THE WTO ORGANIZATION

Main Functions of the WTO are to facilitate free and smooth trade in goods and services and to ensure that the trade policies are transparent and predictable and to foster confidence in the multilateral system and greater choice of products to consumers. The Result is supposed to be a more prosperous, peaceful and accountable economic world.

The fundamental principles are the foundation of the multilateral trading system. They are:

1. Non-discrimination. Promoting a system designed to secure fair conditions of trade. Most-favoured-nation status (MFN) means a country should not discriminate between its trading partners, they must all be treated equally, and it must provide national treatment to all, it must not discriminate between its own and foreign products, services or nationals after the goods or services has entered its market.

2. Freer trade by the lowering of trade barriers by reducing tariffs, bans, quotas, and red tape by way of progressive liberalization.

3. Predictability of the policies, which result from binding commitments.

4. Transparency is ensured by requiring countries to disclose their policies and practices publicly within the country or by regular notifications to the WTO plus the regular surveillance of a country's national trade policy through the Trade Policy Review Mechanism.

5. Encouraging development and economic reform while allowing flexibility for the developing and less developed countries in the time they take to implement the agreements.

The WTO is a rule-based organization. At the heart of the system multilateral trading system are the WTO Agreements. These agreements are the legal ground rules for international commerce. The Agreements are the result of negotiations between the members and are made by consensus (the entire membership) among all member countries and they are ratified by members' parliaments. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

LEGAL IMPLICATIONS:

1. The agreements are essentially contracts covering the trade in goods, services and intellectual property rights.

2. The agreements guarantee member countries important trade rights, and spell out the rights, obligations and permitted exceptions.

3. The agreement bind governments to keep their trade policies within agreed limits, and provides developing countries with flexibility in implementing their commitments.

4. The agreement establishes procedures for settling disputes.

5. The agreements mean increased market access, and the ability for developed countries to move from actual rates to bound rates to protect an industry.

6. The agreement allows countries to adopt the standards they consider appropriate; for example, for human, animal or plant life or health, for the protection of the environment or to meet other consumer interests, and to take measures necessary to ensure their standards are met.

7. The Dumping and Subsidies Agreements provide exceptions to the WTO principles that tariffs are binding and applied to all trading partners (MFN) to ensure the smooth flow of trade in goods. They allow countries to act in a way that would normally break the GATT principles of binding a tariff and not discriminating between trading partners by charging duties only to specific countries. In Jamaica both agreements are handled under a single law, apply similar process to deal with them and give a single authority responsibility for investigations.

8. Local laws have to be reviewed and amended or repealed and WTO consistent laws enacted, implementing bodies will have to be set up, and persons trained to monitor and implement the agreements and the appropriate linkages, and educating conducted.

The Relevant agreements fall within the Areas of:

- Trade in Goods (The Agreements on Agriculture, Dumping, Subsidies, Safeguards and Textiles).
- Trade in Services (Movement of Natural Persons, Financial Services, Telecommunications, Air Transport Services, Maritime Transport services, and Market Access.
- Trade in Ideas and Creativity (Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
- Barriers to Trade (Agreements on Tariffs, Technical Barriers to Trade, Import licensing, Customs Valuation of goods, Pre-shipment Inspection, and Rules of origin.
- Agreement on Trade-Related Investment Measures (TRIMS)
- PLURILATERALS AGREEMENTS (Agreements on Trade in Civil Aircraft, Government procurement, and Dairy and International Bovine Meat Agreement

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Prepared by Fernanne Kirkham-Chin Yee

Legal Manager, AntiDumping and Subsidies Commission

The following is an overview of the key features of each agreement

I. TRADE IN GOODS

a. The Agreement on Agriculture

The objective of the Agriculture Agreement is to reform trade in the sector, to make policies more market-oriented, and to improve market access. The focus is the elimination of trade restrictions, import quotas, subsidies and other methods used to make exports artificially competitive. The Commitments of each country is legally binding and is listed in the schedules attached to the agreement. The Implementation Period begun in 1995, developed countries have six years ending in 2000, and developing countries 10 years ending in 2004.

Reduction in Tariffs and Subsidies - Least developed countries do not have to make commitments to reduce tariffs or subsidies, and developing countries do not have to cut their subsidies or lower their tariffs as much as developed countries. The base level for tariff cuts was the bound rate before 1 January 1995; or, for unbound tariffs, the actual rate charged in September 1986 when the Uruguay Round began. The average tariff cuts for all agricultural products is estimated to be 36% for developed countries and 24% for developing countries. Several developing countries also used the option of offering ceiling tariff rates in cases where duties were not bound. Export Subsidies are prohibited on agricultural products unless the subsidies are specified in a member's lists of commitments. Developed and developing countries have committed to subsidy cuts in the same percentages as the tariffs above.

Remedies provided - Special emergency actions 'Safeguards' are available for products whose non-tariff restrictions have been converted to tariffs in order to prevent swiftly falling prices or surges in imports from hurting their farmers, subject to strictly defined conditions. The following countries have utilized them: Japan, Rep of Korea, and the Philippines for rice; and Israel for sheep meat, whole milk powder and certain cheeses.

Special Provisions - Deal with the interests of countries that rely on imports for their food supplies, and the least developed economies.

Market access - The new rule for market access requires that quotas be converted to tariffs (a process called tarriffication) which provide more-or-less equivalent levels of protection to a quota, and which helps to reduce distortion in trade. Distortion occurs when prices are higher or lower than normal, and quantities produced, bought, and sold are also higher or lower than the normal levels that would usually exist in a competitive market. For example, import barriers and domestic subsidies can raise crop prices on a country's internal market. The higher prices can encourage over-production, and if the surplus is to be sold on world

markets, where prices are lower, then export subsidies have to be paid. When some countries subsidize and others do not, the result can be that the subsidizing countries are producing considerably more than they normally would.

Sanitary and Phytosanitary Measures - The agreement includes provisions on control, inspection and approval procedures and requires that governments provide advance notice of new or changed sanitary and phytosanitary regulations. Countries are allowed to utilize health and safety regulations to the extent necessary to protect human, animal or plant life or health, and which must be based on scientific support, reasonably; and not as an excuse to keep out exports as an excuse for protecting domestic producers. Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures, which result in higher standards if there is scientific justification. However, if an exporting country can demonstrate that the measures it applies on its exports achieve the same level of health protection as in the importing country, then the importing country is expected to accept the exporting country's standards and methods.

b. DUMPING, SUBSIDIES AND SAFEGUARD AGREEMENTS

DUMPING

The Agreement clarifies and expand Article 6 of the GATT and the two operate together. If a company exports a product at a price lower than the price it normally charges on its own home market, it is said to be dumping the product. Governments are allowed to take action against dumping in order to defend their domestic industries where the dumping has genuinely caused material injury to the competing domestic industry.

Overview of the Provisions

The Agreement: disciplines anti-dumping actions by providing detailed rules of procedures. These include *inter alia* criterial for calculating dumping margins, for comparing prices, for initiating and conducting the investigation. for imposing duties or accepting undertakings, and duration of duties (five years). The termination provision stipulates that investigations must be terminated where the margin of dumping is insignificantly small defined as less than 2% of the export price of the product, or if the volume of dumped imports is negligible (i.e. if the volume from one country is less than 3% of total imports of that product although investigations can proceed if several countries, each supplying less than 3% of the imports, together account for 7% or more of total imports).

Agreement on Subsidies and Countervailing Measures

It applies to agricultural goods as well as industrial products, except when the subsidies conform to the Agriculture Agreement.

Overview of Relevant Provisions

This Agreement does two things: it disciplines the use of subsidies, and it regulates the actions countries can take to counter the effects of subsidies. It says a country can use the WTO's dispute settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects,

or the country can launch its own investigation and ultimately charge extra duty known as countervailing duty on subsidized imports that are found to be hurting domestic producers. Subsidies occur when a government body confers a financial benefit on domestically produced goods directly or indirectly.

The agreement defines:
A specific subsidy as available only to specific entities or groups.

Prohibited subsidies are those that require recipients to meet certain export targets, or to use domestic goods instead of imported goods. They can be challenged in the WTO dispute settlement procedure, under an accelerated timetable. If prohibited subsidies are confirmed, they must be withdrawn immediately. Otherwise, the complaining country can take counter measures. If domestic producers are hurt by imports of subsidized products, countervailing duty can be imposed.

Actionable subsidies are those that have an adverse effect on the domestic country's interests, otherwise the subsidy is permitted. The agreement defines three types of damage they can cause. One country's subsidies can hurt a domestic industry in an importing country, they can hurt rival exporters from another country when the two compete in third markets, and domestic subsidies in one country can hurt exporters trying to compete in the subsidizing country's domestic market. If the Dispute Settlement Body rules that the subsidy does have an adverse effect, the subsidy must be withdrawn or its adverse effect must be removed. Again, if domestic producers are hurt by imports of subsidized products, countervailing duty can be imposed.

Non-actionable subsidies can be either non-specific subsidies, or specific subsidies for industrial research and pre-competitive development activity, assistance to disadvantaged regions, or certain types of assistance for adapting existing facilities to new environmental laws or regulations. Non-actionable subsidies cannot be challenged in the WTO's dispute settlement procedure, and countervailing duty cannot be used on subsidized imports.

Countervailing Duty (the parallel of anti-dumping duty) can only be imposed after the importing country has conducted a detailed investigation similar to that required for anti-dumping action. The agreement provides detailed rules and procedure for making a determination whether imported subsidized goods have injured a domestic industry.

Least-developed countries and developing countries with less than $1,000 per capita GNP are exempted from disciplines on prohibited export subsidies. Other developing countries are given until 2003 to get rid of their export subsidies. Least-developed countries must eliminate import-substitution subsidies (i.e. subsidies designed to help domestic production and avoid importing) by 2003, for developed countries the deadline is 2000. Developing countries also receive preferential treatment if their exports are subject to countervailing duty investigations. For transition economies, prohibited subsidies must be phased out by 2002.

Dumping and Subsidies are similar in the remedies provided, a special offsetting import tax to bring the import price closer to the normal value or to remove the injury to domestic industry in the importing country. They are different by the fact that Dumping is an action by a company while Subsidies is an action by the government or a government agency. The WTO is an organization of countries and their governments, not companies and cannot

regulate companies' actions such as dumping, therefore the Anti-Dumping Agreement only concerns the actions governments may take against dumping. With subsidies, governments act on both sides: they subsidize and they act against each other's subsidies. Therefore the subsidies agreement disciplines both the subsidies and the reactions.

SAFEGUARD AGREEMENT

This Agreement provides emergency protection to restrict imports of a product temporarily if its domestic industry is injured or threatened with serious injury caused by a surge in imports. An import surge can be a real increase in imports (an absolute increase); or it can be an increase in the imports; share of a shrinking market, even if the import quantity has not increased (relative increase).

Overview of Relevant Provisions

The agreement sets out criteria for: assessing whether serious injury is being caused or threatened, and the factors to be evaluated in determining the impact of imports on the domestic industry, the duration of measures (four to eight years) which must be progressively liberalized, it allows quotas to be used in limited circumstances. In principle, safeguard measures cannot be targeted at imports from a particular country. However, the agreement does describe how quotas can be allocated among supplying countries, including in the exceptional circumstance where imports from certain countries have increased disproportionately.

When a country restricts imports in order to safeguard its domestic producers, in principle it must give something in return. The route suggested is consultation, or retaliation by similar sanctions. However where the measure conforms with the provisions of the agreement and is taken as a result of an absolute increase in the quantity of imports, the exporting country has to wait for three years after the safeguard measure was introduced before it can retaliate.. To some extent developing countries exports are shielded from safeguard actions. An importing country can only apply a safeguard measure to a product from a developing country if the developing country is supplying more than 3% of the imports of the that product, or if developing country members with less than 3% import share collectively account for more than 9% of total imports of the product concerned.

c. Agreement on Textiles

Textiles, like agriculture, is one of the hardest-fought issues in the WTO, as it was in the former GATT system. It is now going through fundamental change under a 10-year schedule agreed in the Uruguay Round. Before the Uruguay Round trading was conducted by way of bilateral agreements and the controlling agreement was The Agreement on Textiles and Clothing (ATC), and import quotas, which conflicted with the GATT principle forbidding measures that restrict quantities and MFN treatment, protected markets. Currently, a Textiles Monitoring Body (TMB) supervises the agreement's implementation and reports to the Council on Trade in Goods, some disputes are still handled under the ATC.

The agreement commits to full integration of the sector into the principles of GATT by 2005 and self-destruction of the ATC, the final elimination of quotas, that has dominated the trade since the early 1960s, the expansion of current quota quantities, and improved market access. Transitional safeguards may be

allowed if a domestic industry is suffering serious damage or is threatened with serious damage as a result of; increased imports of the product in question from all sources, and a sharp and substantial increase from the specific exporting country. The agreement includes provisions to remedy attempts to evade quotas (exporter shipping products through third countries or making false declarations about the products' country of origin), and gives special treatment to new market entrants, small suppliers, and least-developed countries.

II. TRADE IN IDEAS AND CREATIVITY

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The Uruguay Round brought intellectual property rights into the GATT-WTO system for the first time. The new agreement provides the rules for trade and investment in ideas and creativity, it tackles five broad issues: how the trading system's principles should be applied to intellectual property rights, how best to protect these rights, how to enforce the protection, how to settle disputes, and what should happen while the system is gradually being introduced. It attempts to narrow the gaps in the way these rights are protected around the world, and to bring them under common international rules. A Council for Trade-Related Aspects of Intellectual Property Rights monitors the working of the agreement and governments' compliance with it.

Objective
To ensure that adequate standards of protection exist in all member countries for the protection of technical innovation and creativity. The agreement adds a significant number of new or higher standards to the historical agreement, the World Intellectual Property Organization, the Paris Convention for the Protection of Industrial Property (patents, industrial designs, etc), and the Berne Convention for the Protection of Literary and Artistic Works (copyright).

Licencing
The owner of a copyright, patent or other form of intellectual property right can issue a licence for someone else to produce or copy the protected trademark, work, invention, design, etc. The agreement recognizes that the terms of a licensing contract could restrict competition or impede technology transfer. It says that under certain conditions, governments have the right to take action to prevent anti-competitive licensing that abuses intellectual property rights. It also says governments must be prepared to consult each other on controlling anti-competitive licensing.

Enforcement
The agreement must be enforceable under a country's local laws, and the penalties for infringement must be tough enough to deter further violations. The procedures must be fair and equitable, and not unnecessarily complicated or costly. They must not entail unreasonable time-limits or unwarranted delays. Parties should have the rights to request that the court review an administrative decision or to appeal a lower court' ruling. The agreement details the rules for obtaining evidence, provisional measures, injunctions, damages and other penalties. It says courts must have the right, under certain

conditions, to order the disposal or destruction of pirated or counterfeit goods. Willful trademark counterfeiting or copyright piracy on a commercial scale must be criminal offences. Governments have to make sure that intellectual property rights owners can receive the assistance of customs authorities to prevent imports of counterfeit and pirated goods.

Transition Arrangements

When the WTO agreements took effect on 1 January 1995, developed countries were given one year to ensure that their laws and practices conform with the TRIPS agreement. Developing countries and (under certain conditions) transition economies are given five years. Least developed countries have 11 years. If a developing country did not provide product patent protection in a particular area of technology when the TRIPS Agreement came into force (1 January 1995), it has up to 10 years to introduce the protection. But for pharmaceutical and agricultural chemical products, the country must accept the filing of patent applications from the beginning of the transitional period, though the patent need not be granted until the end of this period. If the government allows the relevant pharmaceutical or agricultural chemical to be marketed during the transition period, it must subject to certain conditions provide an exclusive marketing right for the product for five years, or until a product patent is granted, whichever is shorter. Subject to certain exceptions, the general rule is that obligations in the agreement apply to intellectual property rights that exist at the end of a country's transition period, as well as to new ones.

III. TRADE IN SERVICES

a. The General Agreement on Trade in Services (GATS)

This is the first ever set of multilateral, legally enforceable rules covering international trade in services. It was negotiated in the Uruguay Round. Like the agreements on goods, GATS operates on three levels: the main text containing general principles and obligations; annexes dealing with rules for specific sectors; and individual countries; specific commitments to provide access to their markets. Unlike trade in goods, GATS has a fourth special element, lists showing where countries are temporarily not applying the most-favoured-nation principle of non-discrimination.

The agreement covers all internationally traded services. This includes all the different ways of providing an international service such as: cross-border supply (services supplied from one country to another e.g. international telephone calls), cross-border supply (consumers or firms making use of a service in another country e.g. tourism), commercial presence (a foreign company setting up subsidiaries or branches to provide services in another country, e.g. foreign banks setting up operations in a country), presence of natural persons (individuals traveling from their own country to supply services in another, e.g. fashion models or consultants).

MFN status, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to provide foreign companies access to its markets under the WTO). MFN applies to all services, but some special temporary exemptions have been allowed. National treatment is treated differently for services, it only

applies where a country has made a specific commitment, and exemptions are allowed. When GATS came into force, a number of countries already had preferential agreements in services that they had signed with trading partners, either bilaterally or in small groups. WTO members felt it was necessary to maintain these preferences temporarily. They gave themselves the right to continue giving more favourable treatment to particular countries in particular service activities by listing MFN exemptions alongside their first sets of commitments. In order to protect the general MFN principle, the exemptions could only be made once; nothing can be added to the lists. They will be reviewed after five years (in 2000), and will normally last no more than 10 years. The exemption lists are also part of the GATS agreement.

National treatment means treating one's own nationals and foreigners equally. In services, it means that once a foreign company has been allowed to supply a service in one's country there should be no discrimination between the foreign and local companies. Under GATS, a country only has to apply this principle when it has made a specific commitment to provide foreigners access to its services market. It does not have to apply national treatment in sectors where it has made no commitment. Even in the commitments, GATS does allow some limits on national treatment. This contrasts with the way the national treatment principle is applied for goods; in that case, once a product has crossed a border and been cleared by customs it has to be given national treatment even if the importing country has not made any commitment under the WTO to bind the tariff rate.

Transparency

GATS directs that governments must publish all relevant laws and regulations. Within two years (by the end of 1997) they have to set up inquiry points within their bureaucracies. Foreign companies and governments can then use these inquiry points to obtain information about regulations in any service sector. Since domestic regulations are the most significant means of exercising influence or control over services trade, the agreement says governments should regulate services reasonably, objectively and impartially, and must notify the WTO of any changes in regulations that apply to the services that come under specific commitments. When a government makes an administrative decision that affect a service, it should also provide an impartial means for reviewing the decision.

International payments and transfers: Once a government has made a commitment to open a service sector to foreign competition, it must not normally restrict money being transferred out of the country as payment for services supplied (current transactions) in that sector. The only exception is when there are balance-of-payments difficulties, and even then the restrictions must be temporary and subject to other limits and conditions.

Specific Commitments

Individual country's commitments to open markets in specific sectors and how open those markets will be the outcome of negotiations. The commitments appear in schedules that list the sectors being opened, the extent of market access being given in those sectors (e.g. whether there are any restrictions on foreign ownership), and any limitations on national treatment (whether some rights granted to local companies will not be granted to foreign companies.) These commitments are like bound tariffs; they can only be modified or withdrawn after negotiations with affected countries, which would probably lead to compensation. Because unbinding is difficult, the commitments are virtually

guaranteed conditions for foreign exporters and importers of services and investors in the sector to do business.

Progressive Liberalization
The Uruguay Round was only the beginning. GATS requires more negotiations, the first to begin within five years. The goal is to take the liberalization process further by increasing the level of commitments in schedules.

Movement of Natural Persons
This annex deals with negotiations on individuals' rights to stay temporarily in a country for the purpose of providing a service. It specifies that the agreement does not apply to people seeking permanent employment or to conditions for obtaining citizenship, permanent residence or permanent employment.

Financial Services
Instability in the banking system affects the whole economy. The financial services annex says governments have the right to take prudential measures, such as those for the protection of investors, depositors and insurance policy holders, and to ensure the integrity and stability of the financial system. It also excludes from the agreement services provided when a government exercises its authority over the financial system, for example central banks services. Negotiations on specific commitments in financial services continued after the end of the Uruguay Round and ended in late 1997.

Telecommunications
Basic Telecommunications was an area where governments did not offer commitments during the Uruguay Round essentially because the privatization of government monopolies was a complex issues in many countries. Sophisticated value-added telecommunications services, which are more commonly provided on a private basis, were, however, included in many of the original GATS schedules. The negotiations on basic telecommunications ended in February 1997 with new national commitments due to take effect from January 1998. The telecommunications sector has a dual role: it is a distinct sector of economic activity; and it is an underlying means of supplying other economic activities (for example electronic money transfers). The annex says governments must ensure that foreign service suppliers are given access to the public telecommunications networks without discrimination. Negotiations on specific commitments in telecommunications resumed after the end of the Uruguay Round. This led to a new liberalization package agreed in February 1997.

Air Transport Services
Under this annex, traffic rights and directly related activities are excluded from GATT's coverage. They are handled by other bilateral agreements. However, the annex establishes that the GATS will apply to aircraft repair and maintenance services, marketing of air transport services and computer-reservation services.

Maritime Transport
Maritime transport negotiations were originally scheduled to end in June 1996, but participants failed to agree on a package of commitments. The talks will resume with the new services round due to start no later than 2000. Some commitments are already included in some countries' schedules covering the three main areas in this sector: access to and use of port facilities, auxiliary services, and ocean transport.

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Each country lists specific commitments on service sectors and on activities within those sectors. The commitments guarantee access to the country's market in the listed sectors, and they spell out any limitations on market access and national treatment. As an example; if a government commits itself to allow foreign banks to operate in its domestic market, that is a market access commitment. And if the government limits the number of licences it will issue, then that is a market access limitation. If it also says foreign banks are only allowed one branch while domestic banks are allowed numerous branches, that is an exception to the national treatment principle.

The lists of market access commitments (along with any limitations and exemptions from national treatment) are negotiated as multilateral packages, although bilateral bargaining sessions are needed to develop the packages. The commitments therefore contain the negotiated and guaranteed conditions for conducting international trade in services. If a recorded condition is to be changed for the worse, then the government has to give at least three months' notice and it has to negotiate compensation with affected countries, but the commitments can be improved at any time. They will be subject to further liberalization through the future negotiations already committed under GATS. The first of these must start no later than 2000.

Other Issues

GATS identifies several more issues for future negotiation. One set of negotiations would create rules that are not yet included in GATS: rules dealing with subsidies, government procurement and safeguard measures. Another set of negotiations would seek rules on the requirements foreign service providers have to meet in order to operate in a market. The objective is to prevent these requirements being used as unnecessary barriers to trade. The focus is on: qualification requirements and procedures, technical standards and licensing requirements. As part of this task, a working party on professional services has been set up. It is tackling the accountancy sector first, a priority set by ministers, but eventually all professional services should be covered. The first result of these discussions emerged in May 1997 when the Services Council adopted new guidelines for countries to use when negotiating agreements to recognize each others' professional qualifications in accountancy. The guidelines are not binding. As with other tariff commitments, each participating country is applying its commitments equally to exports from all WTO members (i.e. on a most-favoured-nation basis), even from members that did not make commitments.

IV. BARRIERS TO TRADE

Agreement on Technical Barriers to Trade

The Agreement modifies the code negotiated in the 1973-79 Tokyo Round.

Its objective is to remove obstacles and hindrances to trade that are used as an excuse for protectionism and makes life difficult for producers and exporters.

It applies to Technical regulations and standards. The Agreement tries to ensure that regulations, standards, testing and certification are not set arbitrarily, and procedures do not create unnecessary obstacles. It

encourages countries to use international standards where these are appropriate, but it does not require them to change their levels of protection as a result. The agreement sets out a code of good practice for the preparation, adoption and application of standards by central government bodies. It also includes provisions describing how local government and non-governmental bodies should apply their own regulations; normally they should use the same principles as apply to central governments. Countries must ensure that procedures used to decide whether a product conforms to national standards have to be fair and equitable. It discourages any methods that would give domestically produced goods an unfair advantage. The agreement also encourages countries to recognize each other's testing procedures. That way, a product can be assessed to see if it meets the importing country's standards through testing in the country where it is made.

Agreement on Import licensing

The agreement says import procedures and licensing should be simple, transparent and predictable. Governments are required to publish sufficient information for traders to know how and why the licences are granted, and to notify the WTO of new procedures or changes to established procedures. The agreement offers guidance on how governments should assess applications for licences e.g. criteria for licences which are issued automatically if certain conditions are met. For those not issued automatically, it tries to minimize the importers' burden in applying for licences, so that the administrative work does not in itself restrict or distort imports. The agencies handling licensing should not normally take more than 30 days to deal with an application; 60 days when all applications are considered at the same time.

Agreement on Customs Valuation of goods, Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994& and Related Ministerial Decisions

For importers, the process of estimating the value of a product at customs presents problems that can be just as serious as the actual duty rate charged. The WTO agreement on customs valuation aims for a fair, uniform and neutral system for the valuation of goods for customs purposes, a system that conforms to commercial realities, and which outlaws the use of arbitrary or fictitious customs values. The agreement provides a set of valuation rules, expanding and giving greater precision to the provisions on customs valuation in the original GATT. A related Uruguay Round ministerial decision gives customs administrations the right to request further information in cases where they have reason to doubt the accuracy of the declared value of imported goods. If the administration maintains a reasonable doubt, despite any additional information, it may be deemed that the customs value of the imported goods cannot be determined on the basis of the declared value.

Preshipment Inspection

Preshipment inspection is the practice of employing specialized private companies or independent entities to check shipment details - essentially price, quantity and quality of goods ordered overseas.

It is used by governments of developing countries to safeguard national financial interests (prevention of capital flight and commercial fraud as well as customs duty evasion, for instance) and to compensate for inadequacies in administrative infrastructures.

The agreement recognizes that GATT principles and obligations apply to the activities of preshipment inspection agencies mandated by governments. The obligations placed on governments, which use preshipment inspections, include non-discrimination, transparency, protection of confidential business information, avoidance of unreasonable delay, the use of specific guidelines for conducting price verification and the avoidance of conflicts of interest by the inspection agencies. The obligations of exporting members towards countries using preshipment inspection include non-discrimination in the application of domestic laws and regulations, prompt publication of those laws and regulations and the provision of technical assistance where requested. The agreement establishes an independent review procedure. It is administered jointly by an organization representing inspection agencies and an organization representing exporters. Its purpose is to resolve disputes between an exporter and an inspection agency.

Agreement on Rules of origin

The criteria used to define where a product was made. They are an essential part of trade rules because a number of policies discriminate between exporting countries: quotas, preferential tariffs, anti-dumping actions, countervailing duty (charged to counter export subsidies), and more.

Rules of Origin must be transparent based on a positive standard (stating what confers origin and what does not), and be administered in a consistent, uniform, impartial and reasonable manner. For the longer term, the agreement aims for common harmonized rules of origin among all WTO members, except in some kinds of preferential trade that they do not have restricting, distorting or disruptive effects on international trade. For example, countries setting up a free trade area are allowed to use different rules of origin for products traded under their free trade agreement.

The work is being conducted by a Committee on Rules of Origin in the WTO and a Technical Committee under the auspices of the World Customs Organization in Brussels. The outcome will be a single set of rules of origin to be applied under non-preferential trading conditions by all WTO members in all circumstances. An annex to the agreement sets out a common declaration dealing with the operation of rules of origin on goods which qualify for preferential treatment.

Agreement on Trade-Related Investment Measures (TRIMS)

It reduces trade distortions and applies only to measures that affect trade in goods. It recognizes that certain measures can restrict and distort trade, and states that no member shall apply any measure that discriminates against foreigners or foreign products (i.e. violates national treatment principles in GATT). It also outlaws investment measures that are inconsistent with GATT principles such as restrictions in quantities, measures which require particular levels of local procurement by an enterprise, local content requirements, measures which limit a company's imports or set targets for the company to export, and trade balancing requirements.

Under the agreement, countries must inform the WTO and fellow-members of all investment measures that do not conform with the agreement. Developed

countries have to eliminate these in two years (by the end of 1996); developing countries have five years (to end of 1999); and least developed countries seven. The Committee on TRIMS monitors the implementation of these commitments. The agreement also says that WTO members should consider, by 1 January 2000, whether there should also be provisions on investment policy and competition policy.

Agreement on Tariffs

There is no legally binding agreement that sets out the targets for tariff reductions. However, at the end of the Uruguay Round, individual countries listed their commitments in schedules annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994. That document serves as the legally binding agreement for the reduced tariff rates.

The Uruguay round resulted in Members making significant commitments to cut and & bind their customs duty rates on imports of goods. Developed countries will phase in tariff cuts over five years from 1 January 1995. Overall tariff will be cut on industrial products by 40%, from an average of 6.3% to 3.8%. The value of imported industrial products that receive duty-free treatment in developed countries will jump from 20% to 44%. The proportion of imports into developed countries from all sources facing tariffs rates of more than 15% will decline from 7% to 5%. The proportion of developing country exports facing tariffs above 15% in industrial countries will fall from 9% to 5%.

On 26 March 1997, 40 countries accounting for more than 92% of world trade in information technology products, agreed to eliminate import duties and other charges on these products by 2000 (by 2005 in a handful of cases).

Commitments to increase the number of imports whose tariff rates are bound are from 78% of product lines to 99% for developed countries, 21% to 73% for developing countries, and from 73% to 98% for economies in transition from central planning.

Tariffs on all agricultural products are now bound, and almost all import restrictions that did not take the form of tariffs, such as quotas (which were more than 30%), have been converted to tariffs a process known as tariffication. Over the past six years these tariffs are gradually being reduced, and the market access commitments on agriculture will also eliminate previous import bans on certain products.

The market access schedules represent commitments to bound tariffs, which means they cannot be increase above the listed rates. Developed countries' bound rates are u generally the rates actually charged. Most developing countries have bound the rates somewhat higher than the actual rates charged, so the bound rates serve as ceilings. Breaking a bound rate is difficult, the country will have to negotiate with the countries most concerned and that could result in compensation for trading partners' loss of trade.

5. PLURILATERALS AGREEMENTS

All other Tokyo Round agreements became multilateral obligations (i.e. obligations for all WTO members) when the World Trade Organization was established in 1995 meaning all WTO members subscribe to all WTO agreements. Unlike plurilateral agreements, negotiated in the Tokyo Round, which were are focused on minority interest and have a narrower group of signatories. These include:

The Agreement on Trade in Civil Aircraft

This came into force on January 1, 1980, with 21 signatories. The Object is to ensure fair trade, to discipline government-directed procurement of civil aircraft and inducements to purchase, as well as on government financial support for the civil aircraft sector, and to eliminates import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement, including civil aircraft engines and their parts and components, all components and sub-assemblies of civil aircraft, and flight simulators and their parts and components.

The Agreement on Government procurement

Focuses on opening up for competition, the purchasers of goods and services of all kinds, ranging from basic commodities to high-technology equipment by the government sector as the political pressure to favour domestic suppliers over their foreign competitors can be very strong. Its purpose is to open up as much of this business as possible to international competition. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent. The agreement has twenty-five members. Singapore, Liechtenstein and Hong Kong are about to become members. It has two elements; general rules and obligations, and schedules of national entities in each member country whose procurement is subject to the agreement. A large part of the general rules and obligations concern tendering procedures. The agreement extends international competition to include national and local government entities whose collective purchases are worth several hundred billion dollars each year. The new agreement also extends coverage to services (including construction services), procurement at the sub-central level (for example, states, provinces, departments and prefectures), and procurement by public utilities. The new agreement took effect on 1 January 1996. It also reinforces rules guaranteeing fair and non-discriminatory conditions of international competition. For example, governments will be required to put in place domestic procedures by which aggrieved private bidders can challenge procurement decisions and obtain redress in the event such decisions were made inconsistently with the rules of the agreement.

The agreement applies to contracts worth more than specified threshold values. For central government purchases of goods and services, the threshold is SDR 130,000 (some $178,000 in May 1997). For purchases of goods and services by sub-central government entities the threshold varies but is generally in the region of SDR 200,000. For utilities, thresholds for goods and services is generally in the area of SDR 400,000 and for construction contracts, in general the threshold value is SDR 5,000,000. See also new work on government procurement

The International Dairy Agreement and International Bovine Meat Agreement

This was scrapped at the end of 1997. Countries that had signed the agreements decided that the sectors were better handled under the Agriculture and Sanitary

and Phytosanitary agreements. Some aspects of their work had been handicapped by the small number of signatories. For example, some major exporters of dairy products did not sign the Dairy Agreement, and the attempt to cooperate on minimum prices therefore failed; minimum pricing was suspended in 1995.

6. Trade policy reviews mechanism (Trade Policy Review Board, or WTO General Council)

Governments must inform the WTO and other members of their policies, laws and actions. The reviews focus on members' trade policies, practices, objectives and their economic and developmental needs as well as the external economic environment that they face.

These peer reviews by other WTO members have two broad results:

1) Transparency in enabling they enable outsiders to understand a country's policies and its conditions of trade.
2) Provide feedback to the reviewed country on its performance in the system.

The four biggest traders, the (Quad) European Union, the United States, Japan and Canada are examined approximately once every two years. The next 16 countries (in terms of their share of world trade) are reviewed every four years. The remaining countries are reviewed every six years, with the possibility of a longer interim period for the least-developed countries.

The review entails an examination of a country's policy statement and a detailed report written independently by the WTO Secretariat.

Settlement of Disputes in a rules based system

1. Enforces the internationally agreed rules of law
2. Provides stability, security and predictability in trading.
3. Guarantees fair trade for [less powerful countries].
4. Prompt settlement is essential if the WTO is to function effectively.

Objective is to encourage resolution of disputes, and for conciliation and not to make rules or judgments.

The Process

Panels - Countries select panelists, and only if the two sides cannot agree does the WTO director-general appoint them. Panels consist of three (occasionally five) experts from different countries who examine the evidence and decide who is right and who is wrong. The process includes written submissions of complainant, respondent and interested parties; rebuttals and expert testimony. The Panel submits a first draft of descriptive (factual and argument) to the parties, then an Interim Report two weeks later (findings and conclusions, then a Final Report three weeks later which is also circulated to all WTO members. The report automatically becomes the Dispute Settlement ruling or recommendation within 60 days unless a consensus rejects it. Any country wanting to block a ruling has to persuade all other WTO members (including its

adversary in the case) to share its view. The DSB has the power to authorize retaliation when a country does not comply with a ruling.

Either or both parties can make appeals. Appeals must be based on points of law such as legal interpretation they cannot reexamine existing evidence or examine new evidence. Each appeal is heard by three members of a permanent seven-member Appellate Body set up by the Dispute Settlement Body and broadly representing the range of WTO membership. Members of the Appellate Body have four-year terms. And have to be individual with recognized standing in the field of law and international trade, not affiliated with any government. The appeal can uphold, modify or reverse the panel's legal findings and conclusions. Normally appeals should not last more than 60 days, with an absolute maximum of 90 days. The Dispute Settlement Body has to accept or reject the appeals report within 30 days and rejection is only possible by consensus.

Cases brought before the WTO have increased which may mean that have more faith in the system, rather than taking the into their own hands. For the most part, that is what is happening in the WTO. Cases usually focus on a country's breaking the rules or fails to live up to obligations. A third group of countries can declare that they have an interest in the case and enjoy some rights.

Timetable - Commencement to final ruling normally take one year, 15 months if the case is appealed. Urgent cases (involving perishables) normally take three months less. The following totals are approximate: 60 days Consultations and mediations, 45 days to set up and appoint panelists, 6 months Final panel report to parties, 3 weeks Final panel report to WTO members, 60 days Dispute Settlement Body adopts report; Total = 1 year (without appeal). If appeal, 60-90 days Appeals report, 30 days Dispute Settlement Body adopts appeals report Total = 1y 3m (with appeal). The panel's final report should normally be given to the parties to the dispute within six months. In cases of urgency, including those concerning perishable goods, the deadline is shortened to three months.

Effective resolution requires that the losing party correct the fault swiftly. If it does not it must negotiate with the complaining country. If no resolution after 20 days, the complaining country may rest permission from the DSB to impose limited trade sanctions (suspend concessions or obligations) against the other side. The Dispute Settlement Body should grant this authorization within 30 days of the expiry of the reasonable period of time unless there is a consensus against the request. In principle, the sanctions should be imposed in the same sector as the dispute. If this is not practical or if it would not be effective, the sanctions can be imposed in a different sector of the same agreement. In turn, if this is not effective or practicable and if the circumstances are serious enough, the action can be taken under another agreement. The objective is to minimize the chances of actions spilling over into unrelated sectors while at the same time allowing the actions to be effective. In any case, the Dispute Settlement Body monitors how adopted rulings are implemented.

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Prepared by Fernanne Kirkham-Chin Yee
Legal Manager, AntiDumping and Subsidies Commission