiwan	11/15/88	A	A	A	N	8/28/89

See footnotes at end of table.

*Remanded by court order for reevaluation effective Oct 31, 1988. Original petition filed Nov. 5, 1984.

Table A-26—Continued
 Antidumping cases active in 1989, filed under authority of title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number

Code used for outcome: Affirmative (A) Partial Affirmative (P) Negative (N) Suspension Agreement (S) Terminated (T)

USITC Investigation No.	Product	Country of origin	Date original petition filed	Preliminary determination		Final determination		Date of final action ²
				Commission	ITA ¹	Commission	ITA ¹	
Negative—Continued:								
731-TA-425	Integrated hydrostatic transmissions	Japan	11/22/88	N	(*)	(*)	(*)	1/6/89
731-TA-430	Dry aluminum sulfate	Sweden	2/13/89	N	(*)	(*)	(*)	3/30/89
731-TA-434	12-volt motorcycle batteries	Korea	5/17/89	N	(*)	(*)	(*)	7/3/89
731-TA-446	Polychloroprene	France	9/22/89	N	(*)	(*)	(*)	11/6/89
731-TA-447	Polychloroprene	West Germany	9/22/89	N	(*)	(*)	(*)	11/6/89
731-TA-436	Generic cephalixin capsules	Israel	7/12/89	T	(*)	(*)	(*)	8/9/89
731-TA-437	Generic cephalixin capsules	Portugal	7/12/89	T	(*)	(*)	(*)	8/9/89
731-TA-167 ^(a)	Table wine	France	1/27/84	A	(*)	(*)	(*)	(*)
731-TA-168 ^(a)	Table wine	Italy	1/27/84	A	(*)	(*)	(*)	(*)
731-TA-341 ^(a)	Tapered roller bearings	Hungary	8/25/86	A	A	A	A	(*)
731-TA-207	Carbon steel structural shapes	Norway	1/16/85	A	A	A	A	()
731-TA-427	Business telephone systems	Korea	12/28/88	A	A	A	A	(*)
731-TA-429	Mechanical transfer presses	Japan	1/12/89	A	A	A	A	(*)
731-TA-433	Residential door locks	Taiwan	4/24/89	A	A	A	A	(*)
731-TA-435	Steel pails	Mexico	5/31/89	A	A	A	A	(*)
731-TA-438	Limousines	Canada	7/24/89	A	(*)	(*)	(*)	(*)
731-TA-439	Industrial nitrocellulose	Brazil	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-440	Industrial nitrocellulose	Japan	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-441	Industrial nitrocellulose	China	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-442	Industrial nitrocellulose	Korea	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-443	Industrial nitrocellulose	United Kingdom	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-444	Industrial nitrocellulose	West Germany	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-445	Industrial nitrocellulose	Yugoslavia	9/19/89	A	(*)	(*)	(*)	(*)
731-TA-448	Manmade fiber sweaters	Hong Kong	9/22/89	A	(*)	(*)	(*)	(*)
731-TA-449	Manmade fiber sweaters	Korea	9/22/89	A	(*)	(*)	(*)	(*)
731-TA-450	Manmade fiber sweaters	Taiwan	9/22/89	A	(*)	(*)	(*)	(*)
731-TA-451	Portland hydraulic cement	Mexico	9/26/89	A	(*)	(*)	(*)	(*)

¹ U.S. Department of Commerce, International Trade Administration (ITA).

² For cases in which the final action was taken by the ITA, the date shown is the Federal Register notice date of that action.

³ Remanded by court order for reevaluation effective Nov. 17, 1989. Original petition filed Aug. 25, 1986.

⁴ Not applicable.

⁵ The Commission's redetermination in the above-referenced case was pursuant to a remand order from the U.S. Court of International Trade.

⁶ Six investigations covering a variety of products remained suspended in 1989 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1989, see the table immediately following.

* Remanded by court order for reevaluation effective Sept. 28, 1988. Original petition filed Jan. 15, 1985.

Source: U.S. International Trade Commission, Office of Economics, CASIS Database Information System.

Table A-27
Antidumping orders and findings in effect as of Dec. 31, 1989

Country and commodity	Effective date of original action ¹
Argentina:	
Rectangular pipes and tubes	May 26, 1989.
Carbon steel wire rod	Nov. 23, 1984.
Barbed wire	Nov. 13, 1983.
Australia: Canned bartlett pears	
Austria: Railway track equipment	Mar. 23, 1973. Feb. 17, 1978.
Belgium:	
Phosphoric acid	Aug. 20, 1987.
Sugar	June 13, 1979.
Brazil:	
Disk wheels	May 28, 1987.
Orange juice	May 5, 1987.
Brass sheet and strip	Jan. 12, 1987.
Butt-weld pipe fittings	Dec. 7, 1986.
Pipe fittings	May 21, 1986.
Construction castings	May 9, 1986.
Canada:	
Steel rails	Sept. 15, 1989.
Color picture tubes	Jan. 7, 1988.
Fresh cut flowers	Mar. 18, 1987.
Brass sheet and strip	Jan. 12, 1987.
Oil country tubular goods	July 16, 1986.
Construction castings	Mar. 5, 1986.
Raspberries	June 24, 1985.
Sugar and syrups	Apr. 9, 1980.
Paving equipment	Sept. 7, 1977.
Racing plate	Feb. 27, 1974.
Elemental sulphur	Dec. 17, 1973.
Pig iron	July 24, 1971.
Steel jacks	Sept. 13, 1966.
Steel bars and shapes	Sept. 25, 1964.
Steel reinforcing bars	Apr. 21, 1964.
Chile:	
Standard carnations	Mar. 20, 1987.
Sodium nitrate	Mar. 25, 1983.
China:	
Tapered roller bearings	June 15, 1987.
Cookware	Dec. 2, 1986.
Candles	Aug. 28, 1986.
Construction castings	May 9, 1986.
Paint brushes	Feb. 14, 1986.
Barium chloride	Oct. 17, 1984.
Chloropicrin	Mar. 22, 1984.
Potassium permanganate	Jan. 31, 1984.
Shop towels	Oct. 4, 1983.
Printcloth	Sept. 16, 1983.
Colombia: Fresh cut flowers	Mar. 18, 1987.
Dominican Republic: Portland cement	May 4, 1963.
East Germany: Urea	July 19, 1987.
Ecuador: Fresh cut flowers	Mar. 18, 1987.
Finland: Rayon staple fiber	Mar. 21, 1979.
France:	
Ball bearings	May 15, 1989.
Cylindrical roller bearings	May 15, 1989.
Spherical plain bearings	May 15, 1989.
Brass sheet and strip	Mar. 6, 1987.
Nitrocellulose	Aug. 10, 1983.
Sorbitol	Apr. 9, 1982.
Anhydrous sodium metasilicate	Jan. 7, 1981.
Sugar	June 13, 1979.
Rayon staple fiber	Mar. 21, 1979.
Large power transformers	June 14, 1972.
Greece: Electrolytic manganese dioxide	April 17, 1989.
Hong Kong: Photo albums	Dec. 16, 1985.
Hungary: Tapered roller bearings	June 19, 1987.
India:	
Pipes and tubes	May 12, 1986.
Construction castings	May 9, 1986.
Iran: Pistachio nuts	July 17, 1986.
Israel:	
Phosphoric acid	Aug. 19, 1987.
Oil country tubular goods	Mar. 6, 1987.

See footnote at end of table.

Table A-27—Continued
 Antidumping orders and findings in effect as of Dec. 31, 1989

Country and commodity	Effective date of original action ¹
Italy:	
Synchronous industrial belts	June 14, 1989.
V-belts	June 14, 1989.
Ball bearings	May 15, 1989.
Cylindrical roller bearings	May 15, 1989.
Granular polytetrafluoroethylene resin	Aug. 30, 1988.
Tapered roller bearings	Aug. 14, 1987.
Brass sheet and strip	Mar. 6, 1987.
Brass fire protection equipment	Mar. 1, 1985.
Woodwind pads	Sept. 21, 1984.
Spun acrylic yarn	Apr. 8, 1980.
Rayon staple fiber	June 13, 1979.
Pressure sensitive tape	Oct. 21, 1977.
Large power transformers	June 14, 1972.
Clear sheet glass	Dec. 9, 1971.
Japan:	
Drafting machines	Dec. 29, 1989
Small business telephone systems	Dec. 11, 1989.
Industrial belts	June 14, 1989.
Ball bearings	May 15, 1989.
Cylindrical roller bearings	May 15, 1989.
Spherical plain bearings	May 15, 1989.
Electrolytic manganese dioxide	April 17, 1989.
Microdisks	April 3, 1989.
Granular polytetrafluoroethylene resin	Aug. 28, 1988.
Brass sheet and strip	Aug. 12, 1988.
Nitrile rubber	June 16, 1988.
Forklift trucks	June 7, 1988.
Color picture tubes	Jan. 7, 1988.
Tapered roller bearings over 4 inches	Oct. 6, 1987.
Filament fabric	Sept. 23, 1987.
Neoprene laminate	July 19, 1987.
Cast-iron pipe fittings	July 6, 1987.
Butt-weld pipe fittings	Feb. 10, 1987.
64K dynamic random access memory chips	June 16, 1986.
Cellular mobile telephones	Dec. 19, 1985.
Calcium hypochlorite	Apr. 18, 1985.
Titanium sponge	Nov. 30, 1984.
Cyanuric acid and derivatives	Apr. 27, 1984.
Pagers	Aug. 16, 1983.
High powered amplifiers	July 20, 1982.
Large electric motors	Dec. 24, 1980.
Portable electric typewriters	May 9, 1980.
Spun acrylic yarn	Apr. 8, 1980.
Steel wire strand	Dec. 18, 1978.
Impression fabric	May 25, 1978.
Swimming pools	Sept. 2, 1977.
Melamine	Feb. 2, 1977.
Acrylic sheet	Aug. 30, 1976.
Tapered roller bearings 4 inches and under	Aug. 17, 1976.
Birch 3-ply doorskins	Feb. 18, 1976.
Calcium pantothenate	Jan. 17, 1974.
Expanded metal	Jan. 16, 1974.
Polychloroprene rubber	Dec. 6, 1973.
Steel wire rope	Oct. 15, 1973.
Synthetic methionine	July 23, 1973.
Roller chain	Apr. 12, 1973.
Bicycle speedometers	Nov. 22, 1972.
Cadmium	Aug. 4, 1972.
Large power transformers	June 14, 1972.
Fishnetting	June 9, 1972.
Ferrite cores	Mar. 13, 1971.
Television receiving sets	Mar. 10, 1971.
Tuners	Dec. 12, 1970.
Kenya: Standard carnations	Apr. 23, 1987.
Korea:	
Color picture tubes	Jan. 7, 1988.
Stainless steel cookware	Jan. 20, 1987.
Brass sheet and strip	Jan. 12, 1987.
Pipe fittings	May 23, 1986.
Photo albums	Dec. 16, 1985.
Television receiving sets	Apr. 30, 1984.

See footnote at end of table.

Table A-27—Continued
Antidumping orders and findings in effect as of Dec. 31, 1989

Country and commodity	Effective date of original action ¹
Mexico:	
Fresh cut flowers	Apr. 23, 1987.
Cookware	Dec. 2, 1986.
Elemental sulphur	June 28, 1972.
Netherlands:	
Brass sheet and strip	Aug. 12, 1988.
Animal glue	Dec. 22, 1977.
New Zealand: Brazing copper wire and rod	Dec. 4, 1985.
Romania:	
Ball bearings	May 15, 1989.
Urea	July 4, 1987.
Tapered roller bearings	June 19, 1987.
Singapore:	
V-belts	June 14, 1989.
Ball bearings	May 15, 1989.
Color picture tubes	Jan. 7, 1988.
Rectangular pipes and tubes	Nov. 14, 1986.
South Africa: Brazing copper wire rod	Jan. 29, 1986.
Spain: Potassium permanganate	Jan. 19, 1984.
Sweden:	
Ball bearings	May 15, 1989.
Cylindrical roller bearings	May 15, 1989.
Seamless stainless steel hollow products	Dec. 3, 1987.
Brass sheet and strip	Mar. 6, 1987.
Staples	Dec. 20, 1983.
Staplers	Dec. 20, 1983.
Animal glue	Dec. 22, 1977.
Stainless steel plate	June 8, 1973.
Taiwan:	
Small business telephone systems	Dec. 11, 1989.
Rectangular tubing	March 27, 1989.
Stainless steel cookware	Jan. 20, 1987.
Butt-weld pipe fittings	Dec. 17, 1986.
Cookware	Dec. 2, 1986.
Oil country tubular goods	June 18, 1986.
Pipe fittings	May 23, 1986.
Circular pipes and tubes	May 7, 1984.
Television receiving sets	Apr. 30, 1984.
Fireplace mesh panels	June 7, 1982.
Carbon steel plate	June 13, 1979.
Clear sheet glass	Aug. 21, 1971.
Thailand:	
Ball bearings	May 15, 1989.
Pipe fittings	Aug. 20, 1987.
Circular welded pipes and tubes	Mar. 11, 1986.
Turkey:	
Aspirin	Aug. 25, 1987.
Pipes and tubes	May 15, 1986.
United Kingdom:	
Ball bearings	May 15, 1989.
Cylindrical roller bearings	May 15, 1989.
Crankshafts	Sept. 21, 1987.
Diamond tips	Apr. 1, 1972.
U.S.S.R.:	
Urea	July 14, 1987.
Titanium sponge	Aug. 28, 1968.
Venezuela:	
Aluminum sulfate	Dec. 15, 1989.
Electrical conductor redraw rods	Aug. 22, 1988.
West Germany:	
Industrial belts (except synchronous and V-belts)	June 14, 1989.
Ball bearings	May 15, 1989.
Cylindrical roller bearings	May 15, 1989.
Spherical plain bearings	May 15, 1989.
Crankshafts	Sept. 23, 1987.
Brass sheet and strip	Mar. 6, 1987.
Barium carbonate	June 25, 1981.
Sugar	June 13, 1979.
Animal glue	Dec. 22, 1977.
Drycleaning machinery	Nov. 2, 1972.
Yugoslavia:	
Tapered roller bearings	Aug. 14, 1987.
Animal glue	Dec. 22, 1977.

See footnote at end of table.

Table A-27—Continued
Antidumping orders and findings in effect as of Dec. 31, 1989

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Revocations in 1989:	
Canada:	
Salted codfish	July 8, 1985.
Choline chloride	Nov. 19, 1984.
Japan: Cell-cite transceivers	Jan. 3, 1985.
Taiwan: Polyvinylchloride sheet and film	June 30, 1978.
Suspension agreements in effect:	
Canada:	
Potassium chloride	Jan. 19, 1988.
Sheet piling	Sept. 14, 1982.
Hungary: Truck trailer axles	Jan. 4, 1982.
Japan:	
Erasable programmable read-only memory chips	Aug. 1, 1986.
256K dynamic random access memory chips	Aug. 1, 1986.
Small motors	Nov. 6, 1980.

¹ The U.S. Department of Commerce conducts a periodic review of outstanding antidumping duty orders and suspension agreements, upon request, to determine if the amount of the net margin of underselling has changed. If a change has occurred, the imposed antidumping duties are adjusted accordingly. The results of the periodic review must be published together with a formal notice of any antidumping duty to be assessed, estimated duty to be deposited, or investigation to be resumed.

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

Table A-28
 Countervailing cases active in 1989, filed under authority of sec. 303 or title VII of the Tariff Act of 1930, by final outcome and by USITC investigation number

USITC Investigation No.	Product	Country of origin	Date original petition filed ¹	Code used for outcome: Affirmative (A) Partial Affirmative (P) Negative (N) Suspension Agreement (S) Terminated (T)		Date of final action ³		
				Preliminary determination			Final determination	
				Commission	ITA ²		Commission	ITA ²
(4)	Malleable iron pipe fittings	Thailand	9/23/88	(6)				
701-TA-297	Steel rails	Canada	9/26/88	A	A	2/10/89		
701-TA-298	Pork products	Canada	1/5/89	A	A	9/8/89		
701-TA-299	Aluminum sulfate	Venezuela	3/29/89	A	A	9/5/89		
303-TA-197	Antifriction bearings	Singapore	3/31/88	A	N	12/6/89		
303-TA-207	Antifriction bearings	Thailand	3/31/88	A	A	5/8/89		
					P	5/8/89		
(4)	Portland hydraulic cement ⁵	Costa Rica	7/18/84	(6)		10/12/89		
(4)	Steel wire nails	Malaysia	4/18/89	(6)	N	9/5/89		
701-TA-292	Probe thermostats	Taiwan	4/15/88	A	A	1/25/89		
701-TA-293	Industrial belts	Israel	6/30/88	A	A	5/31/89		
701-TA-294	Industrial belts	Singapore	6/30/88	A	N	4/18/89		
701-TA-295	Industrial belts	Korea	4/15/88	A	T	5/23/89		
701-TA-296	Steel wheels	Brazil	7/29/88	A	A	5/24/89		
(4)	Butt-weld pipe fittings	Thailand	8/30/89	(6)	(6)	(6)		
(4)	Software products	Singapore	9/6/89	(6)	(6)	(6)		
701-TA-210 ⁶	Table wine	France	1/27/84	A	(6)	(6)		
701-TA-211 ⁶	Table wine	Italy	1/27/84	A	(6)	(6)		
701-TA-300	Limousines	Canada	7/24/89	A	N	(6)		
701-TA-301	Plastic corrugators	Canada	11/7/89	A	(6)	(6)		

¹ The date of the Federal Register notice announcing the initiation of the investigation by the Department of Commerce is listed for cases in which no petition is filed with the Commission.
² U.S. Department of Commerce, International Trade Administration (ITA).
³ For cases in which the final action was taken by the ITA, the date shown is the Federal Register notice date of that action.
⁴ Cases involving imports from countries not entitled to a material injury test under U.S. countervailing duty statutes do not come before the Commission and therefore have no Commission case numbers or determinations.
⁵ Not applicable.
⁶ The Commission's redetermination in the above-referenced case was pursuant to a remand order from the U.S. Court of International Trade.
⁷ The Commission does conduct an injury test on imports from countries not otherwise entitled to this test if the subject imports enter the United States duty free. The legislative basis for these determinations is contained in certain provisions under sec. 303 (19 U.S.C. 1303).
⁸ The above-referenced case was suspended in 1984 and at the request of the petitioner reinitiated in 1989.
⁹ Seventeen investigations covering a variety of products remained suspended in 1989 pending resolution of trade conflicts. For additional details on suspension arrangements in place throughout calendar year 1989, see the table immediately following.
 Note.—The International Trade Commission conducts preliminary and final investigations under sec. 701 if the imports originate in a country that has signed the International Subsidies Code or undertaken comparable obligations. Similarly, it conducts preliminary and final investigations under sec. 303 if the imports enter the United States free of duty and the international obligations of the United States so require. Most of the major free-world trading nations have signed the Code. With respect to dutiable imports from those countries that have neither signed the Code nor undertaken substantially equivalent obligations, countervailing duties may be imposed after an affirmative finding by the Department of Commerce under sec. 303 of the Tariff Act of 1930 without an injury investigation by the International Trade Commission. Exceptions are granted in instances in which the exporting country becomes a signatory to the Code or to an equivalent agreement during the pendency of the investigation.
 Source: U.S. International Trade Commission, Office of Economics, CASIS Database Information System.

Table A-29
Countervailing duty orders and findings in effect as of Dec. 31, 1989

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Argentina:	
Welded carbon steel pipe and tube products	Sept. 27, 1988.
Textiles and apparel	Mar. 12, 1985.
Oil country tubular goods	Nov. 22, 1984.
Cold-rolled steel sheet	Apr. 26, 1984.
Wool	Apr. 4, 1983.
Leather wearing apparel	Mar. 17, 1983.
Footwear	Jan. 17, 1979.
Woolen garments	Nov. 16, 1978.
Brazil:	
Brass sheet and strip	Jan. 8, 1987.
Castings	May 15, 1986.
Agricultural tillage tools	Oct. 22, 1985.
Pig iron	Apr. 4, 1980.
Cotton yarn	Mar. 15, 1977.
Scissors and shears	Feb. 11, 1977.
Certain castor oil products	Mar. 16, 1976.
Canada:	
Pork products	Sept. 22, 1989.
Steel rail	Sept. 22, 1989.
Standard carnations	Mar. 12, 1987.
Oil country tubular goods	Jun. 16, 1986.
Groundfish	May 15, 1986.
Live swine	Aug. 15, 1985.
Chile: Standard carnations	Mar. 19, 1987.
Ecuador: Fresh cut flowers	Jan. 13, 1987.
European Community ² : Sugar	July 31, 1978.
France: Brass sheet and strip	Mar. 6, 1987.
India: Certain iron-metal castings	Oct. 6, 1980.
Iran:	
Roasted pistachios	Oct. 7, 1986.
Pistachios (nonroasted)	Apr. 11, 1986.
Israel:	
Industrial phosphoric acid	Aug. 19, 1987.
Oil country tubular goods	Mar. 6, 1987.
Fresh cut roses	Sept. 4, 1980.
Italy: Forged undercarriages	Jan. 4, 1984.
Korea: Stainless steel cookware	Jan. 20, 1987.
Mexico:	
Porcelain cookware	Dec. 12, 1986.
Textile mill products	Mar. 18, 1985.
Auto glass	Jan. 14, 1985.
Bars, rebars, and shapes	Aug. 17, 1984.
Portland hydraulic cement and cement clinker	Sept. 21, 1983.
Iron-metal castings	Mar. 2, 1983.
Toy balloons and playballs	Dec. 27, 1982.
Litharge, red lead, and lead stabilizers	Dec. 6, 1982.
Ceramic tile	May 10, 1982.
Leather wearing apparel	Apr. 10, 1981.
Netherlands: Standard chrysanthemums	Mar. 12, 1987.
New Zealand:	
Steel wire nails	Oct. 5, 1987.
Steel wire	Aug. 5, 1987.
Copper rod and wire	Aug. 5, 1987.
Carbon steel wire rod	Apr. 7, 1986.
Lamb meat	Sept. 17, 1985.
Copper rod and wire	Aug. 5, 1985.
Pakistan: Cotton shop towels	Mar. 9, 1984.
Peru:	
Pompom chrysanthemums	Apr. 23, 1987.
Rebars	Nov. 27, 1985.
Textiles and apparel	Mar. 12, 1985.
Cotton sheeting and sateen	Feb. 1, 1983.
Cotton yarn	Feb. 1, 1983.
Saudi Arabia: Carbon steel wire rod	Feb. 3, 1986.
Singapore: Antifriction bearings	May 3, 1989.
South Africa: Ferrochrome	Mar. 11, 1981.
Spain: Stainless steel wire rod	Jan. 3, 1983.
Sri Lanka: Textiles and apparel	Mar. 12, 1985.
Sweden:	
Certain carbon steel	Oct. 11, 1985.
Viscose rayon staple fiber	May 15, 1979.
Taiwan: Stainless steel cookware	Jan. 20, 1987.

See footnotes at end of table.

Table A-29—Continued
Countervailing duty orders and findings in effect as of Dec. 31, 1989

<i>Country and commodity</i>	<i>Effective date of original action¹</i>
Thailand:	
Ball bearings	May 3, 1989.
Pipe fittings	Feb. 10, 1989.
Steel wire nails	Oct. 2, 1987.
Rice	Apr. 10, 1986.
Pipes and tubes	Aug. 14, 1985.
Certain apparel	Mar. 12, 1985.
Turkey:	
Acetylsalicylic acid (aspirin)	Aug. 25, 1987.
Pipe and tube	Apr. 7, 1986.
Uruguay: Leather wearing apparel	July 17, 1982.
Venezuela:	
Aluminum sulfate	Dec. 19, 1989.
Electrical conductor redraw rods	Aug. 22, 1988.
Zimbabwe: Wire rod	Aug. 15, 1987.
Revocations in 1989:	
France: Nitrocellulose	March 22, 1983.
India: Certain fasteners	July 21, 1980.
Korea: Offshore platforms	May 21, 1986.
Mexico:	
Lime	Sept. 11, 1984.
Bricks	May 8, 1984.
Carbon black	June 20, 1983.
Suspension agreements in effect:	
Argentina: Carbon steel wire rod	Sept. 27, 1982.
Brazil:	
Forged crankshafts	July 28, 1987.
Orange juice	Mar. 4, 1983.
Canada: Red raspberries	Jan. 9, 1986.
Colombia:	
Miniature carnations	Jan. 13, 1987.
Textiles and apparel	Mar. 12, 1985.
Cut flowers	Jan. 12, 1983.
Leather wearing apparel	Apr. 2, 1981.
Costa Rica:	
Fresh cut flowers	Jan. 3, 1987.
Cement	Dec. 4, 1984.
Mexico:	
Float glass	Feb. 28, 1984.
Polypropylene yarn	Feb. 7, 1983.
Polypropylene film	Dec. 7, 1982.
Pectin	Dec. 7, 1982.
Peru: Shop towels	Sept. 12, 1984.
Singapore: Compressors	Nov. 7, 1983.
Thailand: Textiles	Mar. 12, 1985.

¹ The U.S. Department of Commerce conducts a periodic review of outstanding countervailing duty orders and suspension agreements, upon request, to determine if the amount of the net subsidy has changed. If a change has occurred, the imposed countervailing duties are adjusted accordingly.

² Includes Belgium, Denmark, France, Ireland, Italy, the United Kingdom, West Germany, Luxembourg, the Netherlands, and Greece.

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

Table A-30

Section 337 Investigations completed by the U.S. International Trade Commission during 1989 and those pending on December 31, 1989.

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
Completed: 337-TA-240	Laser Inscribed Diamonds and the Methods of Inscription Thereof	Israel	Enforcement proceeding terminated with issuance of limited exclusion order.
337-TA-254	Small Aluminum Flashlights and Components Thereof	Hong Kong Taiwan	Issued general exclusion order.
337-TA-256	Cryogenic Ultramicrotome Apparatus and Components Thereof	Austria England	Terminated on basis of imminent expiration of the patent.
337-TA-266	Reclosable Plastic Bags and Tubing	Hong Kong Korea Malaysia Taiwan Thailand Singapore	Advisory opinion proceeding terminated; product in question not covered by exclusion order
337-TA-276	Erasable Programmable Read-Only Memories, Components Thereof, Products Containing such Memories, and Processes for Making such Memories	Korea	Issued limited exclusion order and cease and desist order; advisory opinion proceeding terminated at request of petitioner.
337-TA-279	Plastic Light Duty Screw Anchors	Taiwan	Issued general exclusion order.
337-TA-281	Recombinant Erythropoietin	Japan	Complaint dismissed for lack of subject matter jurisdiction.
337-TA-282	Venetian Blind Components	Taiwan	Terminated on basis of settlement agreement.
337-TA-283	Electronic Dart Games	Taiwan	Terminated on basis of consent order.
337-TA-285	Chemiluminescent Compositions and Components Thereof and Methods of Using and Products Incorporating Same	France	Issued general exclusion order.
337-TA-286	Track Lighting System Components, Including Plugboxes	Taiwan	No violation.
337-TA-287	Strip Lights	Taiwan	Issued general exclusion order.
337-TA-288	Straight Knife Cloth Cutting Machines	Taiwan	Terminated on basis of consent order.
337-TA-289	Concealed Cabinet Hinges and Mounting Plates	Italy Korea Taiwan	Complaint dismissed with prejudice on basis of findings of breach of pre-institution duty of candor and Commission Interim Rule 210.5(b); alternatively, no violation found.
337-TA-294	Carrier Materials Bearing Ink Compositions To Be Used In a Dry Adhesive Free Thermal Transfer Process and Sign Faces made by such a Process	Canada	Terminated on basis of consent order.

Table A-30—Continued
Section 337 Investigations completed by the U.S. International Trade Commission during 1989 and those pending on December 31, 1989

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
337-TA-296	Phenylene Sulfide Polymers and Polymer Compounds, and Products Containing Same	Japan	Terminated on basis of settlement agreement.
337-TA-297	Cellular Radiotelephones and Subassemblies and Component Parts	Korea Finland	Terminated on basis of settlement agreement.
337-TA-298	Low Friction Drawer Supports, Components Thereof, and Products Containing Same	Japan Taiwan	Terminated on basis of consent order.
337-TA-299	Food Treatment Ovens, Component Parts Thereof and Processes Carried Out Therein	Netherlands	Terminated on basis of settlement agreement.
Pending:			
337-TA-190	Softballs and Polyurethane Cores Thereof	Taiwan	Pending before Commission.
337-TA-242	Dynamic Random Access Memories, Components Thereof, and Products Containing Same	Japan	Pending before Commission.
337-TA-252	Heavy Duty Mobile Scrap Shears	England	Pending before ALJ.
337-TA-276	Erasable Programmable Read Only Memories	Korea	Enforcement proceeding
337-TA-284	Electric Power Tools, Battery Cartridges and Battery Chargers	Taiwan	Pending before Commission.
337-TA-290	Wire Electrical Discharge Machining Apparatus and Components Thereof	Japan	Pending before Commission.
337-TA-291	Insulated Security Chests	Taiwan	Pending before Commission.
337-TA-292	Methods Of Making Carbonated Candy Products	Spain	Pending before ALJ.
337-TA-293	Crystalline Cefadroxil Monohydrate	Italy Spain Switzerland	Pending before Commission.
337-TA-295	Novelty Teleidoscopes	Hong Kong	Pending before Commission.
337-TA-300	Doxorubicin and Preparations Containing Same	England Italy Japan	Pending before ALJ.
337-TA-301	Imported Artificial Breast Prostheses and the Manufacturing Processes Thereof	Federal Republic of Germany France Ireland	Pending before ALJ.
337-TA-302	Self-Inflating Mattresses	Taiwan	Pending before ALJ.
337-TA-303	Polymer Geogrid Products and Processes Therefor	Italy	Pending before ALJ.

Table A-30—Continued
Section 337 Investigations completed by the U.S. International Trade Commission during 1989 and those pending on December 31, 1989

<i>Status of Investigation</i>	<i>Article</i>	<i>Country</i>	<i>Commission determination</i>
337-TA-304	Pressure Transmitters	Brazil	Pending before ALJ.
337-TA-305	Aramid Fiber Honeycomb, Unexpanded Block or Slice Precursors Of Such Aramid Fiber Honeycomb, and Carved or Contoured Blocks or Bonded Assemblies Of Such Aramid Fiber Honeycomb	Luxembourg	Pending before ALJ.
337-TA-306	Bath Accessories and Components Parts Thereof	Taiwan	Pending before ALJ.
337-TA-307	Catalyst Components and Catalysts For The Polymerization Of Olefins	Japan	Pending before ALJ.
337-TA-308	Key Blanks For Keys Of High Security Cylinder Locks	Korea	Pending before ALJ.

Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-31
Outstanding sec. 337 exclusion orders as of Dec. 31, 1989

<i>Investigation No.</i>	<i>Article</i>	<i>Country</i>	<i>Date patent expires</i>
337-TA-24	Certain exercising devices	Hong Kong, Taiwan, Singapore	July 3, 1990
337-TA-30	Certain display devices for photographs and the like	Hong Kong, Japan	Nov. 27, 1990
337-TA-39	Certain luggage products	Taiwan, Korea	Nov. 2, 1990
337-TA-42	Certain electric slow cookers	Japan, Hong Kong	Apr. 29, 1992
337-TA-44	Certain roller units	Korea, Taiwan	May 24, 1994
337-TA-47	Certain flexible foam sandals	Taiwan	Sept. 7, 1993
337-TA-55	Certain novelty glasses	Hong Kong	Nonpatent
337-TA-59	Certain pump-top insulated containers	Korea, Taiwan	Sept. 12, 1995
337-TA-62	Certain rotary scraping tools	Taiwan	May 25, 1993
337-TA-69	Certain airtight cast-iron stoves	Taiwan, Korea	Nonpatent
337-TA-74	Certain rotatable photograph and card display units and components thereof	Hong Kong	Feb. 12, 1991
337-TA-83	Certain adjustable window shades and components thereof	Taiwan	Feb. 7, 1994
337-TA-87	Certain coin-operated audio-visual games and components thereof	Japan	Nonpatent
337-TA-88	Certain spring assemblies and components thereof, and methods of their manufacture	Canada	Jan. 19, 1991 Feb. 19, 1992
337-TA-105	Certain coin-operated audio-visual games and components thereof	Japan, Taiwan	Nonpatent
337-TA-112	Certain cube puzzles	Taiwan, Japan, Canada	Nonpatent
337-TA-114	Certain miniature plug-in blade fuses	Taiwan	Sept. 30, 1992 Aug. 9, 1994 Nov. 8, 1994 Dec. 26, 1995
337-TA-118	Certain sneakers with fabric uppers and rubber soles	Korea	Nonpatent
337-TA-137	Certain heavy-duty staple gun tackers	Taiwan	Nonpatent
337-TA-139	Certain caulking guns	Taiwan, Korea	Mar. 28, 1995
337-TA-140	Certain personal computers and components thereof	Taiwan, Hong Kong, Singapore, Switzerland	Jan. 23, 1996 July 14, 1998
337-TA-143	Certain amorphous metal alloys and amorphous metal articles	Japan, West Germany	Sept. 9, 1997
337-TA-146	Certain canape makers	Taiwan	Mar. 22, 1997
337-TA-148 /169	Certain processes for the manufacture of skinless sausage casings and resulting product	Spain	Nonpatent
337-TA-152	Certain plastic food storage containers	Hong Kong, Taiwan	Nonpatent
337-TA-161	Certain trolley wheel assemblies	Korea	Aug. 29, 1995
337-TA-167	Certain single handle faucets	Taiwan	Nonpatent
337-TA-170	Certain bag closure clips	Israel	Nov. 2, 1999 July 26, 2000
337-TA-171	Certain glass tempering systems	Finland	Nov. 30, 1993
337-TA-174	Certain woodworking machines	Taiwan, South Africa	Aug. 28, 1990 Nov. 13, 1996 Mar. 13, 2001
337-TA-184	Certain foam earplugs	West Germany, Sweden, Japan	May 21, 1991
337-TA-194	Certain aramid fiber	Netherlands	Oct. 23, 1990
337-TA-195	Certain cloisonne jewelry	Taiwan	Nonpatent
337-TA-197	Certain compound action metal cutting snips and components thereof	Taiwan	Nonpatent
337-TA-228	Certain fans w/brushless DC motors	Taiwan, Hong Kong	Jan. 15, 2002
337-TA-229	Certain nut jewelry and parts thereof	Philippines, Taiwan	Nonpatent
337-TA-231	Certain soft sculpture dolls, popularly known as "Cabbage Patch Kids," related literature, and packaging thereof	None Named in Notice	Nonpatent
337-TA-237	Certain miniature hacksaws	Taiwan, Hong Kong	Sept. 4, 1990
337-TA-240	Certain laser inscribed diamonds and the method of inscription thereof	Israel	Jul. 12, 2000
337-TA-242	Certain dynamic random access memory chips, components thereof, and products containing same	Japan	Aug. 23, 1994 Mar. 28, 1995 Aug. 6, 2002 Sept. 24, 2002
337-TA-254	Certain small aluminum flashlights and components thereof	Hong Kong, Taiwan	Mar. 18, 2003
337-TA-260	Certain feathered fur coats and pelts	Korea, Greece, China	Sept. 23, 1990
337-TA-266	Certain reclosable plastic bags and tubing	Singapore, Taiwan, Korea, Thailand, Hong Kong, Malaysia	Mar. 23, 1993
337-TA-267	Certain minoxidil powder, salts and compositions for use in hair treatment	Austria, Canada, Finland, Italy, Mexico, Switzerland	Feb. 13, 1996 Feb. 13, 1996
337-TA-268	Certain high intensity retroreflective sheeting	Japan	May 24, 1994

Table A-31—Continued
Outstanding sec. 337 exclusion orders as of Dec. 31, 1989

<i>Investigation No.</i>	<i>Article</i>	<i>Country</i>	<i>Date patent expires</i>
337-TA-275	Certain nonwoven gas filters	Holland	Nov. 1, 1994
337-TA-276	Certain erasable programmable read-only memories, components thereof, products containing such memories, and processes for making such memories	Korea	Sept. 16, 1997 Jul. 25, 1995 Jul. 12, 2000 May 21, 2002 Aug. 4, 2004
337-TA-279	Certain plastic light-duty screw anchors	Taiwan	Nonpatent
337-TA-285	Certain chemiluminescent compositions and components thereof and methods of using, and products incorporating, same	France	Jul. 31, 1990 Nov. 27, 1990 Jun. 10, 1992 Feb. 28, 1995 Feb. 2, 1999
337-TA-287	Certain strip lights	Taiwan	Mar. 15, 2000

Source: U.S. International Trade Commission, Office of Unfair Import Investigations.

Table A-32
U.S. imports for consumption, designated and nondesignated countries under the CBERA, 1985-89
(In thousands of dollars, customs-value basis)

Country	1985	1986	1987	1988	1989
Designated:					
Antigua	24,695	11,849	8,621	6,893	12,274
Aruba ¹	(³)	1,797	2,452	647	1,156
Bahamas	626,084	440,985	377,881	268,328	460,723
Barbados	202,194	108,991	59,110	51,413	38,725
Belize	46,951	50,181	42,906	52,049	43,056
British Virgin Islands	11,902	5,904	11,162	684	1,112
Costa Rica	489,294	646,508	670,953	777,797	967,901
Dominica	14,161	15,185	10,307	8,530	7,664
Dominican Republic	965,847	1,058,927	1,144,211	1,425,371	1,636,931
El Salvador	395,658	371,761	272,881	282,584	243,922
Grenada	1,309	2,987	3,632	7,349	7,862
Guatemala	399,617	614,708	487,308	436,979	608,280
Guyana ²	(³)	(³)	(³)	50,432	55,858
Haiti	386,697	368,369	393,660	382,466	371,875
Honduras	370,219	430,906	483,096	439,504	456,790
Jamaica	267,016	297,891	393,912	440,934	526,726
Montserrat	3,620	3,472	2,413	2,393	2,285
Netherlands Antilles ⁴	793,162	453,333	478,836	408,100	374,358
Panama ⁵	393,605	352,206	342,700	256,046	(⁵)
St. Kitts and Nevis ⁶	16,258	22,278	23,793	20,822	21,447
St. Lucia	13,796	12,269	17,866	26,044	23,985
St. Vincent and Grenadines	9,643	7,836	8,493	13,950	9,244
Trinidad and Tobago	1,255,498	786,405	802,838	701,738	765,265
Total	6,687,226	6,064,745	6,039,030	6,061,054	6,637,440
Nondesignated:					
Anguilla ⁶	(³)	89	168	497	348
Cayman Islands	10,950	14,611	27,670	18,195	48,041
Guyana ²	46,010	62,928	58,828	(²)	(²)
Nicaragua	41,003	1,071	1,231	1,121	31
Panama ⁵	(⁶)	(⁶)	(⁶)	(⁶)	258,319
Suriname	60,091	38,591	46,445	87,894	73,892
Turks and Caicos Islands	4,649	4,792	4,680	3,517	2,507
Total	162,703	122,081	139,022	111,224	383,137
Grand total	6,849,928	6,186,826	6,178,052	6,172,278	7,020,577

¹ Upon becoming independent of the Netherlands Antilles in April 1986, Aruba was designated separately as a beneficiary effective retroactively to Jan. 1, 1986. Trade data for Aruba, however, was not reported separately until June 1986. The 1986 figure for Aruba represents trade for June-December only.

² Guyana was designated as a CBERA beneficiary effective Nov. 24, 1988.

³ Not applicable.

⁴ See footnote 1.

⁵ Panama lost its designation as a beneficiary effective Apr. 9, 1988.

⁶ Data for Anguilla, which has not been designated as a beneficiary country, was included with the data for St. Kitts and Nevis through 1985. For 1986-89, data for Anguilla are shown separately among the nondesignated countries.

Note.—Because of rounding, figures may not add to totals shown.

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

Table A-33

U.S. Imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1989

Rank	HTS Item No.	Description	GSP-eligible		Duty-free under GSP		Share of total U.S. Imports	Share of total eligible imports	Leading GSP source	Com- peti- tive need exclu- sions
			Total U.S. Imports for consumption	Value	Percent	Value				
1	17011100	Cane sugar, raw, not containing added flavoring or color	572,952	528,982	92.3	380,227	71.9	Philippines	22,511	
2	71131950	Articles of jewelry and parts thereof, nesl, of precious metal	1,350,079	380,560	28.2	196,058	51.5	Israel	133,281	
3	94036080	Wooden (except bent-wood) furniture other than seats	989,898	169,182	17.1	124,190	73.4	Mexico	18,524	
4	64061065	Footwear uppers, other than formed, of leather	171,346	149,816	87.4	111,143	74.2	Dominican Rep	24,557	
5	94053000	Lighting sets used for Christmas trees	314,124	115,244	36.7	110,433	95.8	Thailand	0	
6	67029040	Artificial flowers of man-made fibers	328,852	109,234	33.2	105,025	96.1	Thailand	0	
7	85252030	Transceivers nesl, for radiotelephony, radiotelegraph	519,994	105,834	20.4	100,644	95.1	Malaysia	0	
8	85271111	Radio-tape player combinations, nonrecording, capabilities	668,491	123,228	18.4	100,320	81.4	Malaysia	2	
9	40151100	Surgical and medical gloves of vulcanized rubber	133,656	100,857	75.5	97,902	97.1	Malaysia	0	
10	95039060	Toys, nesl, not having a spring mechanism	690,875	151,205	21.9	94,598	62.6	Macao	33,828	
11	84151000	Window or wall type air conditioning machines	221,771	122,006	55.0	93,039	76.3	Malaysia	9,191	
12	71131929	Necklaces and neck chains of gold, nesl	522,233	112,125	21.5	90,313	80.5	Israel	0	
13	71131910	Rope, curb, etc. in continuous lengths, of precious metal	96,501	95,213	98.7	90,203	94.7	Peru	0	
14	85445920	Insulated electric conductors nesl, of copper	157,503	90,670	57.6	83,283	91.9	Mexico	0	
15	85202000	Telephone answering machines	351,200	81,853	23.3	79,197	96.8	Malaysia	0	
16	74031100	Cathodes and sections of cathodes of refined copper	738,853	97,695	13.2	76,560	78.4	Brazil	18,450	
17	94038030	Furniture of cane, osler, bamboo or similar material	118,242	74,621	63.1	72,866	97.6	Philippines	0	
18	84182100	Refrigerators, household compression-type, electric	109,973	71,784	65.3	71,470	99.6	Mexico	0	
19	85171000	Telephone sets	899,144	83,349	9.3	71,454	85.7	Malaysia	0	
20	40112000	New pneumatic tires, of rubber, of a kind used on buses	1,072,812	118,066	11.0	69,462	58.8	Mexico	29,818	
21	70072110	Windshields of laminated safety glass	198,215	73,949	37.3	69,453	93.9	Mexico	0	
22	84143080	Compressors of a kind used in refrigerating equipment	734,247	76,709	10.4	68,691	89.5	Malaysia	0	
23	16025010	Corned beef in airtight containers	69,389	67,859	97.8	66,798	98.4	Argentina	0	
24	29053100	Ethylene glycol (ethanediol)	140,316	64,785	46.2	64,645	99.8	Mexico	0	
25	84143040	Compressors of a kind used in refrigerating equipment	209,288	65,483	31.3	63,888	97.6	Brazil	0	

See note at end of table.

Table A-33—Continued
U.S. imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1989

Rank	HTS item No.	Description	GSP-eligible		Duty-free under GSP		Share of total U.S. Imports	Share of total eligible Imports	Leading GSP source	Com- peti- tive need exclu- sions	
			Total U.S. Imports for consumption	Value	1,000 dollars	Value					1,000 dollars
			1,000 dollars	Percent	Percent	Percent					1,000 dollars
26	95039070	Toys and models, nesl	225,041	76,215	33.9	79.7	60,745	Macao	0		
27	44219090	Articles of wood nesl	226,492	63,029	27.8	91.5	57,701	Mexico	0		
28	40151910	Seamless gloves of vulcanized rubber, other than surgical	77,987	57,359	73.5	92.1	52,843	Malaysia	0		
29	28181020	Artificial corundum, in grains, or ground, pulverized	80,970	52,414	64.7	99.9	52,365	Brazil	0		
30	72023000	Ferrosilicon manganese	149,805	67,281	44.9	75.7	50,911	Yugoslavia	15,596		
31	85318000	Electric sound or visual signaling apparatus	389,334	73,367	18.8	68.8	50,453	Philippines	0		
32	17049020	Confections or sweetmeats ready for consumption	177,104	50,831	28.7	93.0	47,271	Brazil	0		
33	94015000	Seats of cane, osier, bamboo or similar materials	71,001	47,543	67.0	98.8	46,954	Philippines	0		
34	44140000	Wooden frames for paintings, photographs, mirrors	86,787	50,724	58.4	91.7	46,498	Mexico	0		
35	39269090	Articles of plastics and other materials of headings	977,820	87,634	9.0	52.9	46,360	Mexico	0		
36	40111000	New pneumatic tires, of rubber, of a kind used on mo	1,317,135	104,171	7.9	43.5	45,321	Mexico	57,332		
37	85164040	Electric flatirons, other than travel type	120,526	44,357	36.8	100.0	44,357	Mexico	0		
38	85211000	Magnetic tape-type video recording or reproducing apparatus	2,849,240	130,393	4.6	33.9	44,142	Thailand	0		
39	71179050	Imitation jewelry, nesl, valued over 20 cents per dozen	254,167	47,645	18.7	89.3	42,569	Philippines	0		
40	85273140	Radiobroadcast receiver combinations incorporating	460,557	79,800	17.3	52.3	41,751	Malaysia	22,226		
41	85279080	Reception apparatus for radiotelephony, radiotelegraph	145,099	46,371	32.0	88.8	41,173	Philippines	0		
42	84818030	Taps, cocks, valves & similar appliances for pipes	234,159	47,719	20.4	84.0	40,090	Mexico	0		
43	95051025	Christmas ornaments, other than of glass or wood	251,446	42,746	17.0	92.2	39,403	Thailand	0		
44	03026940	Fish, nesl, excl. fillets, livers and roes, fresh or frozen	79,527	59,245	74.5	65.7	38,931	Mexico	0		
45	85443000	Insulated ignition wiring sets and other wiring sets	1,488,507	1,227,311	82.5	3.1	38,628	Thailand	1,051,798		
46	85165000	Microwave ovens of a kind used for domestic purposes	552,016	42,793	7.8	89.9	38,492	Thailand	0		
47	71131921	Rope necklaces and neck chains of gold	66,528	51,179	76.9	75.2	38,477	Peru	80,196		

See note at end of table.

Table A-33—Continued
U.S. imports for consumption of leading GSP-eligible items, by descending value of GSP duty-free imports, 1989

Rank	HTS item No.	Description	GSP-eligible		Duty-free under GSP		Competitive need excludions
			Total U.S. imports for consumption	Value	Share of total U.S. imports	Value	
			1,000 dollars	1,000 dollars	Percent	1,000 dollars	Percent
48	85252015	Citizens band (cb) transceivers, other than hand-held	85,940	57,273	66.6	37,077	64.7
49	85044000	Static converters	726,692	176,175	24.2	36,501	20.7
50	39262010	Gloves, seamless, of plastics	89,684	37,526	41.8	35,892	95.6
Total, above items			22,563,516	6,051,410	26.8	3,666,767	60.6
Total, all GSP items			172,774,812	24,351,643	14.1	10,015,390	41.1
							Philippines
							Malaysia
							Malaysia
							0
							122,094
							0
							1,639,404
							9,111,494

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-34
U.S. Imports for consumption and imports eligible for GSP treatment, by import categories based on the Harmonized Tariff System, 1989

HTS Section	Description	GSP-eligible		Duty-free under GSP		Mandatory competitive-need exclusions		
		Total U.S. Imports for consumption	Value	Share of total U.S. Imports	Value		Share of total eligible imports	Leading GSP source
		Millions of dollars	Millions of dollars	Percent	Millions of dollars	Percent		Millions of dollars
I	Live animals; animal products	8,203	101	1.2	70	68.8	Mexico	0
II	Vegetable products	7,481	873	11.7	192	22.0	Mexico	552
III	Animal or vegetable fats, and waxes	764	68	8.9	45	66.5	India	21
IV	Prepared foodstuffs, beverages, and tobacco	10,418	1,332	12.8	866	65.0	Mexico	219
V	Mineral products	53,354	143	0.3	53	36.6	Mexico	94
VI	Products of the chemical and allied industries	20,045	1,169	5.8	617	52.8	Mexico	20
VII	Plastics and rubber, and articles thereof	11,720	1,059	9.0	779	73.5	Mexico	380
VIII	Hides and skins; leather and articles thereof; travel goods handbags, and similar containers	5,222	492	9.4	304	61.7	Argentina	98
IX	Articles of wood, cork, or plaiting material	5,851	468	8.0	346	73.9	Mexico	152
X	Wood pulp; paper, paperboard, and articles thereof	13,239	392	3.0	150	38.3	Mexico	172
XI	Textiles and textile articles	28,347	114	0.4	70	61.9	India	14
XII	Footwear, headgear, and artificial flowers	9,371	345	3.7	278	80.7	Thailand	38
XIII	Articles of stone or ceramics; glass and glassware	4,767	434	9.1	321	74.0	Mexico	59
XIV	Pearls; precious stones and metals; jewelry; coin	12,216	1,009	8.3	627	62.2	Israel	236
XV	Base metals and articles of base metal	29,186	1,583	5.4	1,070	67.6	Mexico	0
XVI	Machinery and mechanical appliances; electrical equipment; parts and accessories thereof	119,126	101,051	8.4	2,604	25.9	Malaysia	197
XVII	Vehicles, aircraft, and other transport equipment	82,500	1,580	1.9	155	9.8	Mexico	5,101
XVIII	Optical, photographic, measuring, and medical apparatus; clocks and watches; musical instruments	14,066	1,080	7.7	262	24.3	Mexico	1,258
XIX	Arms and ammunition; parts and accessories	486	30	6.2	15	50.1	Yugoslavia	41
XX	Miscellaneous manufactured articles	15,295	2,028	13.3	1,193	58.8	Mexico	460
XXI	Works of art, collectors' pieces and antiques	2,153	0	0	0	(¹)	(¹)	0
XXII	Special classification provisions	12,571	0	0	0	(¹)	(¹)	0
	Total, above items	466,379	24,352	5.2	10,027	41.1	Mexico	9,111

¹ Not applicable.

Note.—Because of rounding, figures may not add to the totals shown.

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

Table A-35
U.S. imports for consumption and imports eligible for GSP treatment, by import categories based on the Standard Industrial Classification (SIC), 1989

SIC	Description	GSP-eligible		Duty-free under GSP		Share of total U.S. imports	Share of total eligible imports	Leading GSP source	Mandatory competitive-need exclusions
		Total U.S. imports for consumption	Value	Value	Value				
		Millions of dollars	Millions of dollars	Millions of dollars	Percent				
01	Agricultural products	6,108	797	13.1	20.2	Mexico	523		
02	Livestock and livestock products	1,290	8	0.6	91.4	Honduras	0		
08	Forestry products, n.s.p.f.	1,238	15	1.2	91.5	Morocco	0		
09	Fish, fresh, chilled, or frozen	4,617	82	1.8	70.7	Mexico	0		
10	Metallic ores and concentrates	1,422	69	4.9	6.5	Peru	0		
12	Coal and lignite	97	(¹)	(¹)	(¹)	(¹)	(¹)		
13	Crude petroleum and natural gas	37,223	(¹)	(¹)	(¹)	(¹)	(¹)		
14	Nonmetallic minerals, except fuel	900	44	4.8	54.1	India	19		
20	Food and kindred products	15,100	1,419	9.4	64.2	Mexico	257		
21	Tobacco manufactures	88	38	43.7	28.0	Dominican Republic	12		
22	Textile mill products	7,293	56	0.8	69.6	India	13		
23	Apparel and related products	22,833	519	2.3	20.8	Mexico	364		
24	Lumber and wood products	5,867	473	8.1	73.7	Mexico	94		
25	Furniture and fixtures	5,148	1,039	20.2	52.8	Mexico	398		
26	Paper and allied products	11,874	404	3.4	40.6	Mexico	172		
27	Printing, publishing products	1,818	55	3.0	77.8	Malaysia	0		
28	Chemicals and allied products	20,413	1,123	5.5	54.1	Mexico	344		
29	Petroleum refining and related products	11,833	7	0.1	94.9	Brazil	0		
30	Rubber and miscellaneous plastics	9,456	925	9.8	72.6	Mexico	92		
31	Leather and leather products	9,833	542	5.5	59.5	Dominican Republic	188		
32	Stone, clay, glass, and concrete	5,764	553	9.6	74.1	Mexico	82		
33	Primary metal products	25,562	2,517	9.8	31.0	Mexico	1,495		
34	Fabricated metal products	11,570	986	8.5	57.7	Mexico	83		
35	Machinery, except electrical	54,175	2,139	3.9	35.4	Brazil	829		
36	Electrical and electronic machinery	55,412	5,429	9.8	30.7	Malaysia	2,329		
37	Transportation equipment	87,973	1,888	2.1	8.7	Mexico	1,469		
38	Scientific and professional instruments	15,306	1,168	7.6	24.8	Mexico	70		
39	Miscellaneous manufactured products	19,752	2,032	10.3	64.6	Thailand	278		
99	Other imports	16,415	25	0.2	64.0	Uruguay	0		
	Total	466,379	24,352	5.2	41.1	Mexico	9,111		

¹ Not applicable.

Note.—Because of rounding, figures may not add to the totals shown.

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