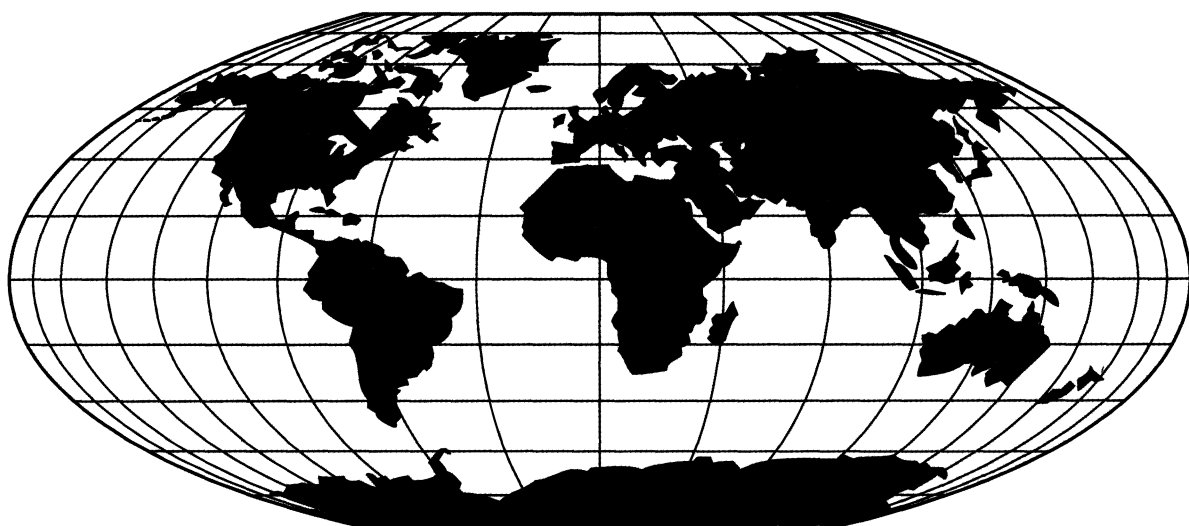


THE URUGUAY ROUND

GLOBAL AGREEMENT



GLOBAL BENEFITS

The Uruguay Round

**Global agreement -
Global benefits**

Cataloguing data can be found at the end of this publication.

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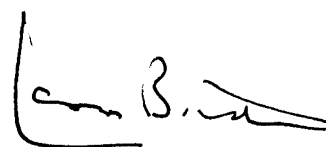
Foreword

The excitement which greeted the successful conclusion of the Uruguay Round negotiations reflected, first and foremost, relief that the world community had proved capable of achieving positive results on a critical issue on a world hit by recession.

The underlying substance of the agreement justifies this excitement. The GATT deal spells a radical rewriting of the rules for international economic activity. It means a major reduction in tariff and non-tariff barriers to trade. In all, it marks a new departure just as significant as the creation of GATT itself in 1947. This new departure requires an adjustment in the trade strategy of both government and business in Europe for the decade ahead.

Europe is well placed to respond to the challenges of the Uruguay Round deal. The negotiations have strengthened the European identity. It is of no small importance that the first major strategic decision taken by the European Union after the entry into force of the Maastricht Treaty should have been a decision to lower barriers and to free trade. The process leading to that decision produced better mutual understanding among Member States and has given us a new confidence going well beyond trade issues. More generally, the GATT success marks the reaffirmation of European... and world commitment to the multilateral system.

These are good grounds on which to pursue increased prosperity and closer trade relations. The time has come for businessmen to take over where the negotiators have left off. The purpose of this document is to launch a wide-ranging debate in Europe on the ways in which business must adapt to the post-Round world. We are also looking for guidance as to how the Commission and the European institutions generally can best help business to achieve its objectives.

A handwritten signature in black ink, appearing to read 'Leon Brittan', with a stylized flourish at the end.

Sir Leon Brittan

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Introduction

Over 2500 days of negotiations between 117 countries to produce a 550-page final agreement; an average of five days a page. What has been achieved by the Uruguay Round negotiations? When the dust finally settles after the publicity and the all-night negotiations, what will be the effect of the deal? What does the Uruguay Round mean for business, for the consumer, for the global economy and indeed for the globe?

The importance of world trade

To understand the negotiations, the context in which they took place and their implications, it is helpful to look at the position international trade occupies in the world economy and its importance for the European Community.

The European Community is the world's largest trading entity. Its trading activities account for more than one fifth of total world trade in goods. Community exports to the rest of the world form a vital source of income, representing 9% of the Community's gross domestic product (GDP). Community imports correspond to 21% of the world total and 10% of GDP.

The positive correlation between trade and economic growth, at world and Community level, illustrated in Fig. 1, is indisputable. The market-opening effects of the Uruguay Round agreement can only be beneficial for world growth. The importance of exports in employment terms is also worth stressing. *According to estimates by the Commission services, as much as 10% of Community employment in non-agricultural activities, corresponding to 10-12 million jobs (10% of total EC employment) is directly related to exports.*

Trade is not limited to exchange of goods but also increasingly involves services. The importance of market services for the Community has grown steadily over the last few decades. In 1990, it contributed nearly half of GDP and provided employment for 42% of the Community workforce. The equivalent figures for the industrial sector are 34% and 33%, respectively, while agriculture (including forestry and fishing) represents 3% and 7% (see Fig. 2). It is because of the increasing importance of the sector that it was included in the Uruguay Round negotiations, with international rules on trade in services being established for the first time.

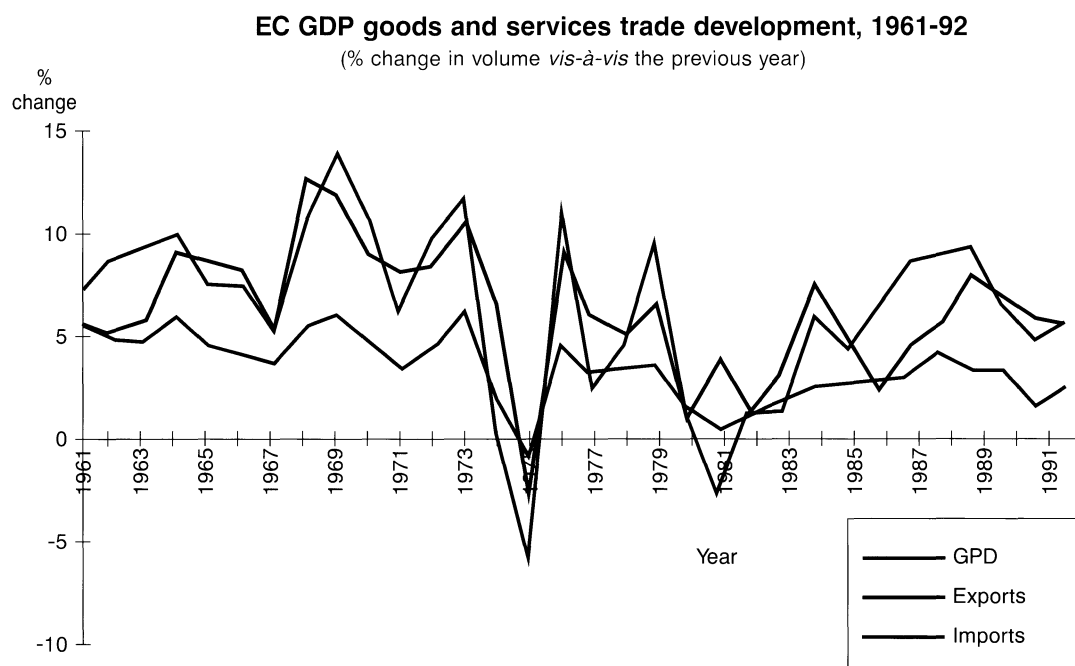
The contribution of services to the Community's external trade position is very substantial. Over one quarter of all EC export income is derived from the activities of the services industry. As Fig. 3 shows, the Community stands to gain most from the liberalization of services which will ensue from the progressive inclusion of the sector in the GATT system.

The growth of internal demand in the Community, or even with the entire group of industrialized countries, will in the foreseeable future be inadequate to sustain long-term economic growth. The fast-growing markets of the future lie elsewhere: in the developing countries, in the countries of Central and Eastern Europe and the Commonwealth of Independent States (CIS). (The CIS, like China, is not a member of the GATT. China is in negotiation to rejoin the GATT and some CIS countries have applied, while others intend applying for membership in the near future.) The bulk of the world's population, 80%, is outside the OECD group of countries and is growing rapidly. Moreover, their average economic growth rate is in the range of 5%, far above the performance of the industrialized countries. In particular, the average rate for the Asian economies is as high as 9%. The value of imports into most of the developing countries, especially the dynamic economies of South-East Asia and Latin America, has been growing at a substantially higher rate than import growth in the industrialized world – more than double in fact. This trend is set to continue.

FIG. 1



Sources: Eurostat, GATT.

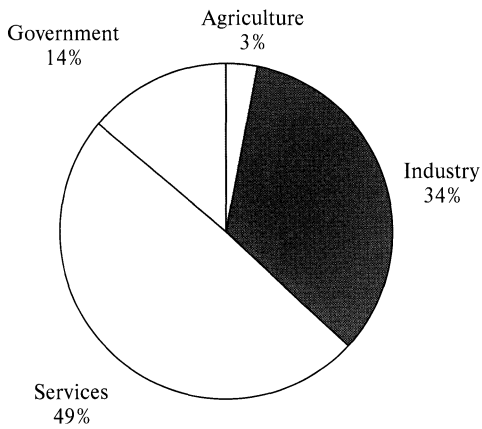


Sources: Eurostat.

Not surprisingly, therefore, the fastest growing EC export markets are to be found in these areas. The value of Community exports to South-East Asia, Latin America and the Central and East European countries have expanded at rates well above the average growth of extra-EC exports. In contrast, exports to many of our major markets in the industrialized world have stagnated or declined. The importance for the Community's future growth prospects of assuring improved access to these new markets cannot be overstated and was one of the key motivations behind the Round.

FIG. 2

Shares in EC GDP, by economic activity
1990



Shares in EC employment by economic activity
1990

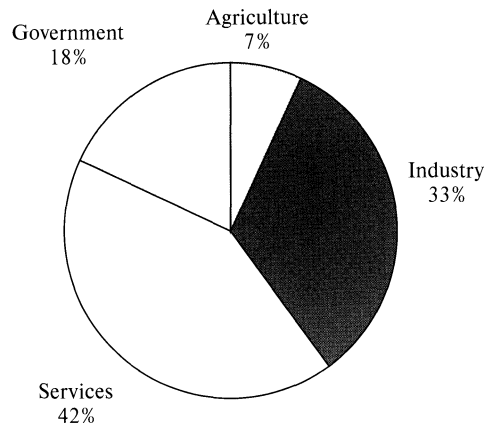
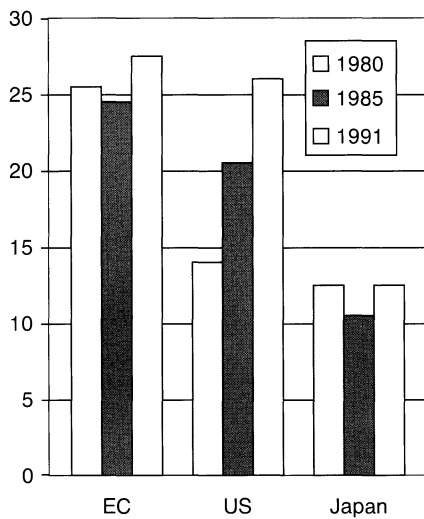
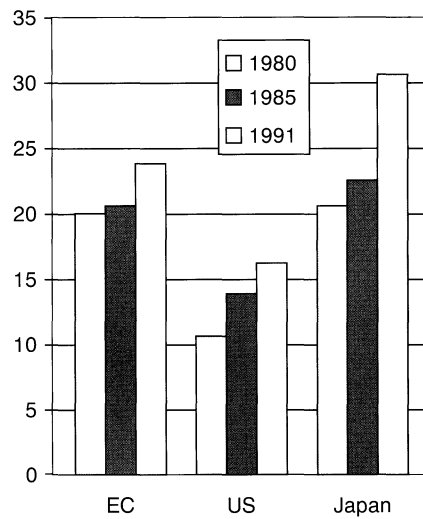


FIG. 3

Shares of services in total merchandise and services exports of EC, US, Japan (%)



Shares of services in total merchandises and services imports of EC, US, Japan (%)



Why was the Uruguay Round undertaken?

The Round was undertaken primarily to ensure that the benefits of the international trading system would be maintained. The decision to engage in a further Round of negotiations was made at the Punta Del Este Conference in 1986, and a number of objectives were set for the Round.

The most obvious objective was to further liberalize trade by reducing tariff and other barriers. In addition, the Uruguay Round negotiations sought to correct some serious omissions in the international trading system. For example, the GATT did not cover trade in services, although the sector makes up over 20% of global trade. Similarly, inadequate protection of intellectual property rights was having an increasingly adverse impact on trade and some form of international rule setting was clearly required to address the problem. In short, the aim of the Uruguay Round was to bring up to date the rules governing international trade, in line with the realities of the new international trading environment.

Experience had also shown that GATT procedures, particularly its dispute-settlement machinery were too opaque and too slow. Furthermore, the system was inflexible and could not be easily adapted to meet new needs. The Uruguay Round also sought to remedy these deficiencies.

Finally, the Round sought to address the question of cooperation at the multilateral level in order to ensure that the link between trade policies and other policies, notably growth and development, was recognized and, where possible, to assist the developing countries.

By achieving these objectives the Round hoped to re-establish multilateralism as the mainstay of the international trading system and reduce the potentially malevolent rise of inward-looking regionalism. *If the Uruguay Round had not come to a successful conclusion, it would have been unlikely that we could have maintained even the status quo.* Instead, the weakness of the multilateral system would have led to an exacerbation of trade frictions which would, in all probability, have led to ever more arbitrary unilateral action, a slide to overt protectionism and subvert outward-looking regionalism into a more dangerous form of closed regionalism.

Box 1: The GATT. What it is and how it operates

The General Agreement on Tariffs and Trade (GATT) came into being in 1947. Along with the International Monetary Fund and the World Bank it was one of the institutions set up in the post-war period to help regulate the international economy and prevent a recurrence of the disastrous policies undertaken during the 1930s. The GATT was charged with overseeing international trade in goods and, in particular, the liberalization of this trade by means of a negotiated reduction in tariff barriers. The scope of the GATT was, therefore, somewhat limited. Indeed, there had originally been plans to establish an international trade organization but these were shelved when a number of countries failed to ratify the Agreement. As a result of the Uruguay Round, the GATT will be subsumed into the World Trade Organization (WTO) (see Box 9).

Negotiations within the GATT have taken place through a succession of 'Rounds'. In the case of the European Community, the individual Member States are members of the GATT, but negotiations are carried out by the European Commission on behalf of the Community as a whole. Over time, as the issues have become more and more complicated, as the number of contracting parties has increased and as the number of areas covered has risen, each Round has taken longer and longer to complete. The original negotiations finished in a matter of months and the Uruguay Round took seven years. However, it must be remembered that the GATT works on a consensus basis and to achieve agreement between 117 industrialized and developing countries, with widely divergent and even opposing views, was a far more demanding task than reaching agreement between a few, mostly industrialized, countries, as was the case in 1947.

All pain and no gain?

The Round took seven years to complete and tied up a great many resources, both public and private. Will the outcome generate sufficient benefits to justify this use of time and resources?

There can be little doubt that the Round has achieved a great deal, even if all of the very high expectations have not been met. The Round has resulted in a further *liberalization of international trade*. Not only have there been substantial reductions in tariff levels, there has also been an expansion of the coverage of the system. The agreement will also ensure that world trade continues to follow the upward trend of recent years. This is vital for the prosperity of the Community. GATT rules now extend to trade in services and, to a greater extent than was previously the case, agriculture, both of which have also seen some liberalization. In addition, the developing countries are more firmly integrated into the system.

This movement towards freer trade has been accompanied by *better rules and disciplines* to ensure that the system is not abused. At the same time, the system provides countries with the means to protect themselves against unfair practices. Safeguard and anti-dumping measures will remain the key instruments in maintaining an orderly trading system. The instruments have been refined, not only to increase their efficiency but also to ensure their fair application and to minimize their abuse. The revised dispute settlement procedure will provide countries with the means of settling trade differences rapidly, thus reducing uncertainties and disruption for business operators.

Developing countries were more active in these negotiations than in any of the preceding Rounds. They have undertaken commitments in line with their level of development, not just in market access but also in a wide range of other issues including agriculture, services and trade-related intellectual property questions. Although allowance is made for the specific problems of the developing countries, the agreement as a whole applies to all those who become members of the World Trade Organization. Transition periods are provided, wherever necessary, to facilitate the implementation of the agreement. For example, developing countries receive differential treatment in such areas as subsidies and anti-dumping.

Can we put a figure to all this ?

There have been various estimates of the potential economic impact of the Uruguay Round, starting from an extra ECU 180 billion of global income per year. The estimates are based on general equilibrium models that seek to quantify the effect of tariff reductions on the volume of trade in goods, including agriculture. Like all such models, the results depend upon the initial assumptions and their accuracy is open to doubt.

Even if it is impossible to put a precise figure on the impact of the Uruguay Round, what can be said with some confidence is that all existing estimates almost certainly underestimate the potential benefits since they ignore the direct and indirect liberalization effects of changes in areas other than tariffs. For example, a global public procurement market worth ECU 346 billion will be opened up for external tender by the Round. If the increase in competition for contracts results in the cost of bids falling by 10%, this efficiency gain alone will generate over ECU 34 billion in saved public expenditure a year. An example of the more indirect benefits is the boost to foreign direct investment which should result from the new certainty introduced by the agreement on trade-related investment measures (TRIMs). This will bring potential benefits to both the host and the source economy.

Benefiting from the Round

The Round has created significant new opportunities for international trade; some of these, most notably the reductions in tariffs, will have an immediate effect. However, it is in the longer term that the real benefits will lie as the benefits arising from increased certainty in the system become apparent. The Round creates an environment from which we can all benefit. *Its effect on our lives will depend on the way in which business, workers, consumers and governments alike, respond to this new environment. Everyone has a stake in the potential benefits to be realized from the Round.*

The pages that follow provide a more detailed, but non-technical, evaluation of the Uruguay Round outcome, putting into relief the main themes of the Round:

- its market-opening effect;
- its increased coverage, geographical as well as sectoral;
- the improved transparency and predictability of the system.

This highlights the new opportunities presented to the business community to expand their international operations and to move into new fields.

1. Open markets

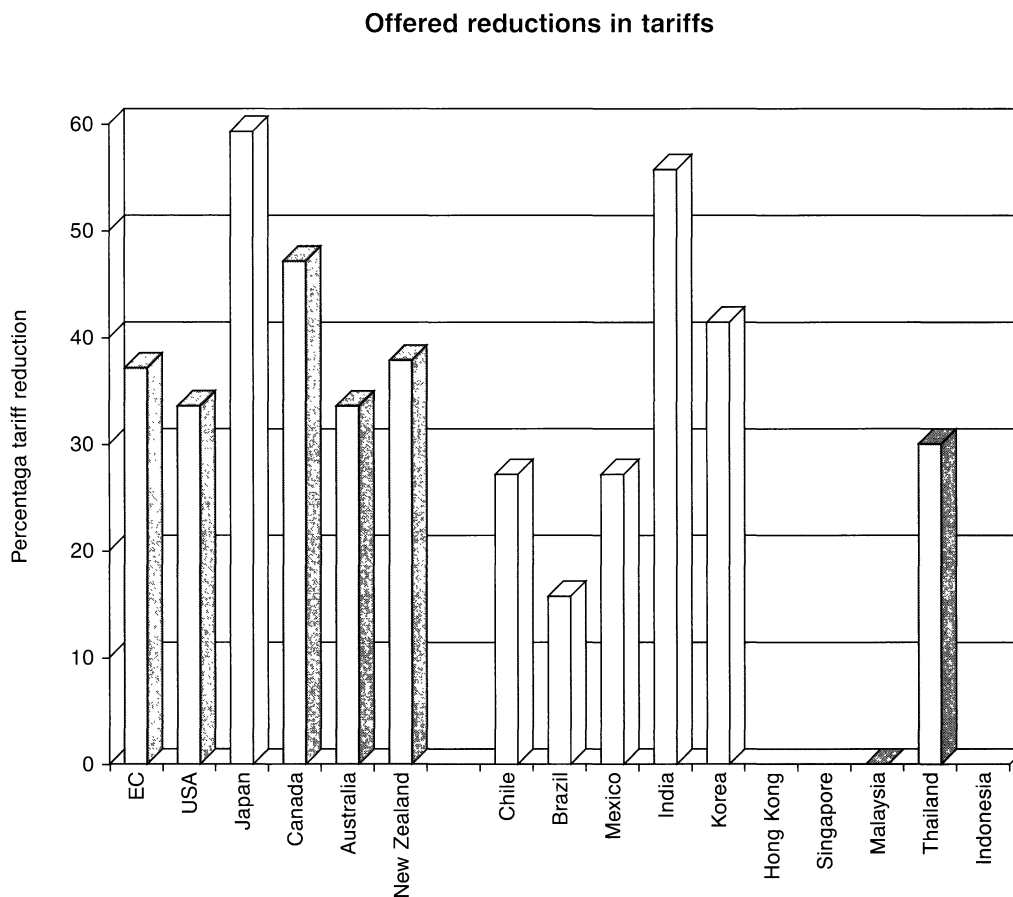
The opening-up of markets

When people speak of trade liberalization, they are usually referring to tariff and non-tariff barriers that are the most widely known forms of protection and that, within the GATT, have always been the main focus of attention. However, it is also true that a wide range of policy measures affect trade and can help or hinder its development. Both of these issues are examined in turn. This section concentrates on market opening, be it traditional tariff reductions or improved access to public procurement markets, the following section looks at the rules that govern trade in these more open markets and ensure that the advantages of openness are not negated by other measures.

Industrial tariffs and non-tariff barriers

Tariffs have been at the heart of the GATT system and were, once again, an important aspect of the Uruguay Round negotiations. The objectives of the Round were to reduce tariff barriers by at least a third, in principle within a five-year period, and to reduce uncertainty by increasing the number of bound tariffs, that is to widen the range of products for which governments were committed not to raise the levels of tariffs. This was of particular relevance for the developing countries which, prior to the current negotiations, had taken very few such commitments.

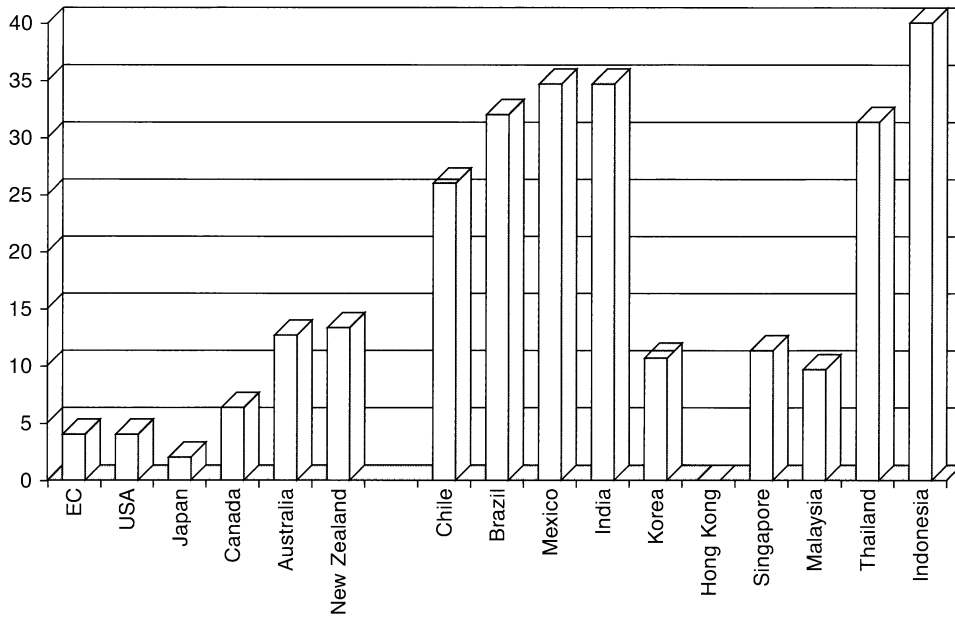
FIG. 4



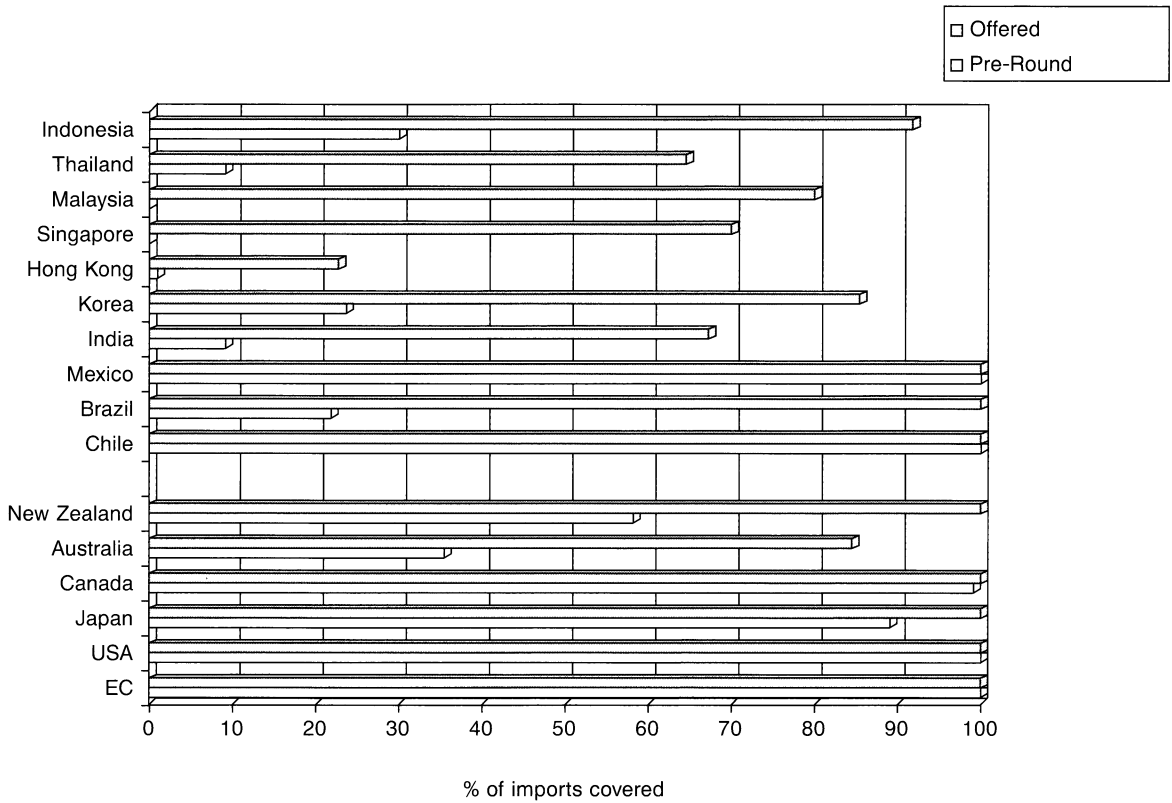
Light shading: reduction in basic, not applied, tariff rates.

FIG. 5

Average tariff offered



Scope of tariff bindings



As a result of the various commitments, the final level of tariffs for industrialized countries will fall from an average of 5% to about 3.5%. This compares to an average of 40% or more prior to the first GATT negotiations in 1947. As Fig. 4 shows, all the major trading countries have agreed to cut tariffs by more than the target amount of a third.

The figures refer to average reductions. In some instances, Community exporters will see tariffs fall even further. *For example, the average tariff applicable to EC-US trade will be almost halved.*

Moreover, in some areas the main industrialized countries have reduced their tariffs to zero. For their part, the developing countries tried to make substantial reductions in the same products. A number of the sectors involved are of considerable importance to the Community: construction equipment, agricultural equipment, steel, beer, medical equipment, pharmaceuticals, toys, paper, furniture and distilled spirits. This will affect in excess of ECU 10 billion of EC exports and over ECU 7 billion of EC imports.

In total, close to 40% of Community industrial imports will, in future, be duty free. Not only will this have a direct effect upon the competitiveness of EC exports but also will it make imports cheaper benefiting both the consumer and EC manufacturers who use imported input.

A considerable effort has been made by many developing countries. The Uruguay Round represents their first real commitments within the GATT (see Fig. 5). The positive impact of this is reinforced by commitments to the significant binding of tariffs, an important step given their generally high level of tariff protection. *This will help to create a more certain international trading environment.*

Box 2: Balance of payments

The new rules for balance of payments measures will enforce a more disciplined use of such action. To improve certainty countries will be expected to provide a timetable for the lifting of any restrictions that are imposed; at present no such commitment is required. Any measures that are taken will, in principle, have to be price based. The use of quantitative restrictions will, except in critical circumstances, be limited and current quantitative restrictions should be phased out over time. Transparency should be improved by notification of the criteria used to impose restrictions and this combined with a reinforced consultation procedure and ultimately recourse to dispute settlement should ensure that any such restrictions are justifiable rather than simply acting as a form of protectionism.

In addition, developing countries have accepted limitations on the use of non-tariff barriers (NTBs). Thus, the new balance of payments agreement (see Box 2), for example, will reduce recourse to such measures. In particular, licensing systems will be greatly curtailed, notably in Latin America, India and Pakistan. The Round has, therefore, consolidated the economic reforms already undertaken by many of these countries, under the guidance of the IMF.

Box 3: Textiles and clothing

The textiles and clothing sector has proved, over the years, to be a major source of friction between the developed and the developing countries. The Multifibre Agreement (MFA), seen by the former as a means of ensuring orderly markets and by the latter as a restraint upon their export in a field where they have a comparative advantage, has kept the sector outside of the main GATT disciplines.

The Uruguay Round negotiations will result in a phasing-out of the MFA and other non-MFA restrictions over a 10-year period from the implementation of the Agreement. The phasing-out of these quotas will take place in four steps (see table). Over the transition period, the growth of the remaining quotas will be fixed at a higher level than that applied earlier. Safeguard measures will be available to countries whose domestic industries face difficulties in adjusting to the change in regime. These will be strictly monitored by the textile monitoring body and will apply on a temporary basis for up to three years.

	Step 1 From start	Step 2 After 3 years	Step 3 4 years later	Step 4 End of 10 years
Per cent of trade to be brought under normal WTO rules	16	17	18	49
Per cent increase in growth rates of remaining quotas	16	25	27	—

As a result of the Uruguay Round, the sector will now benefit from clearer, more predictable rules for subsidies, market access, TRIPs, etc.

An early indication of the importance of the negotiations is the improved access to markets that the Community has obtained as a result of the negotiations, notably in the USA where a number of tariff peaks have been significantly reduced (silk, linen and wool) and in the ASEAN countries (Singapore will bind its tariffs at 10% with a few exceptions for yarns and woven fabrics) and Latin America (Peru to bind at a ceiling of 30%, Mercosur and Mexico at 35%).

Agriculture

The European Community, like many countries – the United States for example – have traditionally had extensive policies to support and protect their agricultural sector.

The key objective of the negotiations was, therefore, to reduce the trade-restricting effects of these policies, whilst ensuring that domestic objectives could be pursued. This has been largely achieved by a process of converting the various forms of protection into tariffs. This increases the transparency of protective measures.

For the European Community, the process of reform of the common agricultural policy (CAP) has facilitated its ability to undertake commitments in this area.

The main target of the negotiations were agricultural policy instruments aimed at external protection. *The fixing of tariffs of the existing protection system will still permit Community preference, but will nevertheless allow for greater market access.* This will come about both as a result of the setting of minimum import levels and of the proposed cuts in the new tariffs of up to 36%.

Internal support mechanisms continue to exist and discretionary action is, therefore, still possible. *However, an undertaking has been made to cut the global level of internal support by 20% over a period of six years. This is in line with the figures proposed in the CAP reform.* Some forms of internal support are exempted from this obligation, for example, production limitation programmes, such as the EC set-aside scheme, are still permitted.

Another key area of agricultural policy covered by the agreement is export subsidies. These were the subject of the well-publicized negotiations between the Community and the USA. *The final outcome is a commitment by the developed countries to reduce export subsidies by 36% over a six-year period and to reduce the actual volume of subsidized exports by 21% over the same period.* In the case of the Community these changes are in line with those agreed in the last CAP reform. For the developing countries the reductions are smaller and the transition period is 10 years.

A great deal of concern has been expressed over the effect that this aspect of the agreement will have on those developing countries that are net food importers and that, as a consequence of the agreement, will find themselves paying more for their imports. For this reason, the agreement also sets out a series of objectives relating to the provision of support for the process of agricultural development in these countries and the availability of food aid. In addition, the possibility of short-term financial support from the IMF and the World Bank is also mentioned. All of these provisions will be monitored by the agricultural committee within the WTO.

The overall result of the Round should be a *more stable world trading environment*. In particular, a peace clause has been agreed which, for a nine-year period, prohibits countries from bringing dispute actions against the internal policies of other members, provided the latter conform to the commitments made in the agreement. The net result will be to make the sector more market-oriented and competitive as well as ensuring the compatibility of the GATT and the CAP.

Box 4: Sanitary and phytosanitary measures (SPS)

Another important issue dealt with in conjunction with the agricultural negotiations relates to sanitary and phytosanitary measures. These bear a strong resemblance to the negotiations on technical barriers to trade. As with the latter, SPS measures, on the whole, reflect legitimate concerns but can also be used as a means of covert protectionism.

The new agreement, while recognizing the legitimate use of these measures, prohibits their arbitrary use for protectionist reasons and encourages the use of international standards. Greater harmonization in this domain is to be encouraged although countries will still have the right to impose higher standards if they feel that these are necessary. The imposition of such standards can be challenged and a dispute settlement process instigated, if other parties feel that the measures are in fact being used as a covert form of protectionism.

There is a clear obligation to ensure transparency, for example by publishing SPS regulations. Procedures are laid out concerning the assessment of risk and the appropriateness of the measure taken, as well as for the control and inspection of products.

The increase in EC import quotas will have some impact on prices for consumers. Nevertheless, the tariffs that will come into force, as compared to present levels of protection, will remain high and will limit the impact on prices. The inclusion of agriculture within the GATT does, however, open the prospect of further liberalization over time.

At the world level there is, as the result of a cut in export subsidies, likely to be an increase in the market price of high-quality produce. This should create opportunities for the EC's many exporters of high quality and high value-added produce.

Public procurement

The revision of the government procurement agreement was not a part of the Uruguay Round as such; however, parallel negotiations have led to the establishment of revised rules which will fall within the remit of the WTO. For this reason and because of the economic importance of the agreement, it is included in this review.

The question of rules to govern public procurement had been addressed before. However, the public procurement code was very limited in scope, covering only central government procurement of goods.

The new agreement extends the scope in three ways:

- First, more countries will be covered by the agreement.
- Second, coverage has been increased by adding to the number of departments of central government and extended to the sub-national level to include States, cantons and, in some cases, large cities.
- Third, the agreement now covers construction and services as well as products.

There are two parts to the government procurement agreement: the legal framework and the lists presented by each country of sectors and entities to be covered.

Legal framework: This essentially mirrors the Community's own public procurement rules, which have been accepted as the international standard in terms of their operation, the thresholds which apply and the recourse mechanisms if firms believe that they have been denied equal treatment.

Coverage: Procurement by central government and most of sub-central government is covered. Furthermore, five utility sectors are included in the agreement - water, ports, airports, electricity and urban transport, although not every country has made a commitment in each sector. Unlike most other areas of the GATT, the government procurement agreement is based upon reciprocity. Countries are only obliged to open up procurement in the abovementioned sectors to signatories of the agreement who have made a commitment in the same sector. Thus, if a country makes no commitment in the water sector, its companies will not be able to benefit from the agreement when bidding for contracts in other countries. It is, therefore, vital for firms to be aware of the market conditions in each of the countries that are signatories to the agreement (the table below outlines the offers made up to 15 December 1993).

Public procurement offers

	EC	USA	Japan	Canada	EFTA	Switzerland	Hong-Kong	Korea	Israel
Central government	√	√	√	√	√	√	√	√	√
Regions	√	√ ¹	√	—	√	√	√	√	√
Cities	√	X	√	—	√	√	√	√	√
Water	√	X	√	—	√	√	√	√	√
Electricity	√	√ ²		—	√	√		√	√
Ports	√	X	√	—	√	√	√	√	√
Airports	√	X	√	—	√	√	√	X	√
Urban transport	√	X	X	—	√	√	√	X	X

¹: 24 out of 50 States.

²: only at a federal level.

—: no offer to date.

All sectoral offers are on a bilateral basis.

√: offer.

X: no offer.

What are the benefits arising from the new agreement?

These are in the main economic and legal. On the economic side, the opening-up of the market should allow for greater efficiency as a result of economies of scale, and of increased competition. The magnitude of the gains could be considerable. The old agreement covered only an estimated ECU 30 billion of public procurement. *This will be increased to at least ECU 350 billion under the new agreement.* The gains from increased competition resulting in greater efficiency, and as a consequence lower bids, should prove to be significant. Taking the coverage of the agreement to be ECU 350 billion of government contracts, a 10% reduction in the price of the bids arising out of the increase in competition would see savings of around ECU 34 billion annually. This estimated gain almost certainly underestimates the direct benefits and in no way covers the potential indirect benefits.

On the legal side, suppliers will benefit from the obligations of purchasers to publish tenders. By making the market transparent in this way, opportunities will be created for exporters. Similarly, suppliers will have a right of redress if purchasers fail to meet their obligations.

Box 5: Reducing troublesome bureaucracy

A number of rules, procedures and practices that relate to international trade can impose delays, generate additional costs and generally frustrate trade. The Uruguay Round looked at a number of these issues; customs valuation, pre-shipment inspection, rules of origin and import licensing procedures, with a view to making their operation more transparent and ensuring that they are not used in a protectionist way. Paperwork is to be kept to a minimum and the processing of documentation is to be performed without undue delay.

2. Increased certainty

The openness of the international trading system does not only depend on tariff reductions. Important as they are, they can be negated by other forms of covert protectionism, notably by the abuse of legitimate instruments for protectionist ends.

The Uruguay Round has, therefore, established or improved rules for such measures.

Technical barriers to trade

Products are covered by a wide range of technical regulations, fixed by government legislation, or voluntary standards, which are set by private or public organizations. Such regulations and standards are necessary to ensure health and safety as well as the quality of the products. Their abuse can constitute an unjustified barrier to trade, whose effect is substantial since technical regulations and standards have a direct impact on the product to be traded.

The Round sought to improve upon the existing rules by increasing transparency and improving the process of seeking redress when the system is abused. *The revised dispute settlement mechanism (see Section 4) will be of great benefit to producers with a legitimate complaint, replacing as it does the current settlement panel procedure which is cumbersome and, therefore, infrequently used.*

The negotiations have clarified both the actors and the actions that fall within the scope of the agreement. As regards standards, there is a code of practice that covers all standards bodies, be they public, para-public or private. This code lays down certain obligations concerning transmission of information to other bodies, notification of standards, etc. The code is voluntary but is likely to be observed by all the major standards bodies and will, no doubt, provide the basis for future initiatives in this domain.

With regard to technical regulations, all administrative bodies at the sub-national level (i.e. US States, Canadian provinces, etc.) must notify the GATT of any technical regulations enacted. This represents an important step in the process of bringing sub-national bodies within the scope of GATT rules, thus increasing the efficiency of the latter.

Box 6: Allowable protection

In exceptional circumstances, the GATT does allow countries to impose higher levels of protection than the normally agreed level. The two principal measures allowed are safeguard clauses to protect domestic industries from sudden, unexpected surges in imports and anti-dumping measures to combat unfair trading practices. Rules for both have been tightened up.

Safeguards

The negotiations have reinforced the effectiveness of the instrument whilst limiting its scope both in terms of the measures taken and the duration of the measures. The new agreement will lead to the phasing-out of all 'grey area' measures such as voluntary export restraints and orderly market arrangements. The Safeguards Committee will monitor all measures taken and ensure that they are in conformity with the agreement.

Strict time-limits will be set for the application of safeguard measures, in the first instance for up to four years with one possible extension, also of four years. All existing measures will have to be phased out with no measure currently in force being applicable beyond 1999.

Selectivity has been introduced for the first time. It will now be possible to take actions against individual countries if imports are thought to be especially damaging. Such action will only be able to take the form of changes in the quota available to the country concerned.

The parties concerned will have the right to dispute settlement, although it is hoped that the new procedures for determining if damage has been caused and consultation prior to the imposition of measures will reduce cases of implicit protectionism and, therefore, lead to fewer disputes.

The coverage of the agreement has been extended by removing the exemption relating to processes and production methods (PPM). Previously the agreement was linked to the product itself with no consideration of how it was produced. Now, provided the production process leaves a trace in the final product, it is covered by the agreement. This will have important implications, especially in relation to environmental policy where *the agreement will not lead to an erosion of the high environmental standards set by any country*. However, the test of proportionality will be applied so as to ensure that the standards set are reasonable in relation to their stated objective and do not represent a *de facto* barrier to trade (for a more detailed consideration see Box 10: GATT and the environment).

Evaluation of conformity to technical regulations or standards is another important area where improvements have been made. Local conformity is still required but practices will have to be simplified. In addition, there is now greater scope for the development of bilateral mutual recognition agreements. The process will, wherever possible, be streamlined and, once again, if a procedure is considered to be unfair, it can be taken to dispute settlement.

All in all, it is hoped that the new agreement will have a dissuasive effect upon those tempted to use standards and technical regulation as protectionist measures. At the very least it will prevent the most flagrant abuses and make other, more subtle efforts, easier to detect and to rectify.

Box 7: Anti-dumping

Anti-dumping (AD) actions are one of the most widely used and contentious of trade measures, a situation exacerbated by the different regulations and interpretations used by each of the major trading powers. Accordingly, the Uruguay Round sought to clarify matters and increase the predictability of AD actions, whilst maintaining a balance between the legitimate interests of both importers and exporters.

One of the most important innovations in the new agreement is acceptance of the principle that firms may, during their start-up period, sell up to 20% of their production at a loss. This should provide businesses with a greater flexibility in deciding upon their business strategies.

The rules concerning AD procedures and the conduct of investigations have been clarified and are now similar to those operated by the Community. Thus the definition of overheads and profits and the fair comparison of prices will all follow EC practices. This will mean that EC importers face the same regime as before but that exporters can now benefit from the experience and insights that the Community has in running its AD policy.

As well as being more predictable, the system should also be more transparent. Not only are the methodologies to be used fixed by the agreement, there is also an obligation to disclose.

For the first time a 'sunset' clause has been included in the agreement. This will result in a five-yearly review of each AD action to ascertain if it is still valid. The clause will bring US practice in line with European Community policy.

Other important revisions to the rules include: a *de minimis* clause which will terminate actions against small volume imports, special treatment for developing countries and a new clause relating to the tabling of complaints. In most cases, supporters of the complaint must represent the majority of domestic production, under some circumstances minimum support of at least 25% of domestic production will be allowable.

The agreement does not contain any common formula to deal with the problem of circumvention, i.e. the re-routing of exports to avoid AD actions. However, individual countries will be able to develop their own legislation to deal with this problem provided it does not breach GATT rules.

Subsidies and countervailing measures

The original subsidy code, established in earlier GATT negotiations, had not proved to be totally satisfactory. The key aim of this aspect of the Uruguay Round negotiations was again to establish certainty and clarity.

The Community was instrumental in obtaining agreement, for the first time, on the definition of a subsidy, as well as new mandatory rules on the calculation of the value of subsidies and more rapid procedures for dealing with disputes.

The traditional approach to subsidies has been maintained. This means that for a subsidy to come within the remit of the WTO it must have an effect upon trade.

A 'green list' has been established of subsidies that will not be subject to retaliatory action by other parties, provided they are applied in conformity with the new rules on subsidies. *The list covers regional aid, support for research and development and environmental subsidies, all of which are very stringently controlled within the Community. All the rules are compatible with the EC's own laws and regulations on subsidies.* As a result business will only have to comply with one set of criteria: if the subsidy conforms to EC laws it will also be in conformity with GATT rules.

There is a differentiated discipline for developed, developing and less-developed countries. Both the stringency of the rules and the duration of measures will vary according to the level of development and the degree of competitiveness within the specific sector concerned. The subsidies code allows for 'graduation' for developing countries from least developed to developing, according to a per-capita income criterion. The economies in transition also have a special discipline that stands between that for the developed and the developing countries. The distinction is that for the less-developed countries as a whole, the differential is permanent, with individual countries 'graduating' as their economic situation improves, whereas, for the countries in transition, it is temporary and will be phased out over time.

Certain limited derogations from the general rules have been agreed for two areas, namely agriculture and commercial aircraft. Agriculture has the largest number of exemptions. In both cases, the exemptions concern only the most stringent disciplines, in particular, the prohibition of export subsidies and the presumption of prejudice.

Thus, subsidies are recognized as a legitimate tool of social and economic policy, but with a stricter control over their use in cases when they have an effect upon trade. Once again, recourse to the new dispute settlements procedure is available if a party considers that the rules are being violated.

If a country is found to be breaking the rules, or if the subsidies it uses have adverse effects on its trading partners, there is a price to be paid. The possibility for importing countries adversely affected by subsidies abroad to impose countervailing duties remains, but the conditions aimed at ensuring due process and transparency of these procedures have been strengthened further.

Moreover, new, clearer and more stringent rules have been devised on the actual use of subsidies and on the different negative effects that they may cause. If a dispute settlement panel finds that disciplines on the use of subsidies have been violated, or that subsidies have caused serious prejudice to another country, it can recommend withdrawal of the subsidy or an alternative remedy and, in the last resort, authorize retaliation.

These rules will be of great importance in countering the import substitution effects of subsidies and their effects on third markets; in other words, they can be a precious tool for opening up third markets to Community exports.

3. New areas

When the GATT was established, trade consisted chiefly of trade in goods, hence the concentration of GATT rules on tariffs and non-tariff barriers, trade in particular for manufactured goods. Meanwhile, the international economy has undergone a great many changes and the Uruguay Round was seen as the opportunity of updating the trade regime to reflect these changes.

Trade in services now accounts for 20% of global trade – sufficient justification for bringing the sector under the umbrella of the GATT and establishing a set of common rules.

In addition to services, the ever-greater flow of investment between countries has also had a major influence on international trade. Measures relating to foreign direct investment (FDI) and its management can have important and potentially trade-distorting effects. For this reason, trade-related investment measures (TRIMs) were considered in the Round for the first time.

Linked to the increasing flows of goods, services and investment is the question of intellectual property. In an era of high development cost, rapid flow of information and corporate strategies based upon brand differentiation, the need to reinforce the existing rules and bring them under multilateral supervision where they could be more vigorously enforced had become ever more pressing. The negotiations on trade-related intellectual property (TRIPs) were intended to safeguard intellectual property rights while at the same time ensuring the unimpeded flow of international trade.

Let us take a closer look at each of these areas in turn.

GATS: Trade in services under multilateral rules

At present, the service sector is, in the absence of international rules, subject to very differentiated national rules in terms of market access, including reciprocity and other forms of discrimination. The General Agreement on Trade in Services (GATS) establishes the principle of most favoured nation (MFN) conditions, i.e. the principle that all third countries must be treated equally. Exemptions to MFN can, however, be sought in specific circumstances. Equalization of treatment will, it is hoped, lead to an improvement in the position of those countries currently subject to discrimination in relation to the previously favoured country or countries.

As with the other GATT negotiations, the GATS consists of a framework of rules and specific commitments to open markets. As regards the offers that have been made, the large majority, perhaps up to 80% of them, represent the *status quo*. However, there have been some substantial improvements and even those commitments that do not signify any progress do at least make the current situation certain.

Concerning the legal framework, there are obligations to offer MFN status and on market access to ensure that procedures and actions are as transparent as possible. Beyond these basic obligations the criteria for the individual offers are set out. In addition to market access, the most important and wide-reaching of these relates to national treatment.

The essence of national treatment is that a company from a third country cannot be placed at a competitive disadvantage in relation to a domestic company. It is possible that formally identical treatment could still leave a third country firm at a disadvantage, this is not admissible under the GATS and it would, therefore, have to receive formally different treatment to ensure an equivalent competitive position. This definition of national treatment goes beyond that which is explicitly allowed for in the GATT. The GATS is in this and other respects more advanced than the GATT, most notably concerning restrictive business practices (RBPs).

Much publicity surrounded the position of the audio-visual sector within the GATS negotiations. As the agreement stands, the sector is included, although the Community has made no market access commitment nor, as a result, any commitments on national treatment. The Community also took an MFN exemption and is, therefore, not bound to give equal treatment to third countries. This will enable the European Community to continue giving preferential treatment to non-member European countries. However, the inclusion of the sector within the agreement means that the rules relating to transparency and the presumption of progressive liberalization, which are contained in the GATS, still apply.

Box 8: Financial services

This was again a sector that received a great deal of attention during the course of the negotiations.

As a major positive result of the Uruguay Round negotiations, financial services form an integral part of the GATS. For the first time in the history of international economic cooperation, a wide range of banking, securities and insurance activities will be subject to enforceable rules and disciplines on a multilateral level.

However, in order to provide more time to negotiate further improvements in commitments, Members agreed on two specific texts in the closing stages of the negotiations.

For a period of six months after the entry into force of the GATS (at the earliest 1 January 1995) signatories have accepted to apply the GATS provisions on the basis of the fundamental most favoured nation (MFN) principle and their current offers. At the conclusion of this transitional period, signatories are free to improve, modify or withdraw their schedules of commitments without offering compensation. They may also request an MFN derogation or invoke already listed MFN exemptions on a permanent basis.

As a result, the negotiation process in the area of financial services will probably continue for the six months following the implementation of the GATS. Its objective will be to obtain the highest degree of liberalization by achieving further improvements of certain third countries offers and thus reach an agreement which will finally be based on a permanent application of the MFN principle.

One benefit of the GATS as regards financial services is that it will become very much easier for a firm to 'take its financial services with it'. For example, if a construction firm has specific relations with a bank or an insurance company it should be easier for the financial service-provider to continue the provision of that service if the construction firm enters another market.

Trade-related intellectual property (TRIPs)

An ever-increasing percentage of world trade involves intellectual property in one form or another, be it related to pharmaceuticals, computer software, the music industry, branded goods, etc. As trade has increased so too have the incentives to cheat, thus undermining the property rights of the owners of the ideas. Counterfeiting and copying are becoming ever more widespread and are acting as a disincentive to trade.

The situation is complicated by a number of factors. First and foremost is the fact that much of the copying is not illegal in the countries in which it occurs. A number of countries, notably some of the developing countries, have limited patent laws. The copying of products is, therefore, within the law. This is an especially widespread practice in the areas of chemicals and pharmaceuticals. The EC currently exports over ECU 8 billion of pharmaceuticals annually and the ability to protect products would lead to considerable extra exports as well as increased overseas investment.

In other fields, the term piracy is well deserved and its costs are very large. It is, of course, difficult to provide an exact figure for what is after all an illegal, and, therefore, imperfectly monitored activity but estimates have been made in certain sectors. For example, it is believed that for books, records, software and entertainment, losses as a result of piracy amount to more than 10% of EC exports (see Fig. 6).

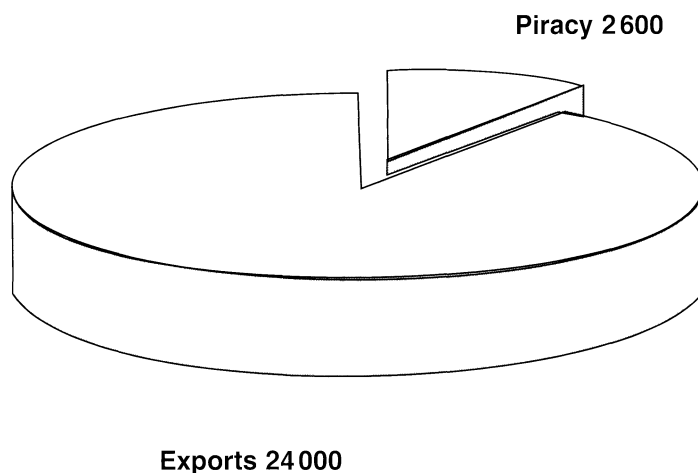
A further problem has been the appropriation of brand names and, in the case of wines and foodstuffs, certain geographical appellations. Their use, coupled to poor quality standards, can have a damaging effect upon the reputation of the genuine articles and undermine the demand for them in overseas markets.

It was to remedy these problems that TRIPs were included in the Uruguay Round negotiations. The result has been a strengthening of existing international conventions, for example, the Bern and Paris Conventions for the protection of literary and artistic works, by bringing them within the ambit of the GATT dispute settlement procedures. In addition, there has been a strengthening of intellectual property rights in a number of areas:

- Strong protection of trade marks which will provide increased protection for EC brands.
- Industrial designs will receive a greater degree of protection than was previously the case, with special protection being accorded to the creation of the textile and clothing industry.
- Patent protection will be introduced in all countries for pharmaceutical and chemical products.
- The level of protection afforded to semi-conductor design within the Community will be extended to the international level.
- New rules will prohibit the future appropriation and current incorrect use of geographical appellations.

FIG. 6

Losses to piracy, copyright industry (million ECU)



In addition, a clear set of principles has been established for the enforcement through the national courts of intellectual property rights. Any breaches of this agreement will be subject to sanctions under the dispute settlement procedure.

TRIMs

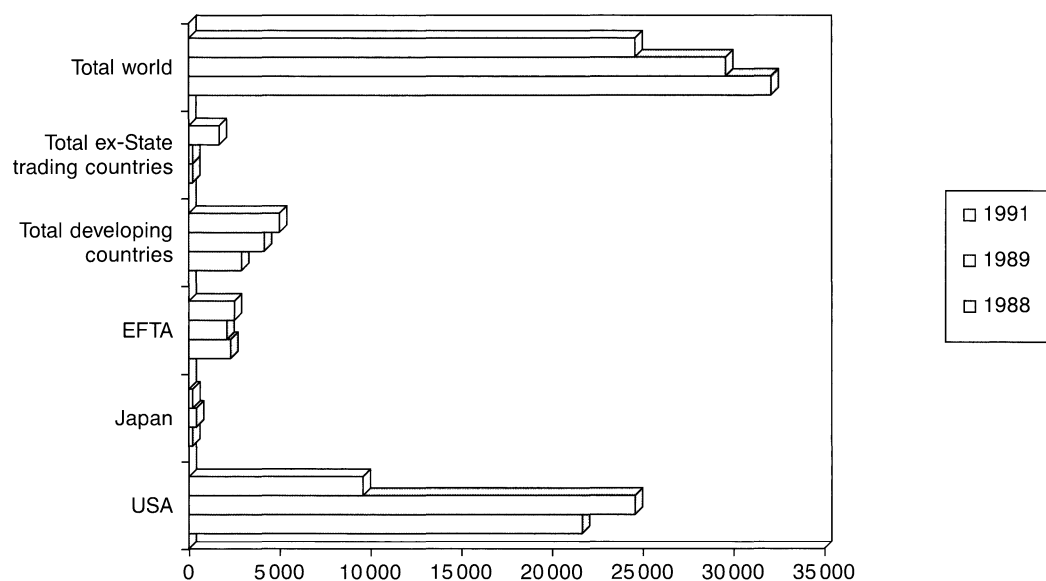
Foreign direct investment is an increasingly important feature of the global economy and an area in which the Community has a strong interest. The proportion of world FDI outflows originating from the Community is 36%. It also receives 19% of world FDI outflows (these figures exclude intra-EC flows) (see Fig. 7). The growing importance of foreign direct investment has highlighted the effects on trade of some investment measures imposed by countries on foreign investors. For this reason the Uruguay Round included for the first time an agreement on trade-related investment measures (TRIMs).

As the first agreement of its kind, the primary aim of the TRIMs agreement was to clarify the rules concerning the use of such measures, to determine what is and is not permitted and to provide a framework for future actions.

This has to a great extent been achieved. An illustrative list of non-permissible measures is included in the agreement and this, along with clarification of TRIMs prohibited by other GATT rules, covers such things as local content rules, trade balancing and local sales requirements. Such measures must be phased out over a two- to seven-year period, depending upon whether the country concerned is a developed or developing country.

FIG. 7

Breakdown of EC outward direct investment (million ECU)



Source: Eurostat, EC direct investissements, 1984-91.

A TRIMs Committee will be set up to monitor the application of the agreement and, once again, the dispute settlement mechanism is available if differences cannot be resolved by the Committee.

4. The world trade organization

The World Trade Organization constitutes a new start for the international trading system. In comparison to the earlier negotiations, the Uruguay Round represents a vast and complex undertaking. It has deepened and broadened the scope of multilateral rule-making, ranging from agricultural trade to trade in services and the TRIPs. This upgrading of the rules relating to the international trading system called for a revised and more effective institutional framework. The WTO provides just such a framework.

Box 9: The WTO and the GATT

The WTO is not the successor to the GATT 1947. It represents a new organization open to those who agree to abide by the entire Uruguay Round package. Unlike previous negotiations there is to be a 'single acceptance' of all aspects of the agreement. This reflects the breadth of the agreement and the balance struck between the negotiations in the various sectors. It prevents countries upsetting this balance by only adhering to those aspects of the agreement in which they see the greatest advantage for themselves. The new system will increase certainty. If a country is in the WTO everyone will be aware of its exact obligations, since it will have accepted the whole package. In addition, negotiations between smaller groups of countries, notably in public procurement, which go beyond the Uruguay Round will all fall within the auspices of the WTO.

Those countries that are not in a position to accept the entire package, will remain within the old GATT framework. This will continue to exist but will be frozen in its pre-Uruguay Round situation. This has important consequences. The trade-liberalizing schedules within the Round will, therefore, only be available to those countries that are members of the WTO. Other countries will exist under the old framework.

It will administer the new dispute settlement procedure (see below) and enhance the transparency in the international system. The GATT trade policy review mechanism (TPRM) is used to study the policies of GATT members, detailing their policies concerning trade in goods, and highlighting any problem areas. This will continue but the TPRM will have a far greater scope, covering all of the activities within the WTO's remit.

The WTO will also become an important actor on the international stage, equal in status to the IMF or the World Bank. The WTO is mandated to coordinate with these and other international organizations to achieve greater coherence in global economic policy-making, and as importantly from the point of view of transparency, to increase contact with non-governmental organizations.

Within the WTO a number of specialized committees will oversee certain issues, most notably trade and development, services, agriculture, TRIPs, safeguards and the other main agreements. There is as yet no trade and environment committee but one is likely to come into being (see Box 10).

Moreover, the WTO sees the end of 'grandfathering' the provision whereby pre-existing GATT incompatible legislations were perpetuated. Now the rules really are the rules, without any hidden exceptions that provoke trade uncertainty. It also imposes the obligation of conformity of national law with the WTO, thus clearly outlawing unilateral action, such as those foreseen as the trade legislation of the United States (Section 301).

Box 10: GATT and the environment

There were calls throughout the negotiations by a variety of NGOs and others for a 'greening of the GATT'. The argument was that no specific provision existed within the Final Act of the Uruguay Round relating to trade and the environment. This is perhaps true in the narrow sense, but it does overlook the consideration that has been given to environmental issues within different areas of the final act, which are in total quite considerable. More importantly, the ministerial Declaration attached to the agreement has laid the foundations for further consideration of the issue and its integration into the WTO.

The environment and technical barriers to trade (TBTs). Measures taken to safeguard the environment are considered a legitimate derogation from the terms of the agreement, provided they are justified and provided they are considered to be proportional to the problem that needs to be resolved. In essence a country can set a high environmental standard provided it is justified, but the means used to achieve the standard are left up to the producer.

All of this is made clear in the preamble that specifically mentions the environment, proportionality and workers' safety.

The inclusion of PPMs in the agreement widens the scope of any environmental measures taken. If, for example, a production process leaves traces of a chemical which is banned in a country, it will be possible to prevent the importation of the final product even if it is not in itself made from the chemical concerned.

Subsidies: Environmental subsidies are one of the allowable forms of subsidy under the new agreement. This will safeguard the Community's policy principle of the 'polluter pays' with the provision of assistance to facilitate changes required by new laws.

Trade and the environment. The WTO

This was a difficult issue in terms of relations between developed and developing countries. The preamble states the intentions of the organization (WTO) in terms of sustainable development. However, there is within the main text no specific reference to a trade and environment committee, this was resisted by developing countries worried about hidden protectionism and the lack of clarity over the form or powers of such a committee. The result is a ministerial declaration attached to the final act which sketches out a potential outline for such a committee, to be expanded upon once the final act is endorsed in Marrakech.

Dispute settlement procedure

This is one of the key new features of the WTO. The procedure has been made more automatic, transparent and has been invested with a greater certainty. Previously, dispute settlement was undertaken by specially constituted panels with their reports being accepted only by consensus of the GATT members. This led, in some cases, to panels being blocked or conclusions being reached on political grounds, with a less than clear explanation of how a decision had been reached. Under the new system, the process will be controlled by the Dispute Settlement Board (DSB) which will oversee the proceedings. Panels will continue to exist but the process of adopting a panel report will be automatic. To provide a balance between the interests of the parties involved in the dispute, there will, for the first time, be an appellate board that can review the legal basis for a decision (see flow diagram below).

The system also has strict deadlines for each stage of the process and the implementation of the panel's final recommendations once they are accepted by the Dispute Settlement Board. *All of this makes the process easier and more predictable.* Plaintiffs can call for an action to be taken with greater certainty that the final decision will be on the merits of the case, rather than on a range of wider political factors.

Transparency will also be improved under the new procedure. This will entail the publication of a résumé of the non-confidential evidence submitted by the parties involved in the case. In this way the public at large will have a better understanding of the issues and how the final decision was reached.

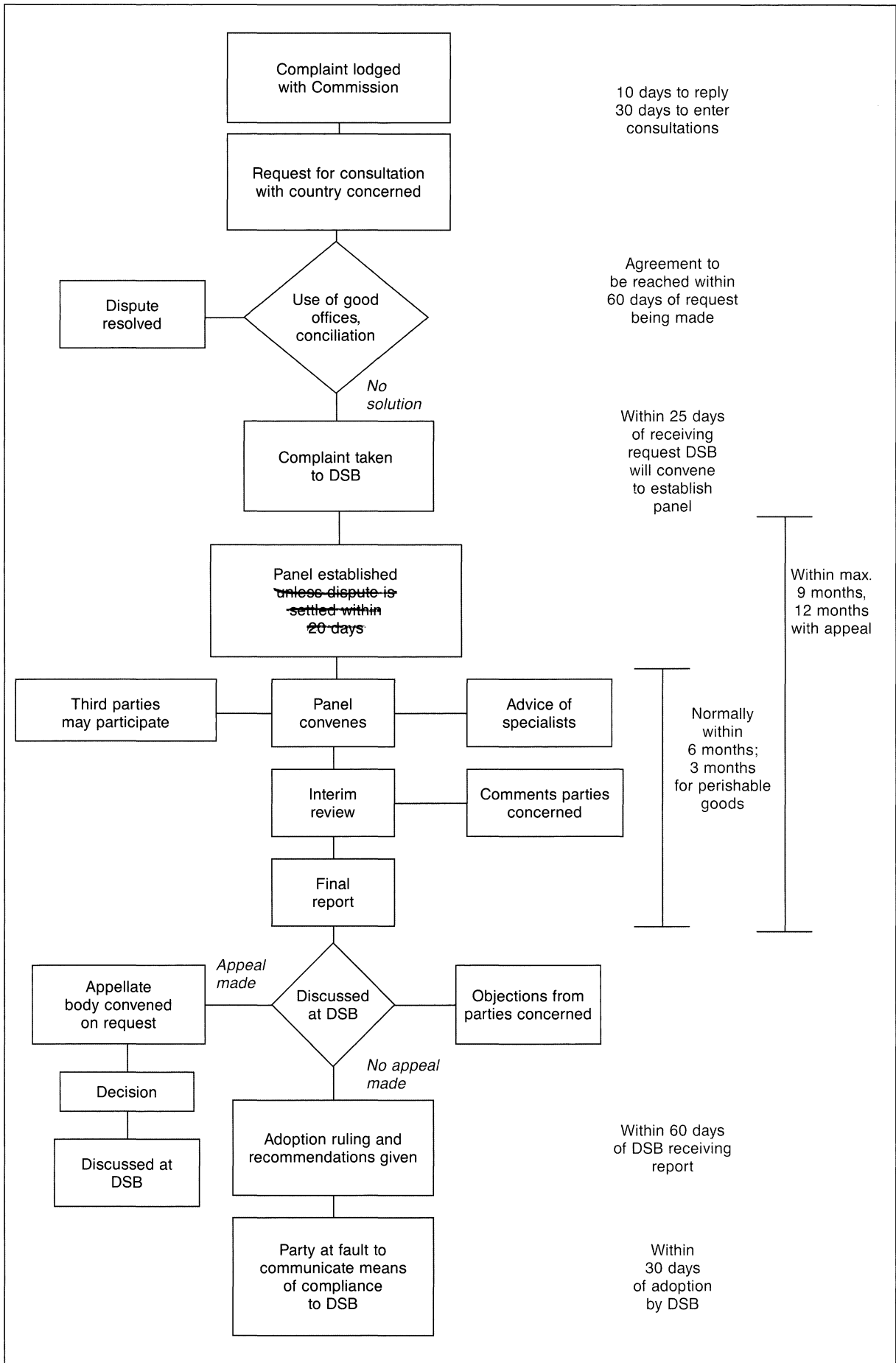
The WTO Members shall have recourse to, and abide by, the rules and procedures of this new agreement. *There can be no unilateral action before a panel has reached its decision and any action that is taken after a panel has decided must first be approved by the Dispute Settlement Board.* Trade retaliation is strictly controlled by the new agreement. Action should, where possible, be taken in the same sector. However, retaliation may occur across sectors and agreements, subject to certain criteria and procedures to be followed. For example, retaliatory action may be against services even if the complaint is in the goods sector.

Corrigendum

Page 28. Under Dispute settlement procedure; for *Dispute Settlement Board*, read Dispute Settlement Body

Page 29 In box which reads "*Panel established...20 days*" delete all after "established"

Dispute settlement procedure



Conclusion

The Uruguay Round takes cooperation on international trade onto a new higher level. In acknowledging the importance of international trade for global economic welfare, the Round has created a great many opportunities that must be exploited to the full if we are to reap the benefit of this new environment. This will entail a systematic effort. Not only governments but also employers, workers and consumers alike will have a role to play in developing new markets and ensuring that the rules are adhered to.

The challenge for the European Community will be to assure the best possible environment in which to benefit from the Round. This, of course, means following an open external economic policy, an acceptance of the fact that our economic interests are inextricably linked to the world economy and the vigorous promotion of cooperation with other countries. But it also means following internal policies that allow us to compete at the international level. Our education system infrastructure and research and development are as important as any other factor in determining our trading capabilities.

Finally, government and business need to be brought closer together and to achieve a higher level of cooperation. The Community is considering a number of initiatives that will help business exploit the opportunities available. This does not simply mean big business; small and medium-sized enterprises form an important part of the European economy and more will be done to help them succeed at the international level.

New opportunities have been created, it is for us to exploit them to the full.

European Commission

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