

# **Deregulation and Liberalization Initiatives of the APEC Member Economies**

December 1995



ASIA-PACIFIC ECONOMIC COOPERATION

APEC Committee on Trade and Investment



ASIA-PACIFIC ECONOMIC COOPERATION

APEC Secretariat

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## FOREWORD TO THE FIRST EDITION

The CTI (APEC Committee on Trade and Investment), at its meeting in Fukuoka in February 1995, agreed to compile each member's initiatives on deregulation and asked the APEC Secretariat to develop, in consultation with members, a standardized format so that compilation of the reports from members could be published on an annual basis.

At the initial stage, the deregulation report was proposed in view of the importance of voluntary deregulation measures taken by APEC member economies in the process of trade and investment liberalization and facilitation. The report was looked upon as a handy tool to promote the transparency of respective regulatory regimes of member economies and to provide an easy access to the information for the business community in the region.

As 1995 progressed and as the Osaka Action Agenda began to take firmer shape, the deregulation exercise came to enjoy growing importance in the overall process of implementing the Bogor Declaration.

- First, the deregulation report began to be recognized as an important asset for benchmarking the status of trade and investment liberalization and facilitation in each economy.
- Furthermore, in the process of preparing the deregulation report, more CTI members began to see the merit of more concerted efforts to eliminate trade and investment distortions arising from domestic regulations.

It is against such a background that deregulation now forms an important part of "Actions in Specific Areas" in the Osaka Action Agenda (Part I, Section C).

I am happy to note the important role the CTI played to develop, along with a number of other issues, deregulation as an important part of the Osaka Action Agenda. This would not have been possible, of course, without the eager participation of all the CTI members and the assistance from the Secretariat. So, my warm thanks are due to all of those who rendered their support to this report.

The deregulation report is to be published on an annual basis, this being the very first in the series. I sincerely hope that the report will continue to make contributions to facilitating the process of deregulation in APEC member economies. At the same time, I hope that the report will be of genuine assistance to the business community and there would be more interaction between the CTI and the business community.

Ambassador Sun Joun Yung  
Chairman  
APEC Committee on Trade and Investment

## **INTRODUCTION**

In response to the request of the Committee on Trade and Investment (CTI), the APEC Secretariat is pleased to publish a compilation of responses of APEC's 18 member economies to the APEC *Deregulation and Liberalization Initiatives* survey.

**AUSTRALIA**

## **I. BACKGROUND INFORMATION**

The persuasive force behind the formulation of Australia's trade policy objectives, and of economic policy generally, continues to be the need to foster the development of an internationally competitive and outward looking economy. The Australian Government gives high priority to improving trade performance in all sectors of the economy by removing domestic impediments to improved competitiveness. Australia, for all practical purposes, is a single integrated market, increasingly exposed to domestic and international competition.

Domestically, trade and industry policies aim at achieving a lower and more neutral assistance regime, exposing hitherto protected industries to competitive pressure, creating an environment that encourages investment in competitive industries, and reducing distortions that discriminate against more efficient activities. Complementary policies have the objectives of removing domestic impediment to trade, including in industries that provide inputs to tradeable goods and services.

The Australian Government has undertaken sweeping regulatory reforms over the past decade. As a result of decisions already set in train, the average trade-weighted tariff will fall to 2.9% by the turn of the century, making the Australian economy one of the most liberal in the world. There is also growing evidence that tariff reductions and other broad-ranging structural reforms over recent years are contributing towards the development of an internationally competitive Australian economy. For instance in 1993-94, exports of goods and services in volume terms were around 22% of GDP, compared with 14% a decade earlier. Similarly, imports as a share of national expenditure grew in volume terms from 15% to 20%. Export volumes have increased at a faster rate than import volumes over the past three years, and net exports have been a key component of recent growth in GDP.

Regulatory reform has also been pronounced in areas like services and investment, with Australia's practice in these areas now among the most liberal in the Asia Pacific. As a consequence, Australia is well placed to move the remaining distance towards free and open trade and investment by the 2010 date envisaged in the Bogor Declaration.

Over the last few years a number of policy measures have been implemented to address some of the principal reasons for the under-performance of the Australian economy. Most notable have been the steps taken towards the implementation of a national framework for competition policy, changes in industrial relations legislation and the employment and training initiatives announced by the Australian Government in the document *Working Nation*.



## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

The policy of the Australian Government is to reduce tariffs gradually as part of a strategy to develop internationally competitive manufacturing industries able to compete in global markets. Under this program of phased tariff reduction, which commenced in 1988 and was extended in 1991, general ad valorem tariffs are being reduced from 15% and 10% on 1 July 1992 to 5% on 1 July 1996 in four steps. This means that from 1996 nearly all industries will have tariff rates between zero and 5%. This program includes the bulk of tariff lines not already free (around 70% of all imports enter Australia duty free via MFN rates, tariff concessions and tariff preferences).

There are separate phasing arrangements for the textile, clothing and footwear (TCF) and passenger motor vehicle (PMV) sectors:

- PMV tariff quotas were abolished in April 1988 and tariffs were reduced from 57% to 45% and then phased to 27.5% on 1 January 1995. By the year 2000, the PMV tariff will phase to 15%;
- Tariffs on non-derivative light commercial and four wheel drive vehicles, including original equipment and replacement components for use in those vehicles, are being reduced to 5% by 1996, in accordance with general reductions for manufacturing tariffs;
- TCF quotas were abolished in March 1993. By 1 July 2000, the rate of duty for apparel and certain finished textiles will fall to 25% from the 1995 level of 40%. Footwear and most other textiles will phase to 15% over the same period from 1995 levels of 17% to 30%. TCF foods already having rates of 15% or less will phase to 5% in line with general reductions for manufacturing tariffs. Imports of TCF products are not subject to voluntary restraint or other quantitative restrictions.

Tariffs on tobacco leaf were reduced to zero on 1 January 1995 as part of the Tobacco Industry Restructuring Package announced by the Government in December 1994.

Currently, 43.3% of Australia's tariffs are at 5% or below. If TCF and PMV tariffs are excluded the figure is 48.1%.

In 1995-96, the simple average Australian tariff was 3.9%.

## **1.2 Non-Tariff Measures**

All tariff quotas have been removed from 1 January 1995. There are no import taxes levied additional to those levied via the tariff. Australia does not impose quantitative import restrictions. There are no government-to-government Voluntary Export Restrictions (VERs) or Orderly Market Arrangements (OMAs) applying to imports into Australia and Australia is not a signatory to the Multi Fibre Agreement.

Action to remedy injurious dumping or subsidization of imports is governed by the legal provisions found in the Customs Act of 1901, the Customs Tariff (Anti-Dumping) Act 1975 and the Anti-Dumping Authority Act 1988. These provisions reflect Australia's rights and obligations as a member of the WTO.

## **2. Measures On Services Trade**

## **3. Measures On Investment**

Australia has no restrictions on outward investment, and has a very liberal inward investment regime. No substantive changes were made to regulations relating to inward investment last year.

## **4. Other Measures**

### ***Microeconomic Reform***

At the Council of Australian Governments' (COAG) meeting of 11 April 1995, the Federal, State and Territory Governments agreed to implement a package which provides for a cohesive national competition policy (refer to Annex 1 for further details). To give effect to those reforms, the competitive conduct rules in the Trade Practices Act will be extended to the unincorporated sector including State and Territory government business enterprises. The Commonwealth and the States also agreed to a set of competition principles which would provide a framework to encourage greater competition in the business activities of governments and other sectors of the economy (refer to Annex 1 for further details).

Major asset sales (privatization) at the Commonwealth level, previously announced, are expected to be completed in 1995-96 and forward years. These include:

- The Commonwealth's remaining 75% equity interest in Qantas Airways Limited (the sale of Qantas is now complete);
- Long term leases over Federal Airports Corporation airports.

In addition, new major asset sales announced in the 1995-96 Budget include:

- The sale of the Government's remaining 50.4% shareholding in the Commonwealth Bank of Australia.

Privatization at the State and Territory Government level is the responsibility of those governments.

### ***Regulation Review***

As part of the National Competition Policy reforms, COAG established a process of regulation review and reform. Under this process, the Commonwealth, State and Territory Governments will, over the next four years, review the regulatory environment facing business with a view to removing regulatory impediments which unnecessarily restrict competition, add to business costs where these impediments are not essential and do not deliver net public benefits (See Annex 1 for further details).

## **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **3.1 Measures On Merchandise Trade**

#### **3.1.1 Tariff Measures**

As a result of the Uruguay Round negotiations, Australia will have an average bound tariff of 10.9% by the year 2000 on industrial products compared with 19.3% in 1986. By 2000:

- More than 99% of imports by value enter under a bound tariff rate;
- 95% of tariff lines will be bound (compared with 20% previously);
- 16% of tariffs will be bound to zero.

Australia's Uruguay Round commitments on industrial products involve an average tariff cut of 44%.

Industrials	Pre UR	Post UR	Present
Binding ratio	30	97	97
Weighted average rate	19.3	10.9	17.7

Agricultural	Pre UR (1986)	Post UR (2000 bindings)	Present (July 1995)
Binding ratio (Trade)	44.8	100	100
Binding ratio (Lines)	24.7	100	100

Weighted average rate	7.3	4.8	2.8
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### 3.1.2 Administration And Other Measures

Legislation to bring Australian anti-dumping and countervailing practices into conformity with the WTO Agreements entered into force on 1 January 1995. The Customs Tariff (World Trade Organization Amendments) Act, passed in 1994, provides for a number of amendments to the tariff reduction program announced in the March 1991 Industry Statement in order to enable Australia to comply with market access formulae agreed in the Uruguay Round for both agricultural and industrial products.

Discriminatory sales tax measures, applied to fruit and vegetable juice products, were eliminated as from 1 January 1995 in accordance with WTO requirement for elimination of “grandfathered” measures. The Sales Tax (World Trade Organization Amendments) Act, passed in 1994, removes discriminatory local content sales taxes which were available only to juice products produced from fruits or vegetables grown in Australia, New Zealand or Papua New Guinea. (The removal of the “grandfather” clause relating to legislation pre-dating accession to the existing GATT meant that the elimination of mandatory sales tax discrimination for like domestic products was necessary to bring Australian legislation into conformity with existing GATT Article III national treatment obligations.)

Rules of origin, for preference purposes, apply to goods which are claimed to be the produce or manufacture of New Zealand, Papua New Guinea, Forum Island Countries (FICs), Malaysia, developing countries and Canada and which are eligible for preferential tariff treatment when imported into Australia. Under Australian rules of origin legislation, as contained in the Customs Act 1901, goods are treated as the produce or manufacture of a country if the goods are its unmanufactured raw products; are wholly or partly manufactured in a country, with the final process taking place in that country; and if the goods meet specified requirements in relation to factory or works costs.

Australia’s quarantine objectives are to facilitate the importation of animals, plants and related products while maintaining the maximum practical protection against the entry and spread of exotic pests and diseases; to ensure agricultural products inspected by the Australian Quarantine and Inspection Service (AQIS) are safe, wholesome, fit for human consumption and accurately described; and that mandatory health requirements and international obligations (treaty and other) are met. Quarantine decisions are based on sound technical grounds. Furthermore, in keeping with WTO commitments, Australia does not use quarantine measures in an unjustified or arbitrary way as a means

of protecting its industries against foreign competition in domestic markets.

Australia's dairy support arrangements were reinstrumented from 1 July 1995. Export subsidies under the previous Market Support Payment scheme have been removed. Support is now provided via a domestic market support scheme financed by levies on manufacturing and market milk consumed in the domestic market. The new marketing arrangements will be phased down progressively and terminated on 30 June 2000.

### **3.2 Measures On Services Trade**

Domestic deregulation in services for the period in question has been as follows:

#### **- *Legal Services***

Uniform Australian regulation of foreign lawyers is under active consideration by Ministers in the Standing Committee of Attorneys-General (SCAG). At present, differing State and Territory regulation governs the practice of home country and third country law by foreign lawyers in Australia. To facilitate transparency and harmonize the present regulatory position, a draft bill for possible uniform adoption by the Commonwealth, State and Territory governments is currently under preparation. The draft bill is expected to be considered further by Ministers in November 1995.

#### **- *International Maritime Transport Services***

Australia's approach to maritime transport is consistent with OECD principles of fostering free circulation of shipping in fair competition, and aims to ensure that Australian shippers have access to the widest possible choice of reliable, efficient and competitive shipping services.

Australia does not restrict entry by foreign operators in its international trade, provided vessels comply with Australian safety requirements which are themselves based on international conventions, nor does it impose any restrictions on the choice of shipping line by exporters. Cross border liner shipping is subject to a resident agent requirement and must comply with market competition requirements oversighted by the Australian Trade Practices Commission. There are nationality requirements for Australian flag operators.

Australia does not have any significant limitations in the area of auxiliary services. Both foreign and Australian nationals are required to obtain leases and licences from regulatory authorities and comply with relevant legislation.

The maritime cargo handling industry was restructured between 1989 and 1992 under the Waterfront Industry Reform Authority, established by the Commonwealth Government. The restructuring primarily addressed labor market issues. Port authority services are a State responsibility, and there is an ongoing reform process, which aims to corporatise port authorities and introduce competition where appropriate.

In June 1995, the Government introduced into Parliament a Bill to provide an annual taxable grant to operators of Australian-crewed commercial trading ships engaged in international trade. The amount of the grant to be paid in respect of each international trading ship would be equivalent to the notional income tax liability of the crew members on that ship.

The objective of this measure is to put the Australian international shipping industry on a more competitive footing with overseas counterparts, many of which now operate on open or international registers, typically offering attractive taxation regimes.

The Government is currently considering options for the future of the Australian National Line. These include sale of the company or its restructuring to curtail losses.

- ***International Aviation Services***

There have been significant reforms in the aviation industry in Australia over the past few years, all directed towards encouraging growth of competition in the provision of aviation services. In 1992, Australia adopted a policy of multiple designation for its international airlines. This has led to significant growth in capacity negotiated with other countries and an increase in the number of services offered by Australian carriers. Over the same period there has been an increase in the number of foreign airlines serving Australia and the number of services operated.

- ***Telecommunications***

The major regulatory features of the Australian telecommunications regulatory framework include full resale of telecommunications network capacity (domestic and international); competitive safeguards; separation of the regulatory and operational functions; a government-owned carrier (Telstra) and (until 1 July 1997) a second general and mobile carrier (Optus) and third mobile carrier (Vodafone). The second carrier and the third mobile carrier are required to have effective Australian control and the maximum possible Australian ownership.

On 1 August 1995, it was announced that full and open competition in the telecommunications market would be introduced from 1 July 1997. From that date there will be no restriction on the number of providers or

installers of network infrastructure.

There will be no industry-specific limits on foreign investment in new carriers; the standard provisions of the Foreign Acquisitions and Takeovers Act 1975 concerning foreign control will apply. Another key element of the new regulatory regime will be a fully-fledged access scheme; carriers controlling access to facilities that provide services to the Australian public will be required to interconnect all other carriers and service providers and guarantee access to customer equipment and subscriber management systems, including open access for providers of content services on broadband and narrowband networks.

Outline of the main Australian commitments in sectoral deregulation under the GATS is as follows:

- ***Accounting Services***

Commercial presence limitations include residence requirements, and requirements that only natural persons may be registered auditors. There are no other market access or national treatment limitations other than horizontal measures.

- ***International Maritime Transport Services***

No agreement was reached on maritime transport at the end of the Uruguay Round and talks have been extended in the WTO Negotiating Group on Maritime Transport Services until June 1996.

Australia's approach to the negotiations reflects the open and liberal nature of Australia's international maritime services market. Australia's objective is to develop a substantive schedule of commitments to liberalize the sector with as many countries as possible making similar commitments.

- ***Insurance Services***

Australia has adopted the negative listing approach, (i.e. all sectors are covered unless explicitly excluded). Personnel residence and entity requirements apply to foreign subsidiaries. Licensing, monopoly, and levy protection apply in some states for third party motor vehicle accident insurance and workers compensation; sub-national guarantees are provided to some states and territory insurance offices. No other market access or national treatment limitations other than horizontal measures apply.

- ***Banking***

Australia has adopted the negative listing, (i.e. all sectors are covered

unless explicitly excluded). Equity limitations (15% maximum for individuals) apply to the major banks, entity requirements apply for fund raising businesses, and foreign exchange dealing must be carried out by a dealer authorized by the Reserve Bank of Australia. Other requirements include capital adequacy, minimum deposit requirements for foreign bank branches, and restrictions on business relationships between securities dealers and banks. Horizontal measures also apply.

The bulk of other services have no market access or national treatment limitations other than horizontal measures.

### **3.3 Measures On Investment**

The TRIMS text is fully in keeping with the Australian government's approach to creating an open and receptive atmosphere for foreign investment. Australia has examined existing industry policies and concluded that none of these policies fall within the TRIMS list. As in the past, under the old GATT provisions, Australian industry policies will continue to be shaped by our international obligations.

### **3.4 Other Measures**

#### ***Trade Related Intellectual Property Rights (TRIPs)***

The Copyright (World Trade Organization Amendments) Bill, passed in 1994, amended the existing Copyright Act 1968 to introduce exclusive rental rights in sound recordings and computer programs, protection for performers against bootlegging and new enforcement provisions relating to Customs.

The Patents (World Trade Organization Amendments) Bill, passed in 1994, amended the existing Patents Act 1990 to incorporate extension of patent terms to twenty years, conditions on using a patent without the authority of the patentee, and enforcement procedures.

The Trade Marks Act, which was passed in 1994, replaces the existing Trade Marks Act 1955. The Act incorporates minor amendments pursuant to the WTO TRIPs Agreement relating to grounds for registration, remedies and customs measures. It covers issues much wider than those required in order for Australia to implement its Uruguay Round commitments.

## **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

### ***Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA)***

A review of CER arrangements was undertaken in 1992. A major outcome was



agreement that rules of origin be modified and clarified to better facilitate trans-Tasman trade in goods manufactured in the Free Trade Area. The changes were implemented from 1 April 1994. In August 1994, Trade Ministers from Australia and New Zealand agreed to form a Joint Working Group on CER rules of origin. Australian and New Zealand Customs officials have also jointly prepared and published an Information Booklet on CER rules of origin and a Protocol on Customs Procedures for trans-Tasman textile, clothing and footwear rules of origin enquiries. These were released in May 1995.

In relation to the single aviation market with New Zealand, in October 1994, the Australian Government decided not to allow New Zealand airlines access to the Australian domestic market or grant more international on-flight rights. New Zealand's existing on-flight rights of the equivalent of 12 B747 services per week beyond Australia were not affected.

#### ***South Pacific Regional Trade And Economic Cooperation Agreement (SPARTECA)***

In the second half of 1994, Australia reviewed its approach to application of the Rules of Origin under SPARTECA. While the rules themselves have not changed to any significant degree - i.e. Forum Island Countries (FICs) must still meet the 50% local content level to be eligible for the concessions offered - their interpretation has been changed. The objective has been to encourage the maximum of value adding in FICs.

### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

The Industry Commission (IC) has calculated that the long-term benefits from freeing up trade in manufacturing, agriculture and resources would provide net gains to Australia in real GDP of \$4.4 billion (in 1992 Australian dollars). National income is expected to rise by A\$1.2 billion. The IC has also calculated that the Round could result in increased exports, imports and the capital stock in most key sectors of the economy. Overall, annual output is estimated to increase by 1%, exports by 8%, imports by 7% and Australia's capital stock by 3%.

### **VI. FUTURE DIRECTION**

#### ***Cairns Group***

Australia participates actively in the Cairns Group. At the Group's most recent Ministerial Meeting in May 1995, Ministers "agreed to develop the goals for future negotiations on agriculture as a priority objective for the next Ministerial meeting to be held in Columbia in the first half of 1996". Cairns Group Ministers also "committed to be vigilant in order to ensure there was no circumvention of the Uruguay Round obligations on agriculture ..... and monitor closely the developments on agriculture policy in the majors".

*Australia New Zealand Closer Economic Relations Trade Agreement  
(ANZCERTA)*

With respect to trade in services, the Australian and New Zealand Governments are currently finalizing a review of the CER Protocol on Trade in Services. This review has a particular focus on the inscribed services, i.e. those services exempt from the Services Protocol, with a view to further liberalizing trade in services.

It is expected that the review will be finalized shortly, formalizing the removal and amendment of the number of inscriptions.

Work is progressing well on a scheme for the mutual recognition of regulations relating to goods and registration of occupations, a scheme which will allow for the free movement of goods and occupations between Australia and New Zealand, regardless of regulatory variations that might apply between jurisdictions. A discussion paper on the proposed Trans-Tasman Mutual Recognition Arrangement (TTMRA) was released on 11 April 1995, commencing a public consultation phase that finished on 31 July 1995. It is anticipated that a TTMRA will come into force in early 1997.

Work on a treaty for the harmonization of food standards is almost complete. It is possible that an arrangement could be signed before the end of 1995.

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

All enquiries relating to the above information should be directed to:

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## AUSTRALIA'S APPROACH TO TRADE AND INVESTMENT LIBERALIZATION

Over the past decade, Australia's economy has become increasingly exposed to competition reflecting an extensive program of microeconomic reform. This has contributed to increasing the productivity of Australian industry and, through this, improving Australia's international competitiveness. Major regulatory reforms undertaken over the past decade have included:

- Deregulating financial markets and floating the Australian dollar;
- Improving the efficiency of the public sector, through reforms to government business enterprises;
- Improving the flexibility of the labor market, through encouraging enterprise bargaining and improving the job-readiness of the unemployed;
- Encouraging a more outward looking industrial structure through tariff reductions and the elimination of quotas;
- Improving the efficiency of the non-traded goods and services sector, through deregulation and structural reform of government business enterprises and, a strengthening in the coverage of competition policy via the National Competition Policy reforms;
- Expanding inter-State trade and competition and reducing business costs through mutual recognition of standards and professional qualifications;
- A continuing commitment to the process of microeconomic reform, including initiatives such as an ongoing regulation review and reform process.

The principal objectives of the reform process have been to improve the efficiency of the Australian economy, to promote its internationalization, and to strengthen further its links with the Asia Pacific economies. Liberalization of tariffs, services trade and investment has been designed to complement broader microeconomic reforms. These policies are widely accepted in the Australian community, reflecting a general assessment that the inward-looking approaches to the development of manufacturing industry, followed in the past, had been unsuccessful. The response of business has been particularly encouraging. Firms, which had sheltered behind high tariff walls in the past, have been quick to adjust to the new realities - while at the same time advocating faster change in other areas which affect business costs.

As a consequence of the reforms of the past decade, Australian industry is now lightly assisted. For manufacturing industry, which has traditionally included the most heavily protected sectors of the Australian economy, the nominal rate of assistance on outputs will fall to 3% by the turn of the century. Effective rates of assistance on outputs (which take into

account the assistance provided to value-added rather than to gross output) will fall to 5% over the same period. The following table summarizes the main changes by sector.

Nominal And Effective Rates Of Assistance For Manufacturing (Per Cent)

	Nominal			Effective		
	1990-1991	1995-1996	2000-2001	1990-1991	1995-1996	2000-2001
Food, Beverages, Tobacco	5	3	3	4	3	2
Textiles	18	10	6	51	27	17
Clothing and Footwear	63	31	19	113	56	34
Wood, Wood Products	11	5	4	14	6	4
Paper, Paper Products, Etc.	6	3	2	7	4	2
Chemicals, Petroleum Products	2	1	1	8	4	3
Non-Metallic Mineral Products	3	2	1	4	2	2
Basic Metal Products	4	3	2	8	5	4
Fabricated Metal Products	12	6	4	18	8	4
Transport Equipment	22	14	9	34	21	13
Other Machinery & Equipment	14	6	4	17	8	5
Miscellaneous Manufacturing	13	7	5	19	10	7
Total Manufacturing	8	5	3	14	8	5

Post-2000 assistance arrangements for the TCF and motor vehicle industries will be assessed in 1996 and announced in 1997. That assessment will take fully into account the global and regional trading contexts, including Australia's commitment to the Bogor objective of free and open trade.

## SERVICES

The Australian services sector has undergone significant deregulation in recent years, with actual or potential improvements in access to foreign service providers. In the case of telecommunications, the government monopoly of basic telecommunications services has ended. A second telecommunications carrier, with substantial foreign ownership is now competing for the basic telecommunications market alongside the government-owned carrier, Telstra. A third carrier, leased on a British-based company, competes in the mobile telephone market. There will be no numerical restrictions on the number of carrier licences issued after 1 July 1997.

In 1993, the Government announced changes which will reduce Australia Post's monopoly protection in letter services. The Government has now removed restrictions on international mail. Mail originating in Australia and destined overseas will be deregulated. For mail originating overseas, any carrier can bring mail into the country for lodgement in the domestic mail system. A further review of Australia Post's regulatory environment will be undertaken in 1996/97.

Formal regulation of capacity and prices on domestic aviation routes ceased in 1990. While new carriers have found it difficult to challenge the two major airlines in practice, there has been substantial restructuring in this sector, which has opened it further to overseas participation, with the sale of 25% of the government-owned Qantas airline to British Airways. The public sale of the remaining 75% Government equity interest in Qantas has

now been completed.

Policy on foreign banks has been further liberalized, so that the Government will permit the issue of new banking authorities to foreign-owned banks where the Reserve Bank is satisfied that the bank and its home supervisor are of sufficient standing and where the bank agrees to comply with Reserve Bank prudential supervision and arrangements.

## **INVESTMENT**

The last 10 years has seen significant liberalization of Australia's foreign investment policy such that the overwhelming bulk of proposals for investment in Australia are not notifiable or are readily approved. Proposals in all but a few sensitive areas above the A\$5 million (acquisition of existing assets) and A\$10 million (new businesses) thresholds are examined against a general "contrary to the national interest" test. Investors can expect that approval will not be withheld from proposals on national interest grounds other than in unusual circumstances affecting Australia's vital interests and development.

Australia welcomes foreign investment and recognizes the substantial contribution foreign investment has made, and can continue to make, to the development of Australia's industries and resources. Australia's policy has therefore been to encourage foreign direct investment consistent with the needs of the Australian community, including the expansion of private investment, the development of internationally competitive and export-oriented industries and the creation of employment opportunities.

Australia's welcoming attitude to foreign investment is reflected in the substantial liberalization's of foreign investment policy announced by the Government in the past decade. In 1985, for example, the "opportunities test" (which had required firms to demonstrate opportunities for Australians to purchase interests available for sale) was discontinued; 16 new banks were invited to establish operations in Australia; and thresholds relating to the examination of foreign investment proposals were increased. In 1986, the Government announced the abolition of the net economic benefits test (that is, the onus on investors to show net economic benefit) and Australian equity requirements for takeovers and new businesses in the manufacturing, tourism, and non-bank finance sectors. These were replaced with the less onerous national interest test (that is, with the onus on the Australian authorities to identify reasons not to approve). In 1987, the more liberal "contrary to the national interest" test was extended to resource-processing, various services, insurance, share broking and rural property sectors.

Some requirements for Australian equity participation have been abolished in recent years. For example, the need for 50 per cent Australian equity participation for foreign direct investment in mining was removed in 1992. In the same year, the Government announced that new banking authorities would be issued to foreign-owned banks which met Reserve Bank prudential and other requirements. In April 1993, the Government announced that 50 per cent Australian equity participation would no longer be required for proposals by foreign interests to acquire developed non-residential real estate.

As a result of the liberalization of Australia's foreign investment policy, small takeovers (less than A\$5 million) of existing businesses and establishment of new businesses (less than A\$10 million) in most sectors are exempt from notification to the Foreign Investment Review

Board. Purchases of rural businesses valued at less than A\$3 million are also exempt. Moreover, takeovers and new businesses below A\$50 million, in most non-sensitive sectors, are normally approved quickly without detailed examination.

Australia applies restrictions on foreign investment reflecting continuing community sensitivities in certain sectors, namely uranium mining, shipping, newspapers, broadcasting, telecommunications, aviation, banking and acquisitions of established residential real estate.

## **COMPETITION POLICY**

The success of earlier reform in tariff reductions and microeconomic reform has now led to a shift of emphasis towards introducing more competitive arrangements in the non-traded goods and services sector. Commonwealth, State and Territory Governments, through specific industry-based reform programs, currently cooperate in two key areas to implement a new national competition policy and promote the efficiency of markets for infrastructure services.

At the COAG Meeting of 11 April 1995, all Australian Governments agree to implement the following:

- The Conduct Code Agreement, sets out the agreed basis for the extension of the Trade Practices Act; consultative processes on modifications to the competition law; and appointments to the Australian Competition and Consumer Commission (ACCC). The ACCC will undertake the present functions of the Trade Practices Commission and the Prices Surveillance Authority as well as additional functions conferred under the reforms;
- The Competition Principles Agreement, establishes a more competitive framework for public monopolies through improved policies on prices oversight; enhanced application of competitive neutrality principles, where public businesses compete with private businesses; and uniform procedures for structural reform of public monopolies. In addition, the Agreement establishes a regime to provide competitors with access to essential facilities and processes for concluding a program of regulatory review, which are designed to reduce any unnecessary anti-competitive impact of regulation;
- In addition, the Agreement covers principles governing access to essential facilities under State and Territory legislation and processes for concluding a program of regulatory review, which are designed to reduce any unnecessary impact of regulations on business;
- The Agreement to Implement the National Competition Policy and Related Reforms which provides that the Commonwealth will maintain the real per capita guarantee of financial assistance grants to the States and Local Government on a rolling three year basis, and for further financial assistance to the States in the form of competition payments, conditional upon implementation of competition policy reforms.

The ACCC will be responsible for the enforcement of the competition and consumer protection provisions of the Trade Practices Act, making determinations under the access regime, and prices surveillance. The NCC will exercise recommendatory powers on access and price surveillance issues and will have advisory powers on matters determined by governments, including compliance with the National Competition Policy and Related

Reforms Agreement. These State and Territory Laws will apply from 21 July 1996.

The agreement by the Commonwealth and the States and Territories to a comprehensive national competition policy will underpin continuing microeconomic reforms in specific industries:

- In the specific case of infrastructure, reforms which are planned include the establishment of a national market in electricity; the commencement of a market for free and fair trade in national gas; the development of a strategy to achieve efficient and sustainable reform of the water industry; and road transport reforms.

The successful implementation of this national competition policy will continue to be a Government priority. Implementation of these reforms is to be phased in by early next decade.

So far, specific competition reforms in individual sectors have been as follows:

- ***Electricity***

Significant advances in developing national market arrangements under the National Grid Management Council have occurred and the commitment of the Australian States to further reform was cemented at the 11 April 1995 COAG meeting. In advance of creating an interstate electricity market, all State electricity industries have been reviewed. Three States (Victoria, New South Wales and Queensland) have completed vertical separation. Victoria is pursuing reform through privatization with the sale of the first of a number of electricity business units completed in 1995. In a major Energy Reform Statement on 30 May 1995, New South Wales announced an interim State market would be established in the first quarter of 1996.

- ***Gas***

Agreement by COAG to implement free and fair trade in natural gas by 1 July 1996 has established a framework for advancing reform and greater competition in the gas industry and competition between gas and other energy forms. This process will involve a cohesive national approach to legislative and regulatory reform, third party access to natural gas transmission and distribution networks and application of National Competition Policy principles to gas pipelines. With natural gas expected to supply 20% of primary energy demand by the year 2000, an integrated and competitive gas sector should provide significant economic benefits and reduced greenhouse gas emissions.

- ***Water***

In February 1994, COAG endorsed a strategic framework for reform of the Australian water industry including pricing reform, reduction or elimination of cross-subsidies, clarification of property rights and enhanced trading arrangements for water entitlements, institutional reform and public consultation and privatization. At its meeting in April 1995, COAG considered, inter alia, the report of the Experts Group on Asset Valuation and Cost Recovery which now provides a basis for water and water services charging and for the competitive determination of costs for all agencies and suppliers. As such, it provides the necessary underpinning to ensure consistency in economic signals affecting



pricing, investment and consumption across jurisdictions.

## COMPETITION POLICY

Under the Competition Policy Principles Agreement, announced on 11 April 1995, the following six elements will apply:

1. ***Universal application of competitive conduct rules to all sectors of the economy. These conduct rules have covered most of the economy since 1974;***
  - coverage will now be extended to include the unincorporated sector and State and Territory government business enterprises.
2. ***Competitive neutrality principles which neutralize any net competitive advantage enjoyed by government businesses by reason of their public sector ownership;***
  - broadly this will involve subjecting government businesses to the same tax and regulatory regimes as private sector competitors (or imposing other measures which neutralize any net advantage arising from public sector ownership).
3. ***Review of legislation which restricts competition to ensure that such restrictions are necessary to achieve the objectives of the legislation and that there is a net benefit to the community as a whole;***
  - all legislation (including Acts, enactments, Ordinances and regulations) will be reviewed, and where appropriate, reformed by 2000.
4. ***Structural reform of public monopolies where a government has decided to introduce competition or undertake privatization;***
  - governments are required to adhere to certain principles, including structural separation of regulatory and business functions if they introduce competition into a market served by a public monopoly or if they privatize a monopoly.
5. ***Enabling access to services provided by means of significant infrastructure facilities;***
  - the policy will provide for a legislative access regime. It sets out a process for declaration of services, at the initiation of a person seeking access, backed up by compulsory arbitration powers;
 

in addition to the above, to encourage the parties to establish their own access regimes, the legislation sets out a process whereby providers of services, at their initiative, can give undertakings, setting out the terms on which they are willing to provide third party access.
6. ***Prices oversight of firms (including government businesses) with a high degree of market power;***
  - the policy involves extending coverage of the Prices Surveillance Act to State and Territory government business enterprises in certain circumstances. It also involves the addition of a formal prices monitoring function.

**BRUNEI DARUSSALAM**

## **I. BACKGROUND INFORMATION**

As an original member of the World Trade Organization (WTO), Brunei Darussalam is committed to free and open trade and the trade liberalization efforts being undertaken in the WTO and regional trading arrangements. In this respect, nearly 98% of our tariff lines are bound. Various government ministries and departments are currently implementing our GATT/WTO commitments.

Brunei Darussalam adopts a liberal trade regime in which tariffs are low and non-tariff barriers are kept to a minimum. Brunei Darussalam is a member of ASEAN and the ASEAN Free Trade Area (AFTA).

Brunei Darussalam's Sixth Five-Year National Development Plan is coming to its end, and will be followed by the Seventh Plan, which runs from 1996-2000. This program aims to diversify the economy through broadening the industrial and commercial base, including undertaking liberalization and deregulation measures, wherever appropriate.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

##### ***Tariff Reductions***

On 1 April 1995, tariffs on 688 items were reduced, of which 20 will be at 0% tariff. This brings the total number of items at 0% tariff to 4,493, or 69% of tariff lines. Nearly four-fifths of our tariffs are now in the 0-5% range.

Tariffs on computers, word processors, and typewriters are now at 0%. Import duties on perfume, cosmetics, clothes, carpets, shoes, jewelry, watches, video games, home appliances, telephones and cameras have been reduced to 5%.

These tariff reductions go beyond Brunei Darussalam's commitments under the Uruguay Round, and are consistent with the objectives of the Bogor Declaration.

## 2. Measures On Services Trade

### *Transportation Services*

Brunei Darussalam is currently reviewing its provisions, measures and administrative procedures, so as to reduce barriers to trade in transport services, in order to facilitate trade in transport services among BIMP-EAGA, ASEAN Free Trade Area, and APEC members.

In the past fifteen months, a number of transportation and related services have been privatized. These include:

- Airport day use room;
- Leasing of container freight station for consolidation of LCL;
- Transshipment of goods;
- Cranage and heavy lifting.

Brunei Darussalam adopts an “open sky” policy allowing foreign airlines to operate into the country with no restrictions on frequency, capacity and aircraft type.

To-date, Brunei Darussalam has entered into bilateral agreements with 27 countries - 11 APEC members, and 16 non-APEC members. Royal Brunei Airlines operates to 27 international destinations, of which 19 are within APEC member economies.

Recently, under the economic cooperation program of the East ASEAN Growth Area (EAGA), a Memorandum of Understanding (MOU) on Air Linkages was signed by the four member countries of EAGA, namely Brunei Darussalam, Indonesia, Malaysia and the Philippines. This allows for third and fourth Freedom Traffic Rights for several points within EAGA without restrictions on frequency, capacity and aircraft type. This MOU is amongst the first model of a more liberal cross-border liberalization in transport within the EAGA region.

Brunei Darussalam is taking the necessary steps to progressively privatize trade in transportation services. In the next five years, transportation services that are going to be privatized include, but are not limited to:

- Leasing of container handling equipment;
- Leasing of a new container terminal;
- Leasing of various godowns;

- Bunkering;
- Pilotage of ships;
- Dredging;
- Tug boats.

***Telecommunications***

The cellular mobile telephone service is now operated by a licensed private company.

**3. Measures On Investment**

Brunei Darussalam welcomes foreign investments, Therefore, there are now no performance requirements and no restrictions on repatriation of profits, liquidation of enterprise, etc.

There are no taxes on personal income, exports or sales. Sole proprietorships and partnerships are not subject to income tax. The current corporate tax rate of 30% is amongst the lowest in the region.

In addition, to encourage companies domiciled in Brunei Darussalam to venture overseas, agreements on the avoidance of double taxation of foreign source income and bilateral investment treaties are being pursued with several countries.

**4. Other Measures**

Tenders for the supply of goods and services to the government have been decentralized to a certain extent. For tenders valued in excess of B\$150,000 each, recommendations from Ministries/Departments are forwarded to the State Tenders Board, Ministry of Finance, for consideration and approval. Tenders valued at B\$150,000 and below are considered and approved by the respective Ministries/Departments.

**III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

Under the WTO, Brunei Darussalam has bound more than 6,000 industrial and agricultural goods, or 98% of its total tariff lines. 4,371 tariff lines have been bound at 20%, 998 lines at 30%, 39 lines at 35%, 641 lines at 40%, and 125 lines at 50%.

**IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

Brunei Darussalam implemented its commitments under the ASEAN Common Effective Preferential Tariff (CEPT) scheme, with the reduction of import duties on 1,634 items on 1 June 1994 for imports from the ASEAN countries.

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

**VI. FUTURE DIRECTION**

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

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**CANADA**



**1. BACKGROUND INFORMATION**

As a founding member of the WTO, Canada is committed to continued trade liberalization. Trade has become vital to our continued development; it is our essential link with the international competitive environment.

In light of this, Canada is striving to further liberalize its trade regime in the context of a number of agreements outside of the WTO. The late 1980s saw the signing of the free trade agreement with the United States, which provided considerable economic benefits to both signatories. By 1994, NAFTA had expanded the FTA commitments of both Canada and U.S., with the added benefit of bringing Mexico into the fold. 1995 will most likely see the inclusion of a fourth NAFTA member, Chile, further liberalizing trade in the region.

Similarly, APEC holds enormous trade and investment potential for its eighteen members. To fully benefit from the dynamic economies comprising the forum, APEC members must be dedicated to liberalizing domestic trade and investment policies. As a founding member of APEC, Canada is committed to upholding the forum's agreement calling for free trade in the region by early next century.

Over the last year, Canada undertook the following deregulation initiatives to liberalize and simplify its existing trade and investment regime:

- Proposed tariff reductions/eliminations, facilitating the entry of imports from developing countries, were announced;
- Investment thresholds under NAFTA have now been made universal among WTO members;
- Through the GATS, Canada has agreed to eliminate the few remaining foreign ownership restrictions facing financial service suppliers from WTO members;
- The federal government initiated a regulatory review to eliminate, consolidate, simplify, and/or harmonize regulations;
- A new "open skies" agreement was signed with the United States, eliminating many of the barriers in a previously highly regulated transborder air market;
- The CRTC is developing a regulatory framework for competition in the provision of local telephone service;
- The government will continue with steps to reform grain transportation through the elimination of export subsidies to that sector, beginning in 1995.

## II. UNILATERAL MEASURES

### *Tariff Measures*

On 13 June 1995, Finance Minister Paul Martin tabled in the House of Commons amendments to the Customs Tariff and the Customs Act. A number of the proposed measures build on the review of Canada's tariff regime, and will help ensure that tariffs do not unduly add to the cost of doing business in Canada.

Specifically, the tariff reductions announced by the Minister of Finance, effective immediately, reduce 1500 MFN tariff lines on a wide range of manufacturing inputs to at least current U.S. MFN levels. Subsequent reductions in certain cases are to be phased-in over four or nine years in line with the reductions agreed to by the U.S. in the WTO Agreement.

In the last year, there were a number of proposed adjustments to Canada's General Preferential Tariff (GPT) rates and product coverage:

- On 25 March 1995, the Canadian government proposed 3,500 trade liberalizing adjustments to Canada's preferential tariff scheme for imports originating in developing countries;
- Included in this total is the extension of GPT treatment to 237 tariff lines that are not currently covered by the GPT;
- Implementation is scheduled to take place by January 1996;
- In recognition of the importance of market access for the economic advancement of the LDDCs, the Canadian government has also proposed to extend free rates of duty to LDDCs across the entire Canadian tariff schedule, with two exceptions (agricultural products subject to tariffication under the Uruguay Round Trade Agreement, and textile, footwear, and clothing products classified under the Customs Tariff).

### *Foreign Investment Thresholds*

In the final round of Uruguay Round negotiations on trade in services, Canada agreed to extend to all GATT members the benefit of the preferential treatment under the Investment Canada Act which was reserved for American and Mexican investors under NAFTA.

For technical reasons, to avoid discrimination in important sectors such as manufacturing and resources, and to further enhance Canada's investment climate, it was considered appropriate to extend this treatment, thus making NAFTA investment thresholds universal among WTO members. As a result of this amendment, investors from any WTO country will now be subject to the same threshold as NAFTA

members for determining whether their investments in Canada are subject to review under the terms of the Investment Canada Act.

As a result of the NAFTA, special rules applied to investments in Canada by NAFTA signatory investors and by third-country investors who acquired control of a Canadian business through a NAFTA investor:

- The NAFTA extended the provisions of the U.S.-Canada Free Trade Agreement (FTA), and has, through an indexing formula, established the threshold for review of direct acquisitions at \$160 million for 1995. Prior to the FTA, the threshold for review of direct acquisitions was \$5 million.
- Indirect acquisitions by NAFTA investors are no longer reviewable except in cases where the Canadian business represents more than 50% of the value of the total assets acquired in the international transaction. In the latter case, the transaction is reviewable at the same threshold (\$160 million for 1995) that applies to direct acquisitions. Prior to the FTA, the threshold for review of indirect acquisitions was \$50 million.

Acquisitions in cultural industries, (i.e. publication and distribution of books, magazines, videos, music recordings, etc.) and the establishment of new businesses in these cultural industries may be reviewable.

### ***Financial Services Liberalization***

Through the GATS, Canada has also agreed to eliminate the few remaining significant foreign ownership restrictions facing financial service suppliers from WTO Members. These restrictions are the 10% individual and 25% collective limitations on the foreign ownership of Canadian-controlled, federally regulated financial institutions (e.g., trusts and insurance companies), and the 12% asset ceiling on the size of the foreign bank sector in Canada. A 10% maximum remains for any individual ownership - domestic or foreign - of Schedule 1 banks.

### ***Regulation***

#### ***- Regulatory Review Strategy***

In 1992, the federal government launched an initiative to enhance the competitiveness of Canadian firms by eliminating, consolidating, simplifying and/or harmonizing regulations. A key objective of the review is to reduce regulatory burden and costs of compliance for domestic and foreign producers in a manner consistent with the principles of sustainable development.

As a direct result of this review, more than 150 federal regulations will be revoked, and another 170 will be revised by mid-1995. By the end of 1996, it is expected that 100 more regulations will be revoked, and significant revisions made to 200 others.

A second initiative, the priority regulatory review, is intended to improve efficiency in six priority sectors in consultation with producers and other stakeholders. The priority sectors are biotechnology; health, food and therapeutic products; mining; automotive and auto parts manufacturing; forest products and aquaculture.

- ***Bill C-62, The Regulatory Efficiency Act***

The proposed Regulatory Efficiency Act is expected to receive detailed review by a Committee of the House of Commons during 1995.

The purpose of this initiative is to help federal agencies regulate more efficiently and effectively without reducing the protection that regulations are intended to provide. It will encourage partnerships between regulators, the private sector and the public, designed to ensure that Canada has a globally competitive regulatory régime.

The proposed Act will allow regulated business and individuals to make proposals for achieving the goals of existing regulations through alternative compliance plans. These plans will be tailored to reflect changing realities - such as new products or processes - or special circumstances that impact on regulated industries and/or individuals.

Only those compliance plans that meet the objectives of existing regulations, and which conform with the principle of sustainable development and the protection of health and safety, will be approved under the proposed Act. The proposed legislation contains stringent procedural safeguards, including requirements for consultation and publication, in order to ensure openness and accountability in its implementation.

***Open Skies Policy***

Canada's new International Air Policy, announced in December 1994, is designed to promote continued growth of Canadian air industry and further the interests of travelers, shippers, and airport communities. Under the new policy, foreign countries may apply for one of their carriers to commence up to two flights weekly to one or more points in Canada, with the exception of Toronto.

The International Air Policy has been complemented by the signing in February 1995, of an "open skies" air transport agreement with the United States. The new air agreement, which modernizes an agreement that was almost 30 years old, opens the world's largest transborder air market. As a result, Canadian travelers and shippers have direct access to more American markets.

Canadian air carriers have unlimited route rights between any Canadian and United States cities. U.S. carriers also have unlimited flight options between the countries, with the exception of Toronto, Montreal, and Vancouver. At those three cities, the

route rights currently held by U.S. carriers continue uninterrupted, with new passenger services being phased in over a maximum three-year period.

Both Canadian and U.S. carriers gain the right to operate all-cargo services between any point in Canada and any point in the U.S., except that new services by U.S. carriers at Montreal, Toronto, and Vancouver are subject to a one-year phase-in period. All cargo authorities previously held by U.S. carriers at these three points will continue uninterrupted, with all restrictions on aircraft type and package size removed. Carriers from both countries can set prices at their discretion for transborder services according to market forces.

At present, carriage of local traffic between points in one country by airlines of the other country continues to be prohibited under the new Agreement.

A three-phase process involving consultation and dispute resolution was established to resolve concerns relating to the implementation of the Agreement. Either side may, at any time, request consultations, high level meetings, or the establishment of an arbitral panel.

Canada is currently promoting an OECD study examining the feasibility of new air agreements. While some work is also underway in the WTO to extend GATS coverage to air services, Canada could potentially be interested in preliminary discussions regarding an "open skies agreement" with other APEC members, provided sufficient research is conducted.

### ***Telecommunications***

The Telecommunications Act (1993) provides for an integrated Canadian market for telecommunications services. Major policy objectives of the Act include fostering increased reliance on market forces, enhancing the efficiency and the competitiveness of telecommunications at national and international levels, and ensuring responsiveness to the economic and social requirements of users of telecommunications services.

The Act also provides for the supervision of and, where required, regulation of telecommunications common carriers under federal jurisdiction who own and/or operate their own transmission facilities. Resellers, not owning or operating transmission facilities but leasing facilities from Canadian carriers to provide services to the public, are not subject to regulation under the Act.

In September 1994, the Canadian Radio-television and Telecommunications Commission (CRTC) released a decision concerning competition in local telephone service. The CRTC subsequently initiated a number of hearings to determine the conditions and the timing for open competition. The issues covered include the interconnection and inter-operability of cable television and telephone company networks, the measures needed to support Canadian content, and the transition to fair competition in the telecommunications and broadcasting services sector.

In its decision, the CRTC implemented a regulatory framework based on incentive regulation, and will adopt price cap regulation in 1998. In the interim, the Commission began formal consultations to determine the appropriate means of dividing telephone company revenues, expenses, and investments between utility and competitive services. In addition, rate re-balancing is being considered by the CRTC as part of the regulatory framework for the introduction of competition.

### ***Other Regulatory Regimes***

In 1995, the government will undertake a comprehensive reform of grain transportation. This reform package and related transition measures will include:

- The elimination of the annual railway subsidy in the amount of \$560.6 million starting in 1995;
- The application of shipper-oriented provisions of the National Transportation Act to the transportation of prairie grains;
- Changes to the freight pooling system for Canadian Wheat Board wheat and barley, to better reflect current market conditions and the costs of shipping.

This reform will result in more higher-value crops and more value-added activities in western grain-producing regions. Overall returns from the marketplace are expected to increase in the prairie provinces as a result of new exports, increases in further processing, and the addition of new commodities.

As well, the Feed Freight Assistance subsidy will be terminated in 1995. Approximately \$60 million in total will be available over the next ten years to encourage agriculture and agri-food development in Atlantic Canada, eastern Quebec, northern Ontario, British Columbia, the Northwest Territories and the Yukon.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

The liberalization of trade and investment policies in Canada and within APEC will benefit Canadian business in two major ways. First, it will expand and make more accessible markets in the Asia Pacific region. Second, deregulation will enhance Canadian competitiveness in foreign markets and increase the efficiency of its business sector.

## **VI. FUTURE DIRECTION**

In terms of future directions, Canada is still very much committed to continued deregulation of the policies affecting two-way trade and investment in APEC. Our government wants to establish a more stable and more predictable economic climate, both at home and abroad. From a Canadian perspective, the government sees APEC as one of the principle vehicles for this. Through the commitment and cooperation of its members, the APEC deregulation initiative can create an improved institutional setting within which trade and investment will flourish.

## **VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

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**CHILE**



## **I. GENERAL BACKGROUND**

Over the last two decades, Chile implemented a trade liberalization strategy which aimed to incorporate the country into the global economy. Our policy of openness to foreign trade has significantly reduced the vulnerability of the Chilean economy, which today is able to confront the impact of foreign crisis much more successfully, thanks to the relative diversification of its exports and its balanced participation across the whole range of world markets.

In terms of regions, Asia represents almost 32% of total Chilean exports, followed by Western Europe (25%), North America (19%) and Latin America (20%).

The main feature of today's Chilean economy is its openness to the rest of the world. Exports of goods and services represent, in 1994, close to 36% of GNP. Chile applies a uniform tariff level of 11% across the board and there are no non-tariff barriers.

Chile has been an active player in the multilateral liberalization process. As a participant in the UR negotiations, Chile carried out commitments which contributed to the successful completion of the aforementioned negotiation process. Chile is willing to move even further beyond these commitments.

As a complement to the unilateral and multilateral strategy to integrate our country to the world economy, Chile emphasized the development of a bilateral negotiation strategy with several countries within the Latin American Association for Integration (ALADI). These "New Generation Agreements" aim to create a free trade zone in accordance to the open regionalism principle. They were signed with Mexico (1991), Venezuela and Colombia (1993), and Ecuador (1994). Also, there are further ongoing formal negotiations with MERCOSUR and NAFTA, as well as talks with the European Union.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

No new unilateral tariff reductions took place in 1995. The last change occurred in January 1991 when universal tariffs were reduced from 15% to 11%.

#### **1.2 Non-Tariff Measures**

No changes took place.

## **1.3 Administrative Measures**

### ***Customs Procedures***

Norms were established so that the National Customs Director could authorize customs dispatchers to formalize declarations through an electronic data transmission system (Decree 1015, Ministry of Finance, 11/2/95).

The Compendium of Customs Norms was modified in order to improve the current operative and control systems of the customs service; a series of administrative powers were transferred to the operators which had been part of the customs service (Resolution 2808 of the National Customs Directorate, 29/4/95).

### ***Sanitary and Phytosanitary Standards (SPS)***

Ports were equipped for the transit of agricultural products through national territory to and from third countries (14/3/95).

The entry of foreign agricultural products in transit to third countries presents the potential risk of spreading pests. Nonetheless, each pest is analyzed according to the international definitions of phytosanitary risks. In the case of the commercial exchange of plant products, this risk is considered to be quite low.

In the livestock sector, the concept of a “pest-free zone” in third countries was accepted on the basis of the recognition of the territory encompassing these zones, and the outfitting of animal production farms and plants for exports (11/94).

Fewer restrictions on imports of genetic material in the poultry and pork industries (12/94).

Authorization for the transit of Argentine livestock products to Peru through the check sites of Sico and Jama (12/94).

Suspension of controls on the Mediterranean fruit fly at the check sites of Caldera and Teresita, 3rd Region.

## **2. Measures On Services Trade**

### **2.1 Sectorial Deregulation**

#### **- *Telecommunications***

See Annex 1, “Current Legal Framework of Telecommunications in Chile”.

Considering that one of the main objectives of the telecommunications policy of the government of Chile is to facilitate the timely incorporation of technological progress into the national telecommunications infrastructure, the Ministry of Transport and Telecommunications, through the Under-secretariat of Telecommunications (SUBTEL), has devoted special interest to the preparation of the necessary regulations to introduce Personal Communication Services (PCS) in Chile (4/95).

Rules and Regulations of the Telecommunication's Development Fund were approved with the objective of increasing coverage of public telephone services in rural and low-income urban areas with low telephone densities (Decree 457, 1/2/95).

A four-year temporary limit was established on national long distance and a three-year limit on international long distance, in which carriers would have limited participation in the market according to a maximum percentage of the total number of minutes. The purpose of this measure is to promote competition and impede carriers which are aligned to or belong to the same business group from absorbing a large percentage of the traffic.

- *Energy*

See Annex 2, "General Aspects of the Regulation of the Energy Sector in Chile".

The advantages of utilizing natural gas from Argentina incited authorities to improve the legal framework regulating the transport and distribution of this fuel in Chile. The National Energy Commission (NEC) is now working toward modernizing laws, promoting competition, offering access to consumers at minimum cost, stimulating efficiency of investment processes, and allowing incentives for attracting the capital required for developing the gas sector. This change in the rules and regulations has already allowed for the establishment of two new procedures: one for granting gas concessions and the second a safety procedure for the transport and distribution of natural gas (8/5/95).

Although the main legal body, "General Law on Electric Services", which regulates the electricity sector is considered quite good, new rules and regulations could modernize the existing system and address some issues that the old law overlooked. The NEC is currently working on regulations for enhancing the sector's efficiency and transparency and for defining procedures to establish the quality of electric service.

- ***Distribution and Transport***

***Air***

On 19 November 1993, the governments of Chile and the United States reached an agreement regulating joint operations of airlines. The agreement was promulgated (3/4/95).

***Maritime***

No changes in regulations took place.

- ***Movement of Persons***

Visa requirements were eliminated for France, Canada and Poland.

Visa requirements were eliminated for persons holding diplomatic, official and special passports of Croatia, the Czech Republic and Israel.

Visas were facilitated for South Korea, allowing entry into the country without previous inquiry. In addition, a list of 146 Korean firms was established so that executives may automatically obtain visas.

- ***Legalizations***

Eight new Chilean consulates were opened in Sri Lanka, Uruguay, Brazil (2), Australia and Sweden (3).

**2.2 Others**

- ***Investment Protection Agreements***

The governments of Chile and Argentina enacted a treaty on the Reciprocal Promotion and Protection of Investments and its corresponding Protocol. The treaty was signed on 2 August 1991.

The governments of Chile and France enacted an agreement on the Reciprocal Promotion and Protection of Investments, subscribed on 14 July 1992.

- ***Double Taxation Agreements***

An accord was promulgated between Chile and Uruguay to avoid double taxation on income from airlines operating in both countries. This was subscribed on 23 March 1992 (27/2/95).

- ***Expansion Of Activities Of Financial Institutions (Capital Markets)***

The total assets accumulated in pension funds which may be invested abroad increased from 3% to 6% (11/11/94).

Life insurance companies may invest up to 10% of their resources in financial investments carrying a BBB+ rating in 32 countries and up to 3% in urban commercial real estate. (11/11/94).

General insurance companies may invest up to 15% of their resources in financial investments carrying a BBB rating in 34 countries and up to 3% in urban commercial real estate (11/11/94).

Insurance marketing procedures are perfected through salesmen or the companies themselves.

Mutual funds may invest up to 30% of their resources without complying to a minimum rating or a determined number of countries.

Regulations of investment funds have been modified, eliminating certain restrictions on operations with creditors and related parties.

Real estate funds may participate in infrastructure concessions (Decree 1373, Ministry of Finance, 17/12/94).

The amount of paid capital and reserves that banks can maintain in financial investments abroad is raised from 20% to 25% (19/12/94).

The Financial Sector Surveillance Group is created to ensure compliance to tax obligations (18/1/95).

The Risk Classification Commission agreed to approve the investment of resources from pension funds in the stock of six corporations (17/4/95).

Regulations were approved on the investment of pension funds (AFPs) abroad. These authorize investment in the following: credit certificates, company bonds, mutual funds, foreign investment funds, and stock of companies and foreign banks. Furthermore, they allow for the utilization of different risk coverage instruments for exposure to exchange rate and interest rate fluctuations (Decree 141, Ministry of Labor, 11/5/95).

Modifications of the maximum limits placed on the investment of resources from pension funds (17/5/95) include:

- The limit on investment in corporate stock was increased from 30% to 37%;
- Margins for investment abroad were expanded from 6% to 9% and variable income instruments were authorized (up to 4.5%);
- Pension funds were authorized to be invested in free-floating stocks, up to 1% of the fund and 0.15% per company;
- Pension funds were authorized to be invested in secured certificates, with a limit of 5%;
- Pension funds were authorized to be invested in derivative instruments, up to 9% of the fund;
- The possibility of investing in convertible stocks was granted, even for firms without previous experience.

There is a bill in Congress pending approval in March 1996. This bill intends to modernize the outdated Law of Banks by incorporating new business opportunities in banking, facilitating its internationalization and adapting its norms to the ones established in Basel, Switzerland.

### **3. Measures On Investment**

A general norm was dictated establishing rules on foreign investment in financial instruments and real estate, representative of technical reserves and risk capital of the insurance and reinsurance companies (Norm 54 of the Securities and Insurance Commission, 12/1/95).

### **4. Other Measures**

#### **4.1 Making Markets Work Better**

##### ***Privatization of Sanitation And Sewage Companies***

A project on the privatization of sanitation companies was sent to the National Congress (5/95).

The project establishes a triple mechanism to impede monopolistic behavior:

- 35% of property will remain in the hands of the state;
- The same economic group cannot have more than one “major” firm (more than 10% of national coverage) or more than two “minor” firms;

- Public services possessing natural monopolies cannot participate in the sanitation companies.

### ***Deregulation Of Ports***

In a bill currently in Congress, the Port Authority of Chile (EMPORCHI), will be subdivided in five autonomous State enterprises. These firms will be able to accomplish their social objectives directly or through third parties. Accordingly, facilitation to the private sector will be done, amongst other options, through port concessions, leasing, or by creation of public/private sector corporations.

## **4.2 Measures On Other Regulatory Regimes**

### ***Exchange Rate Controls***

The acquisition of foreign exchange in the formal exchange market by pension funds and insurance companies is regulated with respect to the payment of benefits and lending of services to resident affiliates abroad (3/11/94).

A new value for the basket of currencies reduced the established exchange rate by 9.66%. Meanwhile, the participation of the US dollar in this basket fell from 50% to 45%; the Japanese yen increased from 20% to 25%; and the German mark was maintained at 30% (30/11/94).

The maximum limit on the exchange of currency undertaken by banks and exchange houses of the formal exchange market was eliminated, revoking Annex No. 3 of Capital III of Title I of the Compendium of International Exchange Rate Norms (30/11/94).

The deductible margin of return requirements affecting exports increased from 25% to 50%, raising the maximum amount of these deductions during each twelve month period from US\$15 million to US\$50 million per exporter. The maximum period for the settlement of returns increased from 210 to 270 days. This period is also valid for the settlement of insurance premiums and compensations, and advance payments on exports, transportation, and commissions (30/11/94).

Payments abroad or to non-residents in the country related to investments abroad and the return and settlement of capital and utilities of such investments of pension funds, insurance companies, and mutual funds are required to take place within the formal exchange market (12/1/95).

The Bank and Financial Institutions Commission is granted the right to fix terms so that banking firms which exceed the maximum coefficient

of assets, following authorization for investing abroad, can adjust these to eliminate such excesses (12/1/95).

Exchange houses are authorized as entities of the formal exchange market for buying or liquidating payments going abroad and the returns and liquidations of capital and utilities from external investments of pension funds, insurance companies, and mutual funds (2/3/95).

The general terms of Capital XXV, Title I of the Compendium of International Exchange Norms are modified, eliminating the obligation of the return and settlement in the national market for foreign exchange coming from the export of goods and services. The requirement to inform the Central Bank is now solely for statistical purposes. This measure takes effect 16 June 1995 (18/4/95).

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### **3.1 Measures On Merchandise Trade**

##### **3.1.1 Tariff Measures**

###### **3.1.1.1 Industrial Products**

- Bound Tariff  
Pre UR: 35%  
Post UR: 25%
- Applied: 11% across-the-board
- Weighted Average tariff (includes preferences granted by Chile).  
Pre UR: Same as the present  
Post UR: Same as the present
- Present:

<u>COUNTRY</u>	<u>EFFECTIVE TARIFF APPLIED BY CHILE</u>
Argentina	9.43
Brazil	9.07
Bolivia	0.41
Colombia	3.05
Ecuador	8.00
Mexico	2.96
Paraguay	3.98
Peru	7.00



Uruguay	7.70
Venezuela	8.19
ALADI	8.01
WORLD	10.22

### 3.1.1.2 Agricultural Products

- Average tariff (in effect)

Pre UR: 11% / \* / \*\*

Post UR: The bound tariff declined from 35% to 25% for all agricultural products, with the exception of wheat, sugar, vegetable oils and dairy, for which the binding is 31.5%.

- Applied: 11% / \* / \*\*

/\* Does not consider preferences granted within the framework of ALADI.

\*\* Does not include products affected by price bands.

Minimum tariff reduction rate by tariff line:

- The minimum tariff reduction rate was 10%. The bound tariff on products in List VII (agricultural exceptions) declined from 35% to 31.5%.
- The remaining reduction was 28.57% (35% to 25%).

Number of tariff lines for which minimum access opportunities are established:

- None, since Chile didn't apply quantitative restrictions or other NTMs, no tariffication was necessary.

## 3.2 Measures On Services Trade

Chile adopted specific commitments on the following sectors and sub-sectors:

- Banking, insurance and other financial services (includes 25 sub-activities);
- Telecommunications services (includes seven sub-activities);
- Air transport (includes five sub-activities);
- Tourism services (includes 11 sub-activities);
- Professional services (includes 16 sub-activities).

Chile bound its existing norms and legal situation; therefore, no important legal changes were required.

#### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

A Free Trade Agreement was signed by Chile and Ecuador establishing a free trade zone; tariffs are to be eliminated, as of 1 January 1998, for substantially all reciprocal trade (20/12/94).

On 1 January 1995, lower tariffs took effect pursuant to Free Trade Agreements between Chile and Mexico, Venezuela, Colombia, and Ecuador (see phase-out tables).

The enactment of the Trade and Economic Cooperation Agreement between Chile and Vietnam (signed on 15 November 1993) took place (8/5/95).

The enactment of the Trade and Economic Cooperation Agreement between Chile and Russia (signed on 3 June 1993) took place (9/5/95).

The Eighth Additional Protocol to the Complementary Economic Agreement No. 16 was promulgated, establishing norms regulating the transport and supply of liquid hydrocarbons between Argentina and Chile, subscribed on 3 September 1993 (9/5/95).

#### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

For Chile, deregulation is an essential component of the liberalization of trade and investment in the region. We would like to see a strong commitment towards the elimination of distortions that restrict free and open trade and investment.

Our country, during the last ten years, has greatly advanced in the creation of transparent and business friendly regulatory environments in many different sectors. Deregulation by itself not always creates sound economic environment. Sometimes, it is necessary to “regulate” a particular sector to create, for instance, market competition. Therefore, we should have a common understanding that “deregulation” means the elimination of distortions that impede or restrict competition and the correct performance of markets.

Finally, Chile’s main principles for its regulatory framework are:

- Government action should be centered in promoting market competition, therefore, protecting consumers’ legitimate interests;

- In the case of “public utility services” that by its nature became natural monopolies (provided either by the public or the private sector), Government has to regulate its tariffs and the quality of its services;
- The enforcement of regulatory policy promoted by the Government requires coordination of work, and an exchange of experiences, among relevant public entities involved in its design, development and application;
- It is a Government objective to promote a streamlining of the State, so that it might satisfy the needs required by the growth and efficient development of the economy. Therefore, legal constraints and regulatory norms that hinder productive activities, investment procedures and the allocation of resources, can be overcome;
- Efforts should be coordinated in order to overcome weaknesses in regulatory agencies that hinder the effective achievement of their obligations.

## **VI. FUTURE DIRECTION**

The Government is working in several policies involving deregulation, privatization and liberalization. As a broad issue, Chilean Government has a strong commitment towards competition policy and the role of anti-trust institutions.

## **VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

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## **CURRENT LEGAL FRAMEWORK OF TELECOMMUNICATIONS IN CHILE**

### **I. GENERAL BACKGROUND**

The current legal framework of telecommunications in Chile is based on the General Telecommunications Law enacted in 1982 and modified in 1987, 1989, and 1994; other legislation includes the 1973 anti-trust law and the law creating the National Television Council. The 1980 Constitution must also be considered in its broader terms.

Among the general aspects which inspired this framework in the past, and that are still maintained, include:

- The absolute separation of the regulatory role of the state and the business function of the private sector;
- Free competition, without legal monopolies;
- The creation of adequate investment conditions;
- The promotion of entrepreneurial innovation.

Among the different mechanisms utilized in Chile to reach the current situation in telecommunications were the following:

- Privatization of state-held firms;
- Elimination of barriers on foreign investment and its promotion;
- Granting of concessions and permits to new competitors;
- Regulation of the connections between concessionaires;
- Introduction of the multi-carrier system for creating competition in long distance;
- Establishment of focused subsidies for developing basic telephone services in zones with low telephone densities;
- Maximum tariffs regulated according to procedures established by law, based on efficient enterprises.

As a result of the above and the situations in different countries, where legal monopolies or a certain exclusivity is granted to one or two operators, the following is open to competition in Chile:

- The supplying of public, private and value-added telecommunications services;
- The installation, operation and exploitation of the infrastructure of telecommunications networks;
- The marketing of the terminal apparatus.

## **II. GENERAL ASPECTS OF THE LEGAL FRAMEWORK**

Telecommunications services may be undertaken by any authorized person or entity in Chile, without restrictions on quantity or type of service, or on competition within the same geographic area. The only limitation on participating simultaneously in both local and long distance telephone service is that this must be done as separate corporations.

An open price system exists in these services. Nonetheless, in the case of public telephone services and of commutation and transmission provided by “carriers”, these are regulated by the Analytical Commission, one of the regulatory organizations established to impede monopolies, which may fix tariffs when companies exhibit monopolistic behavior.

The structure, level and index formulas of the regulated tariffs are fixed by the authority for five-year periods based on the costs of an efficient firm with maximum tariffs.

Notification is not required for non-regulated tariffs, unlike in the legislation of other countries.

A special case is the shared rates in international telephone service - tariffs established by the international operators of the different countries that are not fixed by the authority which correspond to the service of circulating calls entering the country through the respective networks. The operators themselves determine such rates; and these are currently above cost, in most countries, which has induced different types of business, both legal and illegal depending upon the country, to take advantage of this space.

Foreign investment receives the same treatment as national firms; no limits are placed on the property or participation of such in the capital operating in Chile.

The concept of basic telecommunications has been reduced to local public telephone services. This is the service supplied by the concessionaire of public telephone service, excluding cellular telephones, within an area considered a primary zone and which is subjected to regulations on the supply of services, technical quality, tariffs,

etc. All other services beyond local telephone service, such as long distance, are not considered basic services and are not affected by service obligations.

Concessions on installations (infrastructure), considered intermediate services, were introduced in 1987 allowing the concessionaire to lend services to other concessionaires through installations and networks of communication or transmission. This type of service was quite innovative and still is not understood or implemented in many parts of the world.

The import of equipment for the installation of telecommunications and terminal apparatus do not require prior authorization. The homologation of terminals is carried out rapidly; the office of the sub-secretary certifies the homologation but the telephone companies themselves or authorized technical institutions undertake the process. Equipment produced abroad requires homologation and the procedure recognizes the certification of homologation from the country of origin.

## **GENERAL ASPECTS OF THE REGULATION OF THE ENERGY SECTOR IN CHILE**

Since 1974, Chile has undertaken radical economic and social reforms which have affected practically all activities in the country, especially the energy sector. These reforms have sought to redefine the role of the state, concentrating efforts on the regulation rather than direct administration of enterprises.

These reforms followed a well-defined line, based on decentralizing the sector's operations and establishing competitive markets. The process developed in two stages. From 1974-1977, the economic and financial conditions of state-held energy companies were re-established and prices were adjusted bringing them closer to international levels. From 1978-1990, structural reforms were implemented involving changes in the institutional, regulatory, legal and property frameworks. Currently, more than 75% of the commercial energy sold within the domestic market is deregulated.

An important step in the institutional process was the creation of the National Energy Commission in 1978, which formulates and implements political proposals for the sector.

### **Oil Sector**

The main reforms can be summarized as the removal of price, import and investment controls; access for private companies to exploration and exploitation of crude oil and natural gas through operation contracts; and unrestricted access to refining and distribution activities. The state-owned oil company ENAP, Chile's traditional supplier of derivatives, now competes with private importers in this market and concentrates its explorations in the Magallanes zone in southern Chile. Although private companies may participate in oil refining, only ENAP, with its two refineries, is currently involved in these activities.

### **Electricity Sector**

Structural changes were initiated in 1980 with the separation of the generation, transmission and distribution of electricity, as well as the decentralization and regionalization of the two state-owned companies, Chilectra and Endesa. In 1982, a competitive scheme was introduced for the generation of electricity which would allow private firms to undertake this activity with unrestricted access to the transmission system through the payment of a fee. Prices to large consumers were deregulated while those to distributors were regulated according to short-term marginal costs of each interconnected system, adjustable to a strip of  $\pm 10\%$  in terms of market prices (semi-free prices). Within this framework, generators are not obligated to provide services as they undertake their activities exclusively on the basis of market forces. Finally, between 1986 and 1990, the sector was privatized, leaving only a few companies in the hands of the state.

## **Coal Sector**

Reforms have been aimed primarily at lifting price controls and restrictions on the import and export of coal, eliminating subsidies, diversifying supply, promoting exploitation by private firms, and decentralizing and partially privatizing the National Coal Company (ENACAR).

## **Institutionalization**

Apart from the Economic and Mining Ministries, there are basically two organizations which supervise the development of the energy sector. The National Energy Commission, which establishes policies, designs rules and regulations, develops plans, approves plans of the state firms, and calculates regulated prices; and the Electricity and Fuel Commission, which is in charge of ensuring compliance to norms.



**TABLE 1  
CHILE'S GENERAL PHASE-OUT PROGRAM  
TOWARD COUNTRIES WITH FTA**

	Mexico	Venezuela	Colombia	Ecuador
Date Agreement	22/9/91	2/4/93	6/12/93	20/12/94
Tariff in effect prior to the agreement	11%	11%	11%	11%
1/1/92	10%			
1/1/93	7.5%			
1/7/93		8.5%		
1/1/94	5%	6.5%	8.5%	
1/7/94			6.5%	
1/1/95	2.5%	4.5%	4.5%	8.5%
1/1/96	0%	2.5%	2.5%	5.5%
1/1/97		0%	0%	3.0%
1/1/98				0%
1/1/99				
1/1/2000				

**TABLE 2  
GENERAL PHASE-OUT PROGRAM OF COUNTRIES  
WITH FTA TOWARD CHILE**

	Mexico	Venezuela				Colombia				Ecuador			
Date Agreement	22/9/91	2/4/93				6/12/93				20/12/94			
Tariff in effect prior to the agreement	0%-20%	20%	15%	10%	5%	20%	15%	10%	5%	20%	15%	10%	5%
1/1/92	10%												
1/1/93	7.5%												
1/7/93		15%	12%	8%	4%								
1/1/94	5%	11%	9%	6%	3%	15%	12%	8%	4%				
1/7/94						11%	9%	6%	3%				
1/1/95	2.5%	7%	6%	4%	2%	7%	6%	4%	2%	15%	11%	7.5%	4%
1/1/96	0%	3%	3%	2%	1%	3%	3%	2%	1%	10%	7.5%	5%	2.5%
1/1/97		0%	0%	0%	0%	0%	0%	0%	0%	5%	4%	2.5%	1%
1/1/98										0%	0%	0%	0%
1/1/99													

1/1/2000				
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**TABLE 3**  
**CHILE'S SLOW PHASE-OUT PROGRAM TOWARD COUNTRIES WITH FTA**

	Mexico	Venezuela	Colombia	Ecuador
Date Agreement	22/9/93	2/4/93	6/12/93	20/12/94
Tariff in effect prior to the agreement	11%	11%	11%	11%
1/1/92	10%			
1/1/93	10%			
1/7/93		8.5%		
1/1/94	8%	8.5%	8.5%	
1/7/94				
1/1/95	6%	7.5%	7.5%	8.5%
1/1/96	4%	6.5%	6.5%	7.0%
1/1/97	2%	4.5%	4.5%	5.0%
1/1/98	0%	2.5%	2.5%	3.0%
1/1/99		0%	0%	2.0%
1/1/2000				0%

**TABLE 4**  
**SLOW PHASE-OUT PROGRAM OF COUNTRIES WITH FTA TOWARD CHILE**

	Mexico	Venezuela				Colombia				Ecuador			
Date Agreement	22/9/91	2/4/93				6/12/93				20/12/94			
Tariff in effect prior to the agreement	0%-20%	20%	15%	10%	5%	20%	15%	10%	5%	20%	15%	10%	5%
1/1/92	10%												
1/1/93	10%												
1/7/93		15%	12%	8%	4%								
1/1/94	8%	15%	12%	8%	4%	15%	12%	8%	4%				
1/7/94													
1/1/95	6%	13%	11%	7%	3%	13%	11%	7%	3%	15%	11%	7.5%	4%
1/1/96	4%	11%	9%	6%	3%	11%	9%	6%	3%	12%	9%	6%	3%
1/1/97	2%	7%	6%	4%	2%	7%	6%	4%	2%	9%	7%	4.5%	2%
1/1/98	0%	3%	3%	2%	1%	3%	3%	2%	1%	6%	5%	3%	1.5%
1/1/99		0%	0%	0%	0%	0%	0%	0%	0%	3%	2%	1.5%	1%
1/1/2000										0%	0%	0%	0%

**TABLE 5**  
**PHASE-OUT IN THE AUTOMOBILE SECTOR**

	Date of Phase-Out	Tariff Applied	Rule Of Origin Required
Mexico	1/1/96	0%	32% 1/
Venezuela	1/7/93	0%	35%
Colombia	1/1/94	0%	40% Vehicles 50% Parts and Pieces
Ecuador			
Phase-out Program of Chile	1/1/95 1/1/96 1/1/97	7% 3% 0%	35%
Phase-out Program of Ecuador	1/1/95 1/1/96 1/1/97	24% 12% 0%	

1/ A quota will be applied for those items which do not comply with this condition.

**TABLE 6**  
**TRADE AFFECTED BY THE LISTS OF EXCEPTIONS IN THE**  
**FREE TRADE AGREEMENTS INCLUDING PETROLEUM IMPORTS**

AMOUNT (THOUSANDS OF US\$)

	1993				1994			
	Imports		Exports		Imports		Exports	
	List Except.	Total Import	List Except.	Total Export	List Except.	Total Import	List Except.	Total Export
Mexico	135	209.669 0.06%	1.631	124.169 1.31%	12.459	263.672 4.73%	955	202.657 0.47%
Venezuela*	97.744	141.710* 68.97%	1.390	73.875 1.88%	84.979	139.840* 60.77%	459	72.682 0.63%
Colombia	17.661	98.181 17.99%	2.896	70.631 4.10%	23.814	118.862 20.03%	6.431	116.985 5.50%
Ecuador*	-	-	-	-	133.456	187.126* 71.32%	2.406	82.619 2.91%

\* These figures include petroleum imports.

**TABLE 7**  
**TRADE AFFECTED BY THE LISTS OF EXCEPTIONS**  
**IN THE FREE TRADE AGREEMENTS EXCLUDING PETROLEUM IMPORTS**

AMOUNT (THOUSANDS OF US\$)

	1993				1994			
	Imports		Exports		Imports		Exports	
	List Except.	Total Import	List Except.	Total Export	List Except.	Total Import	List Except.	Total Export
Mexico	135	209.669 0.06%	1.631	124.169 1.31%	12.459	263.672 4.73%	955	202.657 0.47%
Venezuela*	97.744	12.583* 8.9%	1.390	73.875 1.88%	84.979	19.466* 13.92%	459	72.682 0.63%
Colombia	17.661	98.181 17.99%	2.896	70.631 4.10%	23.814	118.862 20.03%	6.431	116.985 5.50%
Ecuador*	-	-	-	-	133.456	3.245* 9.73%	2.406	82.619 2.91%

\* These figures exclude petroleum imports.

**PEOPLE'S REPUBLIC OF CHINA**

## I. BACKGROUND INFORMATION

In the light of the requirements to speed up the establishment of a socialist market economy system and to open up further to the outside world, new progress was made in the reform process of China's foreign trade system in 1994. This paper provides a brief summary of the deregulation/liberalization measures implemented by China last year. As a matter of fact, China has committed itself to many more deregulation measures in the process of resuming its contracting party status in GATT. However, as these measures are part of the package of the measures relating to the final results of the negotiations concerning China's membership in GATT/WTO, they are not all covered here.

## II. UNILATERAL MEASURES

### 1. Measures On Merchandise Trade

#### 1.1 Tariff Measures

On 1 January 1994, China decided to reduce its import tariff for 2,898 tariff lines by 8.8%.

From the beginning of 1994, China decided to reduce its import tariff for gasoline engine cars with a cylinder capacity under 3L, and diesel engine cars with a cylinder capacity of 2.5L, from 180% to 110%; and gasoline engine cars with a cylinder capacity under 3L, and diesel engine cars with a cylinder capacity under 2.5L, from 220% to 150%.

Provisional reduced tariff was implemented involving 282 tariff lines in 1994.

#### 1.2 Non-Tariff Measures

In accordance with the bilateral and multilateral agreement with other member economies, 283 tariff lines were excluded from the list that were subject to quota, license control or administration management in 1994.

Starting from June 1994, non-tariff measures on 208 tariff lines of import commodities were removed.

On 7 October and 22 December 1993, China promulgated "Measures on Import Management of Mechanical and

Electrical Products” and “Measures on Import Quota Management of General Commodities” in light of international trade practices to replace a series of old internal regulations implemented in the past. The new measures have:

- Reduced the number of commodities subject to quota, licensing control;
- Abolished the temporary ban and licensing control on the import of 34 kinds of production lines;
- Eliminated the whole list of import commodity substitution and the related measures;
- Committed to further reduce the number of specific products subject to protection as well as government examination and approval within three to five years.

## **2. Measures On Services Trade**

### ***Legal Service***

According to the “Interim Provisions of the Ministry of Justice and the State Administration for Industry and Commerce on the Setting up of the office of Foreign Law Firm in China”, foreign law firms are allowed to:

- Provide clients with consultancy on home country’s law, international treaty and practice;
- Handle legal affairs on behalf of and entrusted by Chinese clients and law firms in the country in which the law firm is registered for legal business;
- Act on behalf of foreign clients to entrust a Chinese law firm to deal with legal affairs in the territory of China.

### ***Banking And Other Financial Services***

Five types of foreign financial institutions are permitted to provide services in China. These are a subsidiary of a foreign bank, branch of a foreign bank, Chinese-foreign joint bank, foreign finance company and Chinese-foreign joint finance company. Establishment of the five types of foreign financial institutions are allowed in the following cities - Shanghai, Shenzhen, Zhuhai, Hainan, Xiamen, Shantou, Guangzhou, Fuzhou, Tianjin, Nanjing, Qingdao, Dalian and Ningpo. China will further expand the opening regions to the extent of ten other



cities, including Beijing, Shenyang and some provincial capitals and economic centers.

**3. Measures On Investment**

**4. Other Measures**

***Exchange Control***

From the beginning of 1994, China reformed the system of foreign exchange control in a bid to eliminate market distortion. The major elements include unifying the exchange rate; establishing a unitary, controlled floating exchange rate system; and making RMB convertible with conditions under current accounts. The reform created conditions for China to participate in international division of work and exchange in the principle of comparative benefits. The reform created an environment for foreign trade enterprises to compete on an equal basis. It also conformed with the demands of GATT and IMF that dual exchange rates could not be implemented by taking exchange rate mechanism as a market, thus making China's foreign trade system move closer to international standards. Moreover, the transformation of exchange rate mechanism helped to avoid drastic and blind fluctuation of the RMB exchange rate, caused by speculation and psychological factors, thus bringing convenience to both domestic and foreign traders.

***Macro-Management***

The Foreign Trade Law of the People's Republic of China was implemented on 1 July 1994. The macro-control on Foreign Trade was gradually moving towards the track on which foreign trade would mainly be regulated by laws and economic means.

***Transparency***

Only officially-published laws, regulations and policies would be implemented in China. Only laws and regulations relating to foreign trade would be made public by the Ministry of Foreign Trade and Economic Cooperation. "Gazette of the Ministry of Foreign Trade and Economic Cooperation", sponsored by MOFTEC, will issue newly approved laws, regulations and policies relating to foreign economic relations and trade.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### **3.1 Measures On Merchandise Trade**

##### **3.1.1 Tariff Measures**

China has committed to limit its 90% tariff within the level of 35% and will further reduce to the level of 30%, with an average rate of 18.9% for all merchandise in five years, once China becomes a member of WTO.

##### **3.1.2 Non-Tariff Measures**

Only about 700 commodities, of more than 6000 H.S. items, remain under the control of non-tariff measures; some 600 items have a timetable for removal.

#### **3.2 Measures On Services Trade**

China has made commitment in 36 sectors including finance, telecommunication, maritime transport, etc. The number of sectoral deregulation is among the front rank of developing countries.

### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

With the establishment of the socialist market economy, China's foreign trade system is drawing closer to the requirements of the basic principles of GATT and international norms. The reform of the foreign trade system has created great benefits for the foreign trade enterprises as they can do business independently, compete on an equal basis, bear their own profits and losses, etc.

### **VI. FUTURE DIRECTION**

Reform of the foreign trade system will be pursued positively, steadily and gradually in the future. It will be carried out in the following direction:

- Reform of the import system will conform with the need of the establishment of the socialist market economy and solve practical problems in consideration of the real situation of China;

- The import control system will be gradually established with exchange rate, tariff rate, credit and other economic and legal means as its main content while supplemented with quota, license and other administrative means;
- An import system will be established with unified policies and implementations.

## **VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

## **I. BACKGROUND INFORMATION**

In order to adapt itself to the new situation of opening up further to the outside world, and the needs of participating in the international and multilateral trade activities, China has made great efforts for the past several years to promote reforms in a bid to setting up a more scientific and standardized administration system compatible with international trade norms. This section contains information on the major deregulation/liberalization measures which have been implemented during the past several years.

## **II. TARIFF MEASURES AND NON-TARIFF MEASURES**

In 1991, China voluntarily reduced the import tariff for 225 H.S. items.

In 1992, import and export regulatory tariffs were eliminated.

On 31 December 1992, China announced a reduction in its import tariff for 3,371 items. The average reduction rate was 7.3%.

On 15 November 1993, China announced reduction in its import tariff on 2,898 items.

China reduced the number of import commodities subject to license for 53 items in 1992, e.g. import licensing and the quota for instamatic cameras were abolished, the quota for import of photo materials for instamatic camera was eliminated, and the control on import of digital program controlled telephone exchange and oscilloscope was lifted.

## **III. OTHER MEASURES**

The export administration system was adjusted:

- The number of commodities subject to export licensing administration was reduced;
- The administrative authority for the local departments of foreign trade administration was widened;
- A tight and scientific licensing inspection system was set up and legalized;
- "Regulations on bidding for export commodities" were formulated.

Mandatory plans were eliminated to improve the macro regulation mechanism in foreign trade.

Independent business operations were further promoted to bring into full play the market competitive mechanism. The team of foreign trade operations was enlarged by accelerating the pace to give import and export right to productive enterprises, and gradually to scientific research institutes, as well as commercial enterprises dealing with goods and materials.

Foreign economic and trade policies were further unified and transparency was further enhanced.

**HONG KONG**

## **I. BACKGROUND INFORMATION**

Hong Kong is one of the most open economies in the world. There are no tariffs, no trade restrictions or administrative controls other than those required to protect health, safety, security and the environment and to discharge Hong Kong's obligations under bilateral and international agreements; and no unilateral "trade policy instruments" to protect domestic industries or to promote exports. Hong Kong's trade regime is founded on the non-discriminatory multilateral system of the GATT/WTO and is underpinned by minimum government intervention in the domestic economy.

Given the extremely open and liberal trade and investment regimes already in place in Hong Kong, there is very limited ground for further deregulation. This should however not be misconceived as Hong Kong not playing its part in the present exercise of deregulation under the Asia Pacific Economic Cooperation (APEC).

Hong Kong's trade policy aims:

- To promote free and open trade within a stable and effective multilateral trading system;
- To safeguard Hong Kong's rights and fulfil its obligations under multilateral and bilateral trade and trade-related agreements;
- To secure, maintain and improve access for Hong Kong's exports.

Annex 1 outlines Hong Kong's trade policy and practices currently in place.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

### **2. Measures On Services Trade**

#### ***Financial Services***

Hong Kong has been removing interest rate caps on time deposits with different maturity periods under a phased program starting from October 1994.

Hong Kong has recently relaxed the "one building" condition and foreign banks are now allowed to establish a regional office (for activities such as strategic planning of regional operations and general liaison with correspondent banks and corporate entities) and one back office (for internal administrative functions on behalf of the branch office and processing or

settling of transactions already entered into or arranged by the branch office) in a building or buildings separate from their branch office. Hong Kong has submitted a revised GATS schedule to the WTO Secretariat incorporating the relaxation of the one building condition.

### ***Telecommunications***

Local telephone service, which had traditionally been provided by Hong Kong Telephone Company on a monopoly basis, has been opened to competition since 1 July 1995. Four companies, including Hong Kong Telephone Company, have been licensed to provide the full range of local fixed network telecommunications services on a competitive basis.

Hong Kong is in the process of issuing up to six licences to provide Personal Communications Services (a new generation of digital cellular phone). Six is the maximum number of licences that can be granted based on the radio spectrum available.

### ***Broadcasting***

On subscription television service, Hong Kong will conduct a policy review towards the end of 1995 in a move to deregulating the local subscription television market.

## **3. Measures On Investment**

## **4 Other Measures**

### **4.1 Making Markets Work Better**

#### ***Competition Policy***

Hong Kong subscribes fully to the philosophy of the free market, which is the best formula for enhancing competition and efficiency. To discourage unfair, deceptive or misleading business practices, Hong Kong has introduced a package of legislation including the Trade Descriptions Ordinance, the Control of Exemption Clauses Ordinance, the Unconscionable Contracts Ordinance, the Supply of Services (Implied Terms) Ordinance and the Sale of Goods Ordinance.

The Consumer Council, a government-financed autonomous statutory body charged with the responsibility to promote consumer protection under the statute, has been allocated funds to conduct a series of studies on the state of competition in major business sectors (such as broadcasting, telecommunications, gas supply and residential property market) and to establish a Consumer Legal Action Fund to assist consumers individually or collectively to take legal action against unscrupulous traders. The Consumer Council has also been given



resources to set up a Trade Practices Division to examine unfair trade practices.

### ***Intellectual Property Rights (IPR)***

Hong Kong has a sophisticated and well established intellectual property regime which includes specific legislation providing for the protection of patents, trade marks, copyright, designs and layout-design (topography) of integrated circuits. These laws are part of a legal framework which allows the owner of intellectual property rights to exploit and protect his rights. The framework also provides for the enforcement of intellectual property rights through the courts. The Hong Kong Government, in consultation with the British and Chinese Governments where appropriate, are taking measures to ensure that intellectual property rights currently protected in Hong Kong will continue to be valid, recognized and protected by the Hong Kong Special Administrative Region Government after 30 June 1997, as well as to provide a legal framework under which the future Hong Kong Special Administrative Region Government can, on its own, protect intellectual property rights.

## **4.2 Measures On Other Regulatory Regimes**

### ***Government Procurement***

Hong Kong's government procurement policy is to adopt a non-discriminatory, fair and open procurement system.

## **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **3.1 Measures On Merchandise Trade**

#### **3.1.1 Tariff Measures**

##### **3.1.1.1 Industrial Products**

###### ***Tariff Bindings***

Hong Kong has implemented tariff bindings at zero of 29.16% of its total imports in 1988 value terms as undertaken in the Uruguay Round. The items bound include all agricultural products, some other primary products, and a wide range of industrial products such as machinery, electronics, and textiles and clothing.

### ***Agreement On Textiles And Clothing***

Hong Kong has no quantitative restraints on textiles and clothing imports and has already achieved complete integration of the textiles and clothing sector into the GATT. Hong Kong has therefore fully discharged its obligations in this regard under the Agreement on Textiles and Clothing.

Hong Kong has notified the WTO that Hong Kong will not invoke the special transitional safeguard mechanism under Article 6 of the Agreement on Textiles and Clothing.

#### **3.1.1.2 Agricultural Products**

See item 3.1.1.1 above.

### **3.2 Measures On Services Trade**

#### **General Agreement On Trade In Services (GATS)**

UR commitments by Hong Kong include:

- ***Insurance***

Life, accident and health insurance, non-life insurance, reinsurance and auxiliary services (e.g. brokerage and agency services) are covered. Hong Kong has offered to continue allowing foreign participation in these areas under the existing regulatory framework.

- ***Banking, Securities, Etc.***

Hong Kong allows, within the existing regulatory framework, foreign commercial entities to offer normal banking and investment related services, such as acceptance of deposits, offering of loans and mortgages, money transmission, foreign currency exchanges, buying and selling of securities, fund management and other advisory and auxiliary services.

- ***Medical And Related Services***

Hong Kong is taking action to bring various sectors of the medical and related professions in line with the GATS.

- ***Legal Services***

Hong Kong has introduced a statutory scheme to rationalize registration, and admission of foreign lawyers to practise as solicitors, pursuant to Hong Kong's general obligations under the GATS.

- ***Other Services***

The Hong Kong schedule covers a wide range of activities such as professional services, namely accounting, auditing and book-keeping services, as well as taxation services (excluding legal services), maritime transport services, telecommunications and tourism, etc., and includes both market access and national treatment commitments. The commitments are generally in line with Hong Kong's current level of openness in the sectors specified.

**3.3 Measures On Investment**

**3.4 Other Measures**

***Trade-Related Intellectual Property Rights (TRIPs)***

Hong Kong has conducted reviews of its intellectual property and border control regimes and prepared an Intellectual Property Bill (WTO Amendments) to modify its copyright, patents, and trademark legislation for introduction to the legislature in October 1995 in order to bring its existing legislation in line with the TRIPS standards.

***WTO Agreement On Government Procurement***

Hong Kong did not join the WTO Agreement on Government Procurement because the Agreement is discriminatory as a result of the inclusion of reciprocity provisions. Hong Kong does not subscribe to it owing to trade principles rather than procurement practices.

**IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

Hong Kong fully recognizes the benefits of deregulation/liberalization measures that can be brought to the business sector and to the Asia Pacific region as a whole. Hong Kong shall continue to cooperate with other APEC members to attain more rapid liberalization and deregulation, whenever possible, in the coming years.

**VI. FUTURE DIRECTION**

Hong Kong relies on the GATT/WTO as the cornerstone of its trade policy. Hong Kong has been participating actively and constructively in the GATT and will continue to do so in the WTO. Hong Kong's guiding principle in participating in

such regional economic cooperation forum as APEC remains to promote free trade and to reinforce the multilateral trading system. Hong Kong will continue to participate on its own in relevant international organizations and international trade agreements after the change of sovereignty in 1997. This is already provided for under the Sino-British Joint Declaration on the Question of Hong Kong and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

## **VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

See Annex 2.

## HONG KONG'S TRADE POLICIES & PRACTICES

### I. INTRODUCTION

Hong Kong is one of the most open economies in the world. There are no tariffs, no trade restrictions or administrative controls other than those required to protect health, safety, security and the environment and to discharge Hong Kong's obligations under bilateral and international agreements; and no unilateral "trade policy instruments" to protect domestic industries or to promote exports. Hong Kong's trade regime is founded on the non-discriminatory multilateral system of the GATT/WTO and is underpinned by minimum government intervention in the domestic economy.

Given the extremely open and liberal trade regime already in place in Hong Kong, there is very limited ground for further deregulation. This should however not be misconceived as Hong Kong not playing its part in the present exercise of deregulation under the Asia Pacific Economic Cooperation (APEC).

### II. OBJECTIVES OF TRADE POLICIES

Being a staunch supporter of free trade, Hong Kong is distinguished by its firm commitment to the multilateral trading system as the best guarantee of free trade and economic expansion. Hong Kong's trade policy seeks:

- To promote free and open trade within a stable and effective multilateral trading system;
- To safeguard Hong Kong's rights and fulfil its obligations under multilateral and bilateral trade and trade-related agreements;
- To secure, maintain and improve access for Hong Kong's exports. To this end, Hong Kong relies on the GATT/WTO as the cornerstone of its trade policy.

Hong Kong has been participating actively and constructively in the GATT and will continue to do so in the WTO. Hong Kong's guiding principle in participating in such regional economic cooperation forum as APEC remains to promote free trade and to reinforce the multilateral trading system. Hong Kong will continue to participate on its own in relevant international organizations and international trade agreements after the change of sovereignty in 1997. This is already provided for under the Sino-British Joint Declaration on the Question of Hong Kong and the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China.

### **III. HONG KONG'S IMPORT AND EXPORT SYSTEM**

Hong Kong's import and export system is characterized by minimum controls, zero tariff, and no subsidies or assistance to exports. Import and export controls/licensing are kept to the minimum and maintained under the Laws of Hong Kong. Licensing requirements exist only for reasons of health, safety or security or to comply with Hong Kong's bilateral and international obligations.

Only a few items are under absolute prohibition, these either stem from obligations under various international undertakings, or are applied for health, safety or security reasons. Trade sanctions are implemented against certain countries in accordance with the Resolutions of the United Nations Security Council.

### **IV. TRADE MEASURES IN OPERATION**

#### ***Tariffs***

Hong Kong is a free port and does not levy any tariff on imports or exports. On conclusion of the Uruguay Round negotiations, Hong Kong has now bound at zero over 29% of all its imports in 1988 value terms. The items bound include all agricultural products, some other primary products, and a wide range of industrial products such as machinery, electronics, and textiles and clothing.

Hong Kong does not maintain any tariff quotas or surcharges.

#### ***Quantitative Restrictions***

Apart from import quota control on rice and certain ozone depleting substances, Hong Kong does not maintain any quantitative restrictions. Voluntary export restraints (VERs) or orderly marketing arrangements (OMAs) do not exist at the government or the industry level.

The rice control scheme is maintained purely for internal security purposes. There are however no restrictions on the source of supply. On ozone depleting substances, Hong Kong exercises import quota control to meet Hong Kong's obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer and the subsequent revisions thereof.

#### ***Technical Regulations And Standards***

Hong Kong's system of technical standards or regulations follows international recognized standards, such as British Standards, and international standards, such as the International Organization for Standardization (ISO), the International Electrotechnical Commission (IEC) and the World Health Organization (WHO). These standards are applied in Hong Kong on a non-discriminatory basis to imports and domestic products alike.

### ***Rules Of Origin***

Imports into Hong Kong are not required to comply with any specific rules of origin.

### ***Local Content Requirement***

There are no local content requirements for Hong Kong's imports or exports.

### ***Safeguards, Anti-Dumping and Countervailing Actions, Concessionary Export Financing, Export Taxes Or Government-Mandated Countertrade***

None of these measures exist and Hong Kong has no intention to introduce any legislation in these areas.

### ***Government Procurement***

Hong Kong follows open and non-discriminatory procurement policies and practices. Hong Kong has decided not to join the new agreement on government procurement as it contains sectoral non-application and reciprocity provisions which are against the fundamental WTO national treatment and non-discrimination principles which Hong Kong firmly supports.

### ***Export Assistance And Trade Promotion***

The Hong Kong Government does not provide subsidies, tax exemptions or financial assistance of any kind to assist the promotion of exports from Hong Kong.

### ***Foreign Exchange Control***

There is no foreign exchange control in Hong Kong. Movement of funds into and out of Hong Kong is completely free. The Hong Kong dollar is freely convertible.

## **V. INVESTMENT REGIME**

Hong Kong maintains an open, liberal, transparent and equitable investment regime. There is no special legislation, special approval or notification requirement to govern the admission and establishment of foreign investments in Hong Kong, or the movement of capital and investments out of Hong Kong. There is no foreign exchange control in Hong Kong. Investment matters are dealt with in ordinary domestic legislation. There is no capital gains tax and no interest tax. Hong Kong does not provide direct tax incentives to any investors. The simple, low and predictable tax system is in itself an incentive.

Hong Kong offers a level playing field for foreign and local investors and applies the principle of fairness and non-discrimination vigilantly. Hong Kong does not impose any performance or local content requirements as a condition for establishing,

maintaining or expanding an external investment. There is no legislation regulating foreign investments and exports. A few restrictions on foreign investors nevertheless exist in the legal and broadcasting industries. Investments, including foreign investments, are protected in the run-up to and beyond 1997 under the Sino-British Joint Declaration and the Basic Law. Hong Kong is negotiating a network of investment promotion and protection agreements with its major trading/economic partners to give assurance to foreign investors, in addition to the existing safeguards and protection.

## **VI. COMPETITION POLICY**

Hong Kong is one of the most competitive economies in the world. Hong Kong subscribes fully to the philosophy of the free market, which is the best formula for enhancing competition and efficiency. Hong Kong believes that whenever possible, competition should be encouraged and that it is through competition that fair prices and services can be obtained. There are however circumstances where the level of investment required, or other factors such as the need for prudential supervision, the long-term interest of consumers, or other factors, which indicate that completely free competition may not be obtainable or may not be the best solution. Examples are the supply of electricity, telecommunications services, public transport and broadcasting services. In such cases, through various arrangements, Hong Kong has achieved a reasonable balance between a justified monopolistic or oligopolistic situation on the one hand and the benefits of quality services and fair prices on the other.

In respect of the sectors in the economy which are subject to government control, a key imperative in the formulation of such controls is the promotion of competition and protection of consumers. These controls are reviewed and revised from time to time to identify areas for possible improvement and to meet the needs of changing circumstances. The efforts made in the past few years, for example, include the introduction of more and greater competition in the areas of telecommunications, public transport and broadcasting.

To discourage unfair, deceptive or misleading trade practices, the Hong Kong Government has introduced a package of legislation including the Trade Descriptions Ordinance, the Control of Exemption Clauses Ordinance, the Unconscionable Contracts Ordinance, the Supply of Services (Implied Terms) Ordinance and the Sales of Goods Ordinance.

### ***Consumer Council***

The Consumer Council, a government-financed autonomous statutory body charged with the responsibility to promote consumer protection under the statute, has been allocated funds to conduct a series of studies on the state of competition in major business sectors (such as broadcasting, telecommunications, gas supply and residential property market) and to establish a Consumer Legal Action Fund to assist consumers individually or collectively to take legal action against unscrupulous traders. The Consumer Council has also been given resources to set up a Trade



Practices Division to examine unfair business practices.

## **VII. VARIOUS ECONOMIC SECTORS**

### ***Primary Production***

Local producers of fresh farm and marine produce are all private individuals or companies operating without government subsidy in competition with imported produce. There are no barriers to trade or investment in this sector.

### ***Energy***

The energy sector in Hong Kong is deregulated. All of Hong Kong's oil, electricity and fuel gas supplies are provided by private sector companies in an environment conducive to investment by and competition between energy suppliers. There are no barriers to trade and investment.

### ***Port And Shipping***

Hong Kong is a free port and has virtually totally deregulated the port and shipping sector for over a century, save for matters concerning safety and navigation. Hong Kong offers all ships equal treatment in terms of freedom to trade, the carriage of cargo and access to ports and port facilities whatever their origins, subject only to the imposition of international standards of safety, control and operation. All of Hong Kong's principal cargo handling and stevedoring facilities are provided by the private sector. Hong Kong nevertheless regulates the supply of new land for the construction of additional port facilities in order to ensure that the port operations remain commercially viable and continue to attract new private sector investment.

### ***Transport***

The Hong Kong public transport system is notable for its variety of modes and operators, and the absence of government subsidies. There are five rail systems, comprising three systems operated by public corporations wholly owned by the government and two owned by private operators. There are four franchised bus companies. Road passenger transport accounts for two-thirds of all public transport journeys. Over half of the journeys made by road are on franchised buses, with the remainder handled by minibuses, taxis and non-franchised buses. Ferry services are provided by two franchised operators and eight licensed private operators.

### ***Telecommunications***

Hong Kong has one of the most liberalized telecommunication markets in the world. Hong Kong Government's telecommunications policy is to encourage the competitive provision of telecom services so that the widest possible range of services is available to meet customers' needs at reasonable cost. Local telephone service has been fully opened to competition after the expiry of the Hong Kong Telephone Company Limited's exclusive franchise on 30 June 1995. Four companies, including Hong Kong Telephone Company, have been granted non-exclusive licences to provide the

whole range of local fixed network telecommunications services on a competitive basis. Hong Kong Telecom International Limited has been granted an exclusive licence valid until 2006, to provide a range of public international telecommunications services. Other telecommunication services, including mobile telephony, paging, telepoint and value-added network services, are open to competition. Hong Kong has no foreign ownership restriction in telecommunications.

### ***Broadcasting***

Hong Kong has two commercial television services, a subscription television service, a regional satellite television service, two commercial radio services, apart from one public service sound broadcaster and a radio service for the British Forces. Hong Kong Government's broadcasting policy is to encourage the competitive provision of broadcasting services so that the widest possible range of choice is available to meet customers' needs at reasonable cost.

## **VIII. CONCLUSION**

Hong Kong shall continue to cooperate with other APEC members to attain more rapid liberalization and deregulation and shall report to the APEC on further deregulation measures announced or implemented in the coming years.

**KEY CONTACTS FOR HONG KONG'S  
DEREGULATION/LIBERALIZATION MEASURES OUTLINED  
IN THE 1995 REPORT TO ASIA PACIFIC ECONOMIC COOPERATION**

**I. UNILATERAL MEASURES**

**1. Measures On Services Trade**

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## 2. Other Measures

### a) Making Markets Work Better

#### *Competition Policy*

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### b) Measures On Other Regulatory Regimes

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## **II. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **1. Measures On Merchandise Trade**

#### *Tariff Measures*

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### **2. Measures On Services Trade**

#### *General Agreement On Trade In Services*

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### **3. Other Measures**

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**INDONESIA**

## **I. BACKGROUND INFORMATION**

Historically, Indonesia began pursuing a policy of economic deregulation in May 1966, when it partly released control over foreign exchange. Deregulation greatly accelerated since 1983 when monetary and tax reforms were introduced. This policy was continued in 1985 when the first of a series of trade deregulation packages was implemented. One of the goals of these deregulation policies was to reduce the cost of imports and make Indonesian exporters become more competitive in the world market. In addition, since consumers would be able to purchase imported goods at a lower price, domestic producers would be motivated to improve their production efficiency and reduce their production costs. Consumers would then be able to increase their standard of living and their savings. Likewise, inflation would be more controlled.

As a country with an open economy, Indonesia is increasingly linked to the global market. In continuing effort to boost economic productivity, to improve the trade and investment environment and to meet the nation's commitments under the ASEAN Free Trade Agreement, the GATT/WTO and the Bogor Declaration of the Asia-Pacific Economic Cooperation forum, the government issued a deregulation package on 23 May 1995, covering five main sectors (import tariffs and surcharges, import licensing, bonded zones and bonded warehouses, investment, industrial licensing and business restructuring).

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

##### ***Import Tariffs And Surcharges***

Import tariffs and surcharges will be reduced, taking into account the level of competitiveness of products, according to the following schedule:

- Import tariffs and surcharges 20% or below, will be reduced in stages to a maximum rate of 5% by the year 2000;
- Import tariffs and surcharges over 20% will be reduced in stages to a maximum rate of 20% by 1998, and further reduced to 10% by the year 2003;
- The following products are not covered by the schedule:



- Tariffs of agricultural products will be adjusted in accordance with Indonesia's commitment under the GATT/WTO agreement;
- Tariffs of automotive products will be reduced as specified in the Decree of the Finance Minister No. 222/KMK.01/1995 and its Annexes (Appendix 1);
- Chemicals and metal products will be scheduled separately with the goal of reducing the maximum tariff rate to 10% by the year 2003;
- There will be no tariff reduction for distilled alcohol products and other alcoholic beverages..

In accordance with the tariff reduction schedule, the following measures are effective:

- Tariffs and surcharges on commodities currently between 0% to 5% will not be changed;
- Tariffs and surcharges on commodities currently between 10% to 30% will be reduced by five percentage points;
- Tariffs and surcharges on commodities currently 40% or more will be reduced to 30%.

One important feature of the 23 May package is the "time-bound" schedule for further reduction of tariffs and import surcharges as follows:

- All tariffs and surcharges of 20% or less will be reduced in stages to a maximum of 5% by the year 2000;
- All tariffs and surcharges of over 20% will be reduced in stages to a maximum of 20% by 1998, and 10% by the year 2003.

Thus, by the year 2003, Indonesia will have a maximum tariff of 10%, and most tariffs will be in the 0-5% range.

There will be accelerated reduction of import tariff and surcharge on the following commodities:

- Newsprint: tariff reduced from 20% to 5%;
- Printing paper: tariff reduced from 20% to 0%;

- Non-CPO cooking oil, such as soybean and sunflower seed oil: tariffs reduced from 25%-20% to 0%;
- Certain intermediate and capital goods, including sawn timber for the wood processing industry, printing ink, glass fiber and paints: tariffs reduced from 10%-40% to 5%-25%.

Import surcharges on 108 HS tariff lines are changed as follows:

- Surcharges on 45 HS tariff lines are eliminated. These lines include tobacco products, steel sheets, acetic acid, and some metal products;
- Surcharges on 50 HS tariff lines are reduced. These lines include raw materials for medicine, caustic soda, and wire;
- Surcharges on 13 HS tariff lines are retained. These lines include polypropylene, polyethylene, and alcoholic beverages.

Also, surcharges from 5% to 10% will be imposed on 68 HS tariff lines covering iron, steel and metal products in order to compensate for the elimination of import licensing requirements.

## 1.2 Non-Tariff Measures

### *Import Licensing*

Eighty-one HS tariff lines are opened to general importers as follows:

- From Producer Importer to General Importer<sup>1</sup>: 78 HS tariff lines, such as high carbon steel sheet;
- From Registered Importer to General Importer: One HS tariff line, disposable gas lighter;
- From BULOG to General Importer: Two HS tariff lines, new and used gunny sacks.

In addition, one tariff line, aromatic rubber processing oil or RPO (2710.00970) is clarified to be available to General Importers.

Commodities requiring import licences are reduced to HS 189 tariff lines. These include:

- Producer Importers: 32 HS tariff lines, such as salt and soybean meal;

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<sup>1</sup>General Importer: Importer without restrictions.

- Registered Importers: 63 HS tariff lines, such as alcoholic beverages;
- Sole Agent Importers: 47 HS tariff lines, such as motor vehicles;
- BULOG: 30 HS tariff lines, such as rice, wheat flour and sugar;
- BPPC: Two HS tariff lines, such as cloves;
- DAHANA/MNK: Three HS tariff lines, such as explosives;
- PERTAMINA: Three HS tariff lines, such as lubricants;
- Prohibited: Nine HS tariff lines, such as plastic waste and pesticide formulas.

### **1.3 Administrative Measures**

#### ***Bonded Zones And Bonded Warehouses***

Operations of Processing Industries in Bonded Zones (PPDKB) and Entrepot for Export Production (EPTE) are deregulated as follows:

- In the case of PPDKB/EPTE that produce goods or components for assembly or for production of higher level intermediate products, the value of products that can be delivered to other locations within the Indonesian customs area is increased from 25% of export value to 25% of export value and/or the value that has been transferred to other PPDKB/EPTE;
- Electronic final products produced by PPDKB/EPTE and shipped to other Indonesian customs areas will be subject to 30% of final product tariff applied on the price of imported raw materials and components;
- There will be no pre-shipment inspection of imports entering EPTEs and Bonded Zones. These imports will be exempted from import duties, surcharges, excise taxes, luxury goods tax and income tax, for as long as the goods are processed;
- Facilities for importing samples are clarified. Provided the samples do not have any economic value and are imported solely to demonstrate production or introduce new products, three samples of each type / brand / model can be imported;
- Pre-shipment inspection of air-freighted goods is eliminated. The inspection will now be conducted at the airport of destination by the Directorate General of Customs according to prevailing

regulations on goods shipped by means other than airfreight. Pre-shipment inspection will continue to apply.

## **2. Measures On Services Trade**

Indonesia is a net services importing country; the services deficit of US\$8.9 billion in 1990/91 had reached US\$10.3 billion in 1993/94. Subtracting the debt servicing figure of US\$3.9 billion in 1990/91, and US\$4.5 billion in 1993/94, the services deficit was still very substantial, US\$5 billion and US\$5.8 billion in 1990/91 and 1993/94 respectively. While details on the liberalization of services could not be presented, the available figures indicated that the Indonesian services sector was reasonably open.

## **3. Measures On Investment**

Most of investment measures relating to foreign investment are dealing with the deregulation of inward foreign direct investment.

A progressive attitude and policy towards FDI, i.e. Government Regulation No. 20, of November 1994, offers a number of relaxed areas for FDI, in which:

- Minimum amount of capital requirement for foreign investment is no longer required;
- Divestment program is no longer mandatory;
- Straight foreign ownership (100%) is no longer prohibited, either on enterprise or individual basis. Joint venture is only required in nine investment sectors vital to public interests (such as harbour, toll road, telecommunication, power generation, etc.);
- Foreign enterprise is allowed to buy shares of existing joint-venture companies or domestic/national companies.

In addition, since the early years of foreign investment era, Indonesia has adopted a free regime of foreign currency.

The content of the “negative list” has been gradually simplified. For example, in the 23 May 1995 deregulation package, ten investment sectors have been removed from the previous list (e.g. palm oil based cooking oil, rattan products, utility boiler, motor vehicle, drug formulas, aircraft maintenance operating at airports/including components, etc.). Meanwhile, five additional activities are added to the previous list to be totally closed for investment due to environmental reasons, i.e. processing of mangrove, production of cyclamates and saccharine (artificial sweeteners), pulp industry using sulphite process, chlor-alkali electrolysis plant using mercury electrodes, and the production of Chlorofluorocarbon (CFC).

Thirty-seven areas of business activities are still reserved for small scale business, however, they are allowed to cooperate with larger business partners.

On performance requirements, export performance is no longer used as one of the pre-conditions of approval, as it had been in the past.

The most recent tax reforms offer more attractive rates for Corporate Tax, which previously offered a maximum rate of 35%, to be lowered to a maximum rate of 30%.

#### **4. Other Measures**

##### ***Business Restructuring***

Any business enterprise, a PMA or PMDN, or a non-PMA/PMDN company, which intends to expand its capacity or restructure its production with additional investment (amounting to at least 30% of its initial investment) will be granted reduction of import duty and surcharge to as low as 0% for imported machinery and equipment. Import duty and surcharge for imported raw materials, and intermediate products used to support increased production for two years will be reduced as low as 0% for a period of four years. This provision does not apply to the automotive industry.

##### ***Financial Deregulation***

Beginning in 1983, deregulation of the financial sector was undertaken almost every year up to 1995. Most of the regulated areas have been relaxed with the intention to make the market mechanism work properly. The details of the chronological sequence can be seen in Annex 1.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### **3.1 Measures On Merchandise Trade**

Indonesia's commitments under the Uruguay Round for both goods and services are contained in its Schedule XXI, as attached to the Uruguay Round Final Act.

##### **3.1.1 Tariff Measures**

###### **3.1.1.1 Industrial Products**

The binding of a majority of tariffs across the board is at a ceiling rate of 40%. These bindings cover 94% of all tariff lines (7,537 out of 8,041 lines on an HS nine digit basis) and 91% of total imports, of Industrial Products. These tariff

bindings became effective as soon as Indonesia became a member of the World Trade Organization, as of 1 January 1995. Table 1 summarizes Indonesia's Uruguay Round market access commitments for goods. The situation with respect to levels of import protection in Indonesia as per February 1995 (prior to deregulation of May 1995) is as shown in Table 2. After May Package 1995, the simple average of trade protection fell to around 15%.

### **3.1.1.2 Agricultural Products**

Indonesia's commitment includes the tariffication and binding of all agricultural items, with a reduction in the tariff of at least 10% per line item (24% overall), to be carried out over ten years. A guaranteed access threshold for rice imports of 70,000 tons annually (at a 90% tariff) will be effective immediately. Subsidization of rice exports is to be kept within a band of between US\$27.6 (1995) and US\$21.5 million (2004) annually, covering a volume of between 295 and 257 thousand tons, respectively.

### **3.1.2 Administrative And Other Measures**

Indonesia committed itself to the elimination of all non-tariff barriers (NTBs) and all import surcharges on tariff items included in Indonesia's market access commitments, within a ten year time period.

However, the Government of Indonesia has decided to accelerate trade liberalization in these areas. Of the 98 NTBs on non-agricultural imports existing at the turn of Indonesia's commitment to GATT, nine were eliminated in 1994, and a further 52 eliminated in 1995, thus a reduction by two-thirds within a span of two years. During the same period, Indonesia has eliminated import surcharges on 40 items and reduced 49 other items, out of a total of 159 items with import surcharges.

## **3.2 Measures On Services Trade**

Table 3 outlines the areas in which Indonesia has made contributions in the area of trade in services under the new General Agreement on Services. These commitments offer either expanded trade liberalization or the binding of existing levels of market access in these services sectors. The Government of Indonesia has not placed any limitations on cross border supply of various service activities under these sectors (with the exception of commercial banking) nor on the consumption abroad of such services.

Certain other qualifications or limitations have been included in Indonesia's schedule of commitments on Trade in Services, nearly all of which involve the

requirement of the establishment of a local joint venture company or service partner or insurance company or securities broker/dealer, depending upon the service in question. There are also qualifications on the admission of natural persons (e.g. managers, professionals) into Indonesia. National treatment in the area of banking activities is qualified by a requirement that involves a capital investment requirement of a minimum of twenty-five years in order to establish a commercial presence.

### **3.3 Measures On Investment**

To fulfil the obligations contained in the Uruguay Round Agreement on Trade-Related Investment Measures (TRIMs) under Article 2, particularly on Annex, Illustrative List 1(a), the Government of Indonesia, through Presidential Decree No. 31, of 1995, dated 23 May 1995, concerning the List of Sectors Closed for Capital Investment (DNI) 1993, have already eliminated the obligations of investment projects, in the utility boiler industry and the motor vehicles industry, to comply with the minimum local content requirements at the highest level achieved by the existing manufacturer.

In order to support and to encourage the development of the automotive industry in Indonesia, the Government of Indonesia provides an incentive of differentiated import duty rates. In this case, the enterprises are allowed to enjoy certain incentives in the form of lower import duty rates for parts and/or components of motor vehicles, depending upon the percentage of local content. The import duty applied is set out in Article 2 and 3 of the Decree No. 223/KMK.01/1995, dated 23 May 1995, of the Minister of Finance regarding the Relief of Import Duty on Import of Certain Parts and Accessories of Motor Vehicles for the Purpose of Assembling and/or Manufacturing of Motor Vehicles.

### **3.4 Other Measures**

In the light of the TRIPs Agreement, Indonesia was also preparing to draft a series of new laws on industrial design, integrated circuits and trade secrets, of which the latter would be tabled in Parliament in 1996. In accordance with the TRIPs Agreement, Indonesia would implement national treatment on intellectual property rights. Indonesia has had comprehensive IPR legislation and a good enforcement record. It levied penalties and sanctions for copyright and trademark violations and patent infringement, which were subject to civil liabilities and imprisonment. Indonesia has also tried to ensure that all legislation conformed to the TRIPs Agreement. Although Indonesia did not currently have a system of IPR enforcement at the border, in accordance with TRIPs, such a system would be incorporated in the new Customs Law tabled in Parliament in early 1995.

#### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

##### ***ASEAN Free Trade Area (AFTA)***

The fourth ASEAN Summit Meeting, organized in Singapore in January 1992, approved, among other things, the agreement on the “Common Effective Preferential Tariff” (CEPT) to establish the AFTA within fifteen years, as of 1 January 1993.

Through the mechanism of the CEPT scheme, import tariffs will be reduced gradually to 0-5% within 15 years. All manufactured products, including capital goods and most agricultural products will be in the CEPT scheme. Apart from reducing import duties, quantitative restrictions and other non-tariff barriers will also be eliminated for goods which are included in the CEPT scheme. The ASEAN Summit in December 1995 will consider a proposal to accelerate the establishment of AFTA from fifteen to ten years.

##### ***Global System Of Trade Preferences (GSTP)***

Through the UNCTAD forum, Indonesia, together with other developing countries, is attempting to increase international trade. Such trade cooperation is conducted, inter alia, through the Agreement on the Global System of Trade Preferences (GSTP).

##### ***Commodity Cooperation***

In accordance with its position and interest as a producer and exporter of agricultural commodities, Indonesia also participates in various international commodity agreements, such as the coffee and rubber agreements.

The coffee export quota system has been frozen since 4 July 1989, and coffee trading conducted freely since that date. As the coffee price continued to decline, it was agreed to establish an Association of Coffee-Producing Countries and a Coffee Retention Plan to improve the market balance. Indonesia became a member of the Association and has participated in the implementation of the retention scheme.

Indonesia is also a member of other cooperative organizations which do not contain economic provisions, such as the International Pepper Community, the Asian and Pacific Coconut Community, the International Tropical Timber Agreement, and the International Textile and Clothing Body.

#### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

Indonesian commitments on the WTO, AFTA, APEC, and unilateral deregulation packages to further tariff reduction and non-tariff abolition will provide greater business, trading and investment opportunity. A better business environment will stimulate economic activity that, in turn, will create a more sustainable economic



growth. Continuation of a deregulation package is expected to increase production and operational efficiency and productivity. A de-bureaucratization package will streamline export and import procedures and formalities to make cross-border transactions faster and cheaper for the benefit of business. Further unilateral liberalization on the financial sector will lead to a more conducive climate for capital investment and greater access to credit facilities for both domestic and foreign investor.

Indonesia's policy reforms have successfully shifted Indonesia's trade performance away from oil dependency towards manufactured exports. The share of oil exports has fallen from above 70% in the 1970s to under 30% in 1993. Manufactured exports have accounted for over four-fifths of non-oil exports in 1993. The Government of Indonesia was aware that further export diversification was needed to reduce excessive dependency on a handful of industrial exports. Electrical machines and equipment, as well as footwear exports, have grown dramatically in recent years. Geographical diversification of exports has also occurred in recent years, with 90% of exports directed to 20 trading partners.

## **VI. FUTURE DIRECTION**

The Indonesian Government remains committed to the ongoing reform of its trading system. The Government's tariff objective is to achieve, by year 2003, a maximum tariff of 10%; and most tariffs will be in the 0-5% range.

## **VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

Director for External Trade Relations  
Ministry of Trade  
Jl. Ridwan Rais No. 5  
Jakarta Pusat  
Indonesia  
Tel: (62 21) 385 8195 (direct) or 385 8171 (Ext. 1141)  
Fax: (62 21) 385 8191

## **FINANCIAL DEREGULATION IN INDONESIA**

### **1 JUNE 1983 POLICY**

The main objectives of deregulation in the finance sector, especially monetary and banking were:

- To improve the allocation of financial sources;
- To encourage public savings;
- To minimize the dependence of the banking system on liquidity credit from Bank Indonesia;
- In the long run, to improve the role of the banking world and the performance of banks by increasing competition;
- To help in meeting the economy's need for sophisticated financial services.

### **27 OCTOBER 1988 POLICY PACKAGE**

With banks playing on an increasingly significant role, in the framework of attempting continuity and promoting a high growth economy, the Government issued, on 27 October 1988, a policy in the field of finance, money and banking. This policy makes adjustments to institutional aspects by providing more extensive facilities to conduct banking activities, including operational aspects, by extending business activities and increasing the quality of banking services. The objectives of this policy are to increase the mobilization of funds, non-oil exports, the efficiency of banks and other financial institutions; the ability to control monetary policies; and to aid the development of the capital market.

### **20 DECEMBER 1988 POLICY**

As a follow-up to previous policies in the finance, money and banking sector, a policy was also issued in the fields of the capital markets, financial institutions, and insurance. The objectives of this policy are to develop the capital market; to create and extend alternative sources to finance developments, which encourage production; and to increase mobilization of public funds. An additional policy objective is to support sustainable development.

### **20 MARCH 1989 POLICY**

As follow-up of the 27 October 1988 policy package in the field of finance, money, and banking, this policy contains provisions on bank mergers, rural bank credit, bank capital, loan limitations, bank participation, export credit and the possession of capital bank joint ventures.

## **29 JANUARY 1990 POLICY PACKAGE**

In order to improve the national credit system, the Government issued the 29 January 1990 policy package which, in principle, covers the gradual decrease of liquidity credit from Bank Indonesia, in providing bank credit for various programs and activities; simplification of the interest rate structure, in order to form a fair market interest rate; and improves programs to ensure the supply of credit from banks for small enterprises of a minimum of 20% of the total bank credit.

## **28 FEBRUARY 1991 POLICY**

On 28 February 1991, the Government improved the approach, strategy and procedures for the supervision and development of banks. Such improvements pertain to the attempt to make the banks healthy, and cover licensing requirements, ownership and management, operating directives, based on principles of capital alertness, report systems for assessing bank health, and supporting factors needed to develop the banks' operations.

## **30 OCTOBER 1992**

The Government issued a new banking Act No. 7/1992. This was followed by a series of government regulations, No. 70, 71 and 72 regarding commercial banks, rural banks (community banks), and profit sharing banks respectively. Those regulations stipulate rules on licensing, management, ownership and other operational activities, both for commercial banks and rural banks. This new act provides a more solid legal foundation for the promotion of a sound and responsible banking industry and flexibility in bank ownership and operation but, simultaneously, it requires a more responsible attitude on the part of the owner and management.

## **29 MAY 1993**

The monetary authority relaxed some provisions concerning prudential banking regulation perceived to be too burdensome for banks, especially with regard to capital adequacy ratio, and bad debt provisioning rating procedures.

## **30 JUNE 1995**

Bank Indonesia widened the buying and selling rates for the rupiah from Rp30,00/US\$1 set in September 1994 to Rp44,00/US\$1 starting from 30 June 1995. This is aimed at providing more flexibility for foreign exchange market participants and to allow more room for the interbank exchange rate to fluctuate in response to market forces. It is also expected to deepen the foreign exchange market and to reduce the market's dependency of Bank Indonesia.

**TABLE 1**  
**SUMMARY OF**  
**INDONESIA'S URUGUAY ROUND MARKET ACCESS COMMITMENTS**

	Tariff Lines		Imports 1992	
	Number	%	US\$ Million	%
<b>I. Tariff Binding</b>				
1. Total bound manufactures	7,537	80.3	22,529	82.6
Existing bindings	823	8.8	6,227	22.8
New bindings	6,714	71.6	16,302	59.8
2. Total agriculture (all bound)	1,341	14.3	2,464	9.0
3. Exceptions	504	5.4	2,285	8.4
Total	9,382	100.0	27,279	100.0
<b>II. Agriculture</b>				
1. Tariffication and binding of all items				
2. Duty reduction of 10% by tariff line over ten years				
3. Elimination of local content requirement for milk products				
4. Agreed access of 70,000 tons of rice imports annually				
<b>III. Removal Of Non-Tariff Barriers On Bound Tariff Items</b>				
NTBs on 98 industrial tariff lines affecting US\$385 million of imports to be removed within ten years.				
<b>IV. Elimination Of Import Surcharges On Bound Tariff Items</b>				
Surcharges varying between 5% and 25% on 159 tariff lines affecting US\$838 million of imports to be removed within ten years.				

Source: Ministry of Trade

**TABLE 2**  
**TRADE PROTECTION IN INDONESIA**

		1986	1988	1990	1991	1992	1993
		TARIFFS					
Unweighted average tariff Weighted average tariff: - by import value - by domestic production	27	24	22	20	20	20	
		13	14	11	11	11	12
		19	18	17	15	13	13
		NON-TARIFF BARRIERS					
NTB coverage as: * - % of CCCN items - % of HS items - % of import value	32	16					
				17	10	5	3.5
		43	21	17	13	13	12

\* It was estimated that NTBs protection was 30% of manufacturing and 35% of agriculture in 1993, though their importance in terms of import coverage has fallen.

Source: Ministry of Trade and World Bank

**TABLE 3**  
**URUGUAY ROUND COMMITMENTS ON TRADE IN SERVICES BY INDONESIA**

Indonesia's Uruguay Round commitments on trade in services cover five sectors as follows:

		Limitations On Indonesia's Commitments	
		A. Market Access	B. National Treatment
<b>I.</b>	<b>Telecommunications</b> Voice mail service Electronic mail services Computer time-sharing services Videotex services Electronic mail box File transfer services Home telemetry alarm Entertainment services Management information services	(3), (4) to all	(3), (4) to all
<b>II.</b>	<b>Industrial Services</b> Advisory and consultative Engineering design services Project management services Consultancy services related to computer hardware Software implementation services Interdisciplinary R&D for industrial services Technical testing and analysis services Services of manufacturing Equipment maintenance and repair Architectural services Engineering services Integrated engineering services Urban planning services Construction work for building, civil engineering and for pre-fabricated building Renting services for construction activities	(3), (4) to all	(3), (4) to all
<b>III.</b>	<b>Tourism Services</b> Hotel Travel agent and tour operator Tourist resort	(3), (4) to all	(3), (4) to all
<b>IV.</b>	<b>Financial Services</b> Non-life insurance services Reinsurance services Life assurance services Insurance brokerage services Reinsurance brokerage services Financial lease services Factoring services Credit card business Consumer finance services Securities business	(3), (4) to all	(3) (4) to all

V.	<b>Banking</b> Commercial banking business* Bank lending of all types Payment money transmission services Guarantees and commitments Trading (money market investments, foreign exchange, exchange rate instruments, transferable securities) Asset management	(3), (4) to all	(3), (4) to all
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- (1) Limitations on Cross Border Supply
- (2) Limitations on Consumption Abroad
- (3) Limitations on Commercial Presence (right of establishment)
- (4) Limitations on the Presence of Natural Persons

\* Limitation (1) also applies

**JAPAN**

## **I. BACKGROUND INFORMATION**

### *Overview*

This summary report on Japan's deregulation and liberalization initiatives, which Japan submits as one of its contributions to APEC efforts on this subject, illustrates, in a comprehensive manner, what Japan has achieved or announced with regard to liberalization and deregulation. Although we have taken numerous measures to serve as a catalyst to energize our economy and bolster market mechanism, these measures have not been mapped out in a concise manner. We thus hope that this summary report will provide a valuable reference to the Asia-Pacific business community on Japan's on-going efforts in this field.

This summary comprises, according to the final format crafted by the Secretariat, sections on unilateral measures, measures related to GATT/WTO commitments, and measures related to other international arrangements. On unilateral measures, we list some of our deregulation measures recently taken or announced on custom procedures, standard and conformance and various sectors of service trade and investment. These represent only a small part of more than a thousand deregulation measures in the Deregulation Action Program decided by the Cabinet at the end of March (see Annex 1). Measures related to the implementation of the WTO Agreement, such as tariff reduction (trade-weighted average tariff level of industrial goods 1.5%, simple average tariff level of agricultural goods 9.3%), are provided in the next section.

All measures listed in this report are coherent in pursuing Japan's envisaged, external economic policy objectives:

- To maintain and strengthen an open and non-discriminatory multilateral trade system through steady implementation of the WTO Agreement;
- To streamline our economy to reinforce the function of market mechanism;
- To make our domestic standards consistent with international norms;
- To expand domestic demand and promote imports;
- Improve the quality of life by widening the range of choices available and reduce differentials between domestic and foreign prices. Our liberalization and deregulation efforts are thus of an on-going nature, and will be under constant review to achieve those ends, taking into account relevant opinions from in and outside of Japan.



## II. UNILATERAL MEASURES

### 1. Measures On Merchandise Trade

#### 1.1 Tariff Measures

Japan has unilaterally reduced tariffs far below its bound rates.

#### 1.2 Non-Tariff Measures

We have unilaterally eliminated almost all voluntary export restraints and other similar measures, i.e. "grey measures".

#### 1.3 Administrative Measures

Numerous deregulation measures have been implemented or announced in Japan's efforts to promote deregulation (see Annex 1). Described below are some examples of these measures.

##### - *Standards And Conformance*

##### a) Item: Safety Regulations Based On The Electrical Appliance And Material Control Law

- The classification of 117 electrical appliances and materials will require only a supplier's declaration instead of government certification.

Implementation schedule: After July 1995

Authorities concerned: Ministry of International Trade and Industry

- There will be further harmonization with IEC specifications for safety standards.

Implementation schedule: FY 1997

Authorities concerned: Ministry of International Trade and Industry

##### b) Item: Japanese Industrial Standard (JIS) And Japanese Agricultural Standard (JAS)

Necessary measures for promoting the alignment of JIS and JAS with international standards (ISO, IEC and CODEX) will be adopted. Mutual recognition on conformity assessment and other relevant activities will also be pursued.

Implementation schedule: Ongoing over 1995-1997  
Authorities concerned: Ministry of International Trade and Industry (for JIS); Ministry of Agriculture, Forestry and Fishery (for JAS)

c) Item: Construction Materials

Methods will be examined to ensure smooth acceptance of building materials, where conditions related to foreign building materials (e.g. determining the distribution of responsibility between countries; ensuring performance for the standard, etc.) are arranged. In particular, building materials which satisfy required performance for 2 x 4 construction and are in accordance with the foreign standards will be generally accepted.

1995

Implementation schedule: Gradual implementation as of FY

Authorities concerned: Ministry of Construction

d) Item: Requirements For The Installation Of Heat Damage Warning Devices For Motor Vehicles

The installation of heat damage warning devices is not required on:

- Those motor vehicles equipped with devices to provide warning when engine misfire is detected;
- Those equipped with devices to stop its fuel supply when engine misfire is detected.

Implementation schedule: July 1995

Authorities concerned: Ministry of Transport

e) Item: Requirements Of 4-Unit Headlamps On Motor Vehicles

Japan will accept the internationally harmonized standards on the number of headlamps on motor vehicles and abolish the type approvals for 4-unit headlamps.

Implementation schedule: Mid 1995

Authorities concerned: Ministry of Transport

- **Customs Procedures**

a) Item: Import Clearance For Air Cargo

To further accelerate customs clearance, an immediate release system (a system that allows permission for import to be granted immediately upon arrival of the cargo, without having to transport it to a bonded area) will be introduced for certain air cargoes. (Necessary computerized systems will be developed).

Implementation schedule: Early in FY 1996  
Authorities concerned: Ministry of Finance

b) Item: Import Procedures For Food, Plant And Animal Products

All import procedures will be simplified and accelerated by moving ahead with computerized systems for the importation of food, the inspection of food, and the quarantine of animal and plant products and by providing electronic interfaces with those systems and the NACCS (Nippon Automated Cargo Clearance System).

Implementation schedule:

Development of system and installation of related equipment - FY 1995 (Ministry of Health and Welfare related applications).

Provision of interfaces - starting FY 1996 (Ministry of Health and Welfare related applications)

Development of system and installation of related equipment - FY 1996 (Ministry of Agriculture, Forestry and Fisheries related applications)

Provision of interfaces - starting FY 1997 (Ministry of Agriculture, Forestry and Fisheries related applications)

Authorities concerned: Ministry of Finance, Ministry of Health and Welfare, Ministry of Agriculture, Forestry and Fisheries.

c) Item: Customs Clearance Site For Imported Goods Arriving At Narita Airport

The classification criteria (Narita-Baraki sorting criteria) for imported goods at Narita Airport will be eliminated when the services of Cargo Building No. 4, now under construction at Narita Airport, are made available (scheduled for the end of 1995). This will provide greater freedom in selecting custom clearance sites.

Implementation schedule: End of 1995  
Authorities concerned: Ministry of Finance

## 2. Measures On Services Trade

Numerous deregulation measures have been implemented or announced in a broad range of service sectors in Japan's deregulation promotion efforts (see Annex 1). Described below are some examples which represent their significant impact on service trade liberalization. These measures are also intended to have substantial effect on foreign direct investment promotion and liberalization.

### - *Housing And Land*

Item: Floor Area Ratio

The floor area ratio regulation (regulation on the maximum volume of a building, determined by the width of the road it faces) for buildings which are located in residential areas was relaxed.

Implementation schedule: May 1995

Authorities concerned: Ministry of Construction

### - *Information And Telecommunications*

a) Item: Regulations On The Rates And Services Of Type 1 Telecommunications Businesses (Those Who Own And Operate Telecommunication Lines And Equipment)

The range of rates subject to governmental approval was revised, so that carriers may set rates freely provided that they give prior notification of such rates to the government, except for rates for basic services which affect the living conditions of the public and the national economy. Carriers are informed which rates are subject to prior notification.

Implementation schedule: October 1995

Authorities concerned: Ministry of Posts and Telecommunications

b) Item: Gradual Phase-In Of Public And Private Network Interconnection

Interconnection of private leased circuits, with public switched networks for voice services, will be gradually phased-in, taking into account the substantive influence it has on the management of Type 1 carriers.

Implementation schedule: April 1995 (interconnection of public switched networks to one end of private leased circuits), FY 1996 (evaluation), FY 1997 (liberalization completed).

Authorities concerned: Ministry of Posts and Telecommunications

c) Item: Network Interconnection Regulations

Basic voice services offered by the international VAN service will be gradually phased in, taking into account the substantive influence on Type 1 carrier management and the examination on this issue in international fora.

Implementation schedule: April 1995 (with no connection to public networks), FY 1997 (determination of schedule and extent to which the connection to public networks will be allowed)

Authorities concerned: Ministry of Posts and Telecommunications

- ***Distribution***

a) Item: Monopolist Status In The Sale Of Salt

The monopolist status in the sale of salt will be abolished within the next three years.

Authorities concerned: Ministry of Finance

b) Item: Rice Distribution System

Government control of all rice distribution will be reduced in a way in which the Government will control only a limited amount, designated as "orderly marketed rice", based on the Government Basic Plan.

Implementation schedule: November 1995

Authorities concerned: Ministry of Agriculture, Forestry and Fisheries

c) Item: Regulation On Nutritive Value Labels On Classified Food Items

Governmental approval in relation to nutritive value labels on certain food items will be abolished by FY 1996. Thus, labeling of nutrients will not require Government approval as long as the label conforms to relevant standards.

Authorities concerned: Ministry of Health and Welfare

- ***Transportation***

a) Item: Motor Vehicle Inspection And Check

The obligatory six month check for private passenger vehicles is eliminated.

The obligation for prior check and maintenance, followed by inspection (the "check and then inspect" system), is eliminated. The list of items subject to periodic check is simplified.

Implementation schedule: July 1995  
Authorities concerned: Ministry of Transport

b) Item: Regulations Related To Road Freight Of Sea Containers

Roads of important distribution routes will be improved within the period of the 11th Five-Year Road Improvement Program (until the end of FY 1997), so that semi-trailers carrying fully-loaded ISO standard 40 foot containers will be able to pass the roads on condition that they acquire transit permits issued by the road authorities. Once a certain network of roads is established, by securing detour roads, for instance, the fully-loaded containers will be permitted to pass these roads even before the end of the 11th Five-Year Road Improvement Program.

Implementation schedule: End of FY 1997  
Authorities concerned: Ministry of Construction, Ministry of Transport

- ***Financial Services, Security And Insurance***

a) Item: Fund Management of Employees' Pension Funds (EPFs)

The eight year requirement for the approval of discretionary fund management was shortened to three years. Asset allocation guidelines applied to individual fund managers for the discretionary fund management part of the EPF accounts were eliminated. The one-third ceiling on discretionary fund management of EPF accounts will be increased to one-half.

Implementation schedule: FY 1995 (the first two measures); fall 1996 (the third measure).  
Authorities concerned: Ministry of Finance, Ministry of Health and Welfare

b) Item: Requirements For Listing On The Over-The-Counter Stock Market

Requirements have been relaxed for companies in Research & Development or new businesses, with consideration given to protection of investors.

Implementation schedule: After June 1995  
Authorities concerned: Ministry of Finance

c) Item: Introduction Of The Insurance Broker System

The insurance broker system will be introduced as part of the insurance system reform.

Implementation schedule: FY 1996 (within one year of official announcement).

- ***Energy***

a) Item: Regulations On Importation Of Petroleum Products

To enhance the market mechanism in the domestic oil product market, by stimulating competition between domestically refined and imported products, the Provisional Measures Law on the Importation of Specific Kinds of Petroleum Refined Products, (which has designated only those who own refining facilities as importers of specific kinds of petroleum refined products; i.e. gasoline, kerosene and gas oil), will be repealed by the end of March 1996.

Authorities concerned: Ministry of International Trade and Industry

b) Item: Regulations On Wholesale Power Utilities

Government approval for wholesale power utilities will be abolished except for utilities generating over two million watts of electricity, and a bidding system will be introduced for procurement of generating facilities by general power utilities.

Implementation schedule: FY 1996

Authorities concerned: Ministry of International Trade and Industry

- ***Employment And Labor***

Item: Regulations On Employment Agencies

Requirements for governmental approval or extension of approval for employment agencies will be simplified as of FY 1995.

Authorities concerned: Ministry of Labor

**3. Measures On Investment:**

a) Item: Prior Notification Requirements For Inward Direct Investment Under The Foreign Exchange Control Law

The Government of Japan amended the Foreign Exchange and Foreign Trade Control Law (the "Foreign Exchange Law") in April 1991 to move from

mandatory prior notification to ex post facto reporting to the Bank of Japan for most cases of foreign direct investment. Prior notification is now required only in investment cases where the Government of Japan sees a possible negative impact on public order and security, or on the smooth functioning of the Japanese economy. As an OECD member, Japan reports a list to the OECD of sectors it “reserves” from unrestricted foreign investment; these “reserved” sectors as well as sectors related to public order and security require prior notification.

The Government of Japan recognizes that restrictions on foreign direct investment should be kept to a minimum, therefore, the Government of Japan:

- With regard to the industries reserved under the OECD Code of Liberalization of Capital Movements (the “Code”), will consider lifting the prior notification requirement currently placed on investment in mining within the time frame of the Deregulation Action Program (by FY 1997);
- With regard to other industries reserved under the code (agriculture, forestry and fisheries, oil, leather and leather product manufacturing, air transport, and maritime transport), will also examine the possibility of lifting the prior notification requirement taking into consideration trends in Japan’s socio-economic situation as well as progress of discussions at the OECD;
- With regard to industries related to public order and national security, on which the Code provides for regulation, will continue to examine their treatment, taking into consideration discussions at the OECD, including discussions on the Multilateral Agreement on Investment (MAI), which have just begun in September 1995.

b) Item: Restriction On Inward Direct Investment In International Satellite Communications Business

Restrictions on foreign investor participation in international telecommunications business operated by foreign satellite operators were lifted in June 1994.

Authorities concerned: Ministry of Posts and Telecommunications

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### **3.1 Measures On Merchandise Trade**

##### **3.1.1 Tariff Measures**

###### **3.1.1.1 Industrial Products**



- Binding ratio: Pre-UR 98%; Post-UR 100%
- Weighted average rate: Pre-UR 3.8%; UR offer 1.5%
- Weighted average applied rate: 2.2% (based on the applied rates in 1993)

#### **Forestry Products**

- Binding ratio: Pre-UR 61%; Post-UR 83%
- Weighted average rate: Pre-UR 2.0%; UR offer 1.0%
- Weighted average applied rate: 1.4% (based on the applied rates in 1993)

#### **Fishery Products**

- Binding ratio: Pre-UR 62%; Post-UR 86%
- Weighted average rate: Pre-UR 6.1%; UR offer 4.1%
- Weighted average applied rate: 5.7% (based on the applied rates in 1993)

#### **3.1.1.2 Agricultural Products**

- Simple average tariff rate: Pre-UR 14.5%; UR offer 9.3%
- Simple average applied rate: 11.9% (based on the applied rates in 1993)
- Minimum rate of tariff reduction per tariff line: 15%
- Number of tariff-lines to which minimum or current access opportunities are established: 144

### **3.1.2 Administrative And Other Measures**

#### ***Sanitary And Phytosanitary Measures (SPS) And Technical Barriers To Trade***

Based on the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade, WTO notification procedures were taken on sanitary and phytosanitary measures, technical regulations and conformity assessment procedures.

#### ***Trade-Related Investment Measures (TRIMs)***

Japan maintains no Trade-Related Investment Measures to be eliminated pursuant to Article 2 of the Agreement on Trade-Related Investment Measures.

#### ***Rules Of Origin***

Based on the Agreement on Rules of Origin, WTO notification procedures were taken on Japan's Current Rules of Origin for application of the GATT rates.

### ***Subsidies And Countervailing Measures***

Customs Tariff Law and Cabinet Order Relating to Countervailing Duty were amended.

### ***Safeguards***

The following law, regulations and administrative procedures were established or amended:

- Customs Tariff Law (Amendment) (Law No. 118, 1994);
- Cabinet Order Relating to Emergency Duties (Amendment) (Cabinet Order No. 417, 1994);
- Regulations to Govern Emergency Measures to be taken in Response to an Increase in the Importation of Goods (Establishment) (Ministry of International Trade and Industry Notification No. 715, 1994).

## **3.2 Measures On Services Trade**

Number of sectors of specific commitments and major sectors offered: 99 sectors without any reservation on nationality requirement

Number of MFN exemptions: 0

Examples of measures taken to implement the commitments:

- The scope of assets which can be managed by discretionary investment management firms has expanded;
- The cross border insurance transactions for ships of Japanese registration, which are used for international maritime transport, and aircraft of Japanese registration will be liberalized; and a system of insurance brokers will be introduced;
- "Specific joint enterprise" by Japanese lawyers and foreign lawyers was permitted;
- Reciprocity measures are no longer applied to nationals of GATS members with respect to Foreign Lawyers Act, Radio Law, Immigration Law and Foreigners' Land Acquisition Law.

## **3.3 Measures On Investment**

### 3.4 Other Measures

#### *Trade-Related Intellectual Property Rights (TRIPs)*

Relevant laws such as Patent Law, Copyright Law, Customs Tariff Law and other laws were amended (December 1994).

#### *Government Procurement Procedure*

Japan is a party to the present Government Procurement Agreement and is to be a party to the new Government Procurement Agreement.

The “Cabinet Order stipulating special procedures for Government procurement of goods” is to be amended.

A Cabinet Order stipulating special procedures for the “Enforcement Cabinet Order of the Local Autonomy Law” is to be instituted.

The budgetary rules and other rules of the relevant government-related entities are to be amended.

#### *Anti-Dumping*

Amendments of the “Customs Tariff Law” and the “Cabinet Order Relating to Anti-dumping Duty”.

## IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS

### *Measures Related To The Arrangements In OECD*

Item: Agreement Respecting Normal Competitive Conditions In The Commercial Shipbuilding And Repair Industry

The Japanese Government will submit bills to the Diet to introduce the measures necessary to implement the Agreement, which will be ratified at the beginning of 1996.

## V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR

All these measures listed, unilateral measures, GATT/WTO commitments and others, will bear enormous benefit to our economy, particularly to our business sector. Strenuous efforts on unilateral deregulation measures will, first of all, simplify the procedures required and, together with our liberalization efforts which will directly cut down the cost of cross border trade, reduce the relevant cost to run business and create

new business opportunity. They will also push business to make decisions based more on market mechanism and less on its regulatory status, thereby helping to ensure that our economy be internationally open. For consumers, these measures will provide a broader range of less expensive goods and services, leading to an upgrade in the quality of their lives.

These measures will bring a great deal of positive consequence to our economy as well. They will stimulate imports and domestic demands, both business and consumer, which will surely contribute to revitalizing our economy. More important is that these series of unilateral measures and commitments will have significant implications to our economic partners. We hope our sincere implementation of GATT/WTO commitments, without delay, would enhance the momentum toward not only other members' implementation of their respective commitments but also renew their determination to maintain and strengthen an open and non-discriminatory multilateral trade system. A series of deregulation packages would provide our APEC and non-APEC partners with greater market access and broader business opportunities which, we hope, would encourage them to initiate or continue their equivalents.

## **VI. FUTURE DIRECTION**

On the deregulation side, Japan will undertake annual review and necessary modifications of the Deregulation Action Program, taking into consideration the relevant requests from within and outside Japan. We will strive for this, based on the understanding that, in the case of economic regulations, that of freedom from regulation in principle, with regulations as the exception; and in the case of regulations that are social in nature, that of maintaining the minimum regulations to serve legitimate objectives. The transparency of the revision process will be ensured and grounds on which current regulation is maintained will be provided. Newly proposed regulations will be strictly examined.

On the liberalization side, we are determined to implement GATT/WTO commitments in a steady manner and to make whatever contribution we can to the successful conclusion of on-going negotiations on service trade. We are also willing to discuss the possibility of further liberalization in the WTO and other multilateral arena.

## **VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

If any question arises on this report, please contact Mr. Hiroshi KARUBE, Chief Coordinator of APEC, Ministry of Foreign Affairs, or relevant authorities listed under each deregulation measure.

## JAPAN'S DEREGULATION

As described in the main text, Japan has been making significant progress in trade and investment liberalization and facilitation through unilateral measures, GATT/WTO commitments and other measures related to sub-regional/international arrangements. In the main text, each item describes how relevant, previous regulatory status has been improved and, therefore, rather than providing information on the prevailing regulatory position, we think it would be more informative to introduce Japan's framework for promoting deregulation and achievements to date.

The Japanese Government considers deregulation an essential national policy issue. It has consistently sought to implement deregulatory measures and other related measures toward creating an internationally open and free economy firmly rooted in the market mechanism and the principle of self-responsibility. Deregulation has been promoted with a view to:

- Improving the quality of life of the Japanese people by expanding the range of available choices in response to diversifying consumer needs, and reducing price differentials between Japan and other countries;
- Expanding domestic demand, facilitating imports and increasing business opportunities, contributing accordingly to the reduction of external economic frictions;
- Reducing burden imposed on the Japanese people and simplifying administrative work.

As outlined below, numerous Cabinet and other related decisions, in recent years, have established deregulation implementation as an essential tool to these ends.

### **1. "Immediate Economic Measures" (Decision Of The Ministerial Conference On Economic Measures, 16 September 1993)**

In an August 1993 Cabinet meeting, the Chief Cabinet Secretary proposed studies of:

- Deregulation;
- Policies for bringing back, to the Japanese people, the profit from the price differentials created by the strong yen. After a month's study, a number of measures were adopted, including separate deregulation measures for 94 items. This represented a new effort toward reforming the economy and effectively encouraging expanded domestic demand and import promotion.

**2. “Regarding The Policy For Promoting Administrative Reforms” (Fundamental Principles For Administrative Reforms) (Cabinet Decision Of 15 February 1994)**

These Principles provide a basis for basic policies in all areas requiring administrative reform, and feature deregulation promotion as a central plank.

More specifically, drawing upon the outcome of the review of licensing and approvals contained in the “New Package of Economic Measures” of April 1993, the Principles designated 781 categories of deregulation measures for implementation. Further policies on deregulation promotion were also provided for, including the establishment of a Deregulation Action Program (provisional title), tightened procedures for the establishment of new regulations, and the creation of a Deregulation White Paper (provisional title).

**3. “Regarding The Policy For Promoting Deregulation Hereafter” (Deregulation Promotion Outline) (Cabinet Decision Of 5 July 1994)**

The “Outline of External Economic Reform Measures” (Cabinet decision of 29 March 1994), aimed at strengthening the market mechanism and improving access to Japanese markets, established fundamental reform of public regulations as a top priority. The outline listed as areas of study:

- a) Housing and land;
- b) Information and communications;
- c) Import promotion, market access improvement and distribution;
- d) Finance, securities and insurance.

Furthermore, for areas (a) to (c) above, Working Committees of both foreign and domestic specialists were established at the Administrative Reform Promotion Headquarters to serve as a special advisory group to the Headquarters. Drawing upon the efforts of the Committees and the Headquarters, deregulation measures for 279 categories were incorporated in the Deregulation Promotion Outline.

In addition, a framework was created for deregulation promotion including review of regulations within each ministry and agency to establish the Deregulation Action Program. The Outline also provided for follow-up on past deregulation measures.

**4. Deregulation Action Program (Cabinet Decision Of 31 March 1995)**

Developing further the above efforts, this Program established a concrete framework for promoting deregulations, designating 1,091 deregulation measures across a broad range of sectors (see table below).

Sector	Items
Housing and Land	86
Information and Telecommunications	53
Distribution-related	120
Transportation	168
Standards, Certifications, Import Processing, and related matters	240
Financial Services, Securities and Insurance	83
Energy	26
Employment and Labor	30
Environmental Protection	15
Disaster Prevention and Public Security	131
Others	139
Total	1,091

The Program covers deregulation measures from FY 1995-1999. It will be revised by the end of each fiscal year, taking into account changes in social and economic conditions and other relevant factors. The basic approach to be taken in the review process is, in the case of economic regulations, that of freedom in principle from regulation, with regulation the exception rather than the rule; and in the case of regulations that are social in nature, that of maintaining only the minimum regulations required to serve legitimate policy objectives.

The Program also establishes basic sector-specific guidelines for the review and revision process. In the revision process, the Administrative Reform Promotion Headquarters will solicit requests from interested domestic and foreign parties. In cases where there have been requests or opinions for existing system or application thereof to be relaxed or removed and such action is not taken, the necessity or grounds on which the relevant system or application thereof is retained must be made clear. Efforts must be made to ensure the transparency of the revision process by allowing an adequate amount of time for the process, publishing the contents of deliberations, etc. A channel will also be established in each ministry and agency to receive opinions and requests from interested parties, both domestic and foreign.

The Program prescribes the tightening up of the examination for establishing new regulations with a view to keeping the number and level of new regulations to the minimum required. Newly introduced regulations will, in principle, be reviewed after a fixed period of time. Further, a "White Paper on Deregulation" (provisional title) will be prepared and published each fiscal year to provide information concerning regulation in a reader-friendly form. This information will include an Outline of the Program, the present state of public regulation, progress in implementation of deregulation and, the impact and effectiveness of deregulation with regard to the lives of the Japanese people.

**5. Emergency Measures For Yen Appreciation And The Economy (Decision Of Ministerial Conference On Economic Measures, 14 April 1995)**

In response to the rapid appreciation of the yen and to further improve access to the domestic market, it was decided that regulation measures which were announced in the Deregulation Action Program for implementation over FY 1995-1999 would be put in place by the end of FY 1997.

The deregulation policies described above were determined only after careful and comprehensive study of the requests and opinions of interested domestic and foreign parties. They cover a wide range of fields, and define as clearly as possible the specific details of deregulation and implementation periods.

These policies show, both at home and abroad, that Japan is reforming its economy, and making even greater efforts to promote alignment with international norms and facilitate smoother access to the domestic market.



**REPUBLIC OF KOREA**

## **I. BACKGROUND INFORMATION**

Since the inauguration of the Kim Young Sam Administration, the Korean government has vigorously pursued deregulation and liberalization policy in every sector of the economy. Particular emphasis has been placed on increasing transparency of rules and regulations on foreign trade and investment in pursuing the "Five Year New Economic Plan" of the new government.

In line with the Plan, the Korean government introduced the Five Year Foreign Investment Liberalization Plan in June 1993, and further strengthened it in 1994, in order to expedite foreign investment. Financial reform has also been one of the priority areas. The Korean government announced, in 1993, the "Three Stage Plan for Financial Liberalization and Market Opening" to implement financial liberalization. On 5 December 1994, to supplement and expedite the above Plan, a comprehensive plan for decentralizing foreign exchange and liberalizing the capital market was announced.

Each ministry of the Korean government is also taking necessary steps to faithfully implement the GATT/WTO commitments without delay, as is elaborated in Section III.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

Korea has conducted tariff reduction ambitiously through Five Year Tariff Reduction Plans from 1988 to 1993. As a result, the average tariff rates of Korea fell from 18.1% in 1988 to 7.9% in 1993.

On top of that, some additional reductions were made. For example, the tariff rate on motor vehicles and parts was reduced from 10% to 8% on 1 January 1995. From 1986 through 1995, the tariff rate on imported cars and parts has dropped from 60% to 8%, and from 30% to 8%, respectively. The acquisition tax rate on cars of a retail price above US\$100,000 was also reduced to 2% from the previous rate of 15% on 1 January 1995.

#### **1.2 Non-Tariff Measures**

#### **1.3 Administrative Measures**

A large number of measures were taken in the previous year to reduce administrative barriers to trade in a wide range of areas such as customs procedure, SPS and TBT. Examples are given in the following paragraphs.

### ***Customs Procedure***

An expedited clearance system for fresh fruits and vegetables was introduced on 3 April 1995. Now, inspection completion certificates are issued within one or two days after conducting document and organoleptic inspections. Previously, it took a maximum of 20 days to get sanitary inspection certificates, because they could only be issued after completion of laboratory tests. In case a product does not pass the laboratory test, which is now conducted after issuing the certificate, the head of Quarantine Office will request the Ministry of Health and Welfare, the heads of local governments and importers to recall and destroy it. Food products of the same country of origin, type of product, port of shipment, importer, and exporter with those that have already passed the laboratory test are exempted from the laboratory test. When a product which failed to pass the phytosanitary inspection is re-imported, it shall be subject to the laboratory test for at least five consecutive importations. This expedited inspection system is expected to considerably reduce importation time and expenses.

Before 1 February 1995, it was regulated that imported plants should go through customs formalities at the port from which they arrived, which is usually a heavily congested, major port. To expedite the process, the Korean government changed the rules so that imported plants can be reloaded into small ships and moved to less congested local ports to undergo customs and quarantine services. This measure is helpful to reduce time necessary for customs clearance.

### ***Sanitary And Phytosanitary Measures (SPS)***

If exemptions are not stipulated in the relevant regulations, importers of plant and plant products are required to submit phytosanitary certificates, issued by the pertinent authority of an exporting country. The scope of such exemptions was expanded, on 1 December 1994, by the revision of relevant rules. According to this revision, some plants and plant products, selected by the concerned authority of Korea, are exempt from the requirement to obtain a phytosanitary certificate, if they are high-heated, dried, pulverized, compressed and vacuum-packed.

### ***TBT***

Importers are exempted from the previous requirement to put explanatory notes and caution remarks, in the Korean language, on the surface of imported electrical appliances, on condition that they

provide a Korean language manual. This measure, effective as of 8 May 1995, saves importers an additional expense.

The quality control procedure for imported medical devices was simplified on 10 December 1994. When an importer submits to a testing agency documents demonstrating the safety and effectiveness of medical devices as listed below, the testing agency waives the actual testing:

- Certificate for manufacture and sale;
- Documents(s) certifying either that the item has been sold for three years or more, or that 50 or more pieces of the item have been imported into Korea prior to 1 July 1995;
- In case of items which are to remain inside the human body for 30 days or more, document(s) certifying that those items were supplied to hospitals and no safety problem occurred.

Since 16 January 1995, type approval is not required for LAN (Local Area Network) interface cards which constituted approximately 40% of the entire LAN-related equipment that has gone through type approval over the last few years.

There has long been a complaint that there is a discrimination in the Korean price labeling requirement in that domestic products show ex-factory price, which often includes marketing and distribution costs; whereas imported products show landed-costs, which does not take into account the costs incurred by the importer. To address this problem, the Korean government changed regulations so that the required price indication for imported goods be modified to include the importers' costs from 1 January 1995.

## **2. Measures On Service Trade**

In the past one year, wide ranging measures were taken to further liberalize trade in financial services, telecommunication and distribution. Details are given below:

### ***Financial Services***

Substantive measures were taken to liberalize the financial sector during the last year. Interest rate deregulation is nearing its final stages. All loans, except some policy loans, and all deposits with maturities over one year (two years in the case of installment savings) have now been liberalized. Foreign access to the capital markets were significantly expanded as well. In December 1994, the ceiling on aggregate stock investment for foreigners was raised from 10% to 12%. This ceiling is scheduled to be raised to 15% on 1 July 1995. Foreigners' investment opportunities in the bond market were

expanded through the issuance of a new type of beneficiary certificate in April 1995. The government has also announced that it will allow the establishment of a bond country fund during the latter half of 1995. Furthermore, to facilitate and expedite the entry of foreign banks and securities firms into Korea, the representative office prerequisite was abolished in May 1995. Korea has also committed to abolish the economic needs test for securities firms. In the banking sector, foreign bank branches are now free to engage in the credit card business.

### ***Telecommunications***

According to the revised Telecommunications Business Act, which was made effective on 6 April 1995, all telecommunication services, except telephone service, are now open to foreign investors. However, a limit on stock holding ratio was set for both domestic and foreign investors in order to avoid any monopolistic status. Foreign investors can hold up to one-third of total stock of telecommunications service companies. The liberalization of the telecommunications sector is expected to facilitate introduction of well-developed management skills and technology from foreign telecommunications companies.

### ***Distribution***

Foreign investment restrictions on the floor space and the number of automobile showrooms was eliminated on 1 January 1995, one year ahead of the original liberalization schedule.

## **3. Measures On Investment**

As was stated in the background information, much efforts have been made to encourage foreign investment in the following directions:

- More sectors were opened for foreign investment;
- Procedures for investing were significantly simplified;
- Wide-ranging incentives for foreign investment were introduced in such fields as tax incentives, financing, land use, labor relations, etc.

Details are given in the following paragraphs:

### ***Sector Opening***

The Korean government announced the Five Year Foreign Investment Liberalization Plan in June 1993, and accelerated it to increase the extent of sector opening, partly as preparation to join the OECD in 1996. By January 1997, 171 businesses of the total 224 foreign investment restricted businesses will be liberalized, and the liberalization ratio will increase from 83%, in 1993, to 95.3%, in 1997.

### ***Simplification of Procedures***

The Korean government has implemented steps to streamline the process for approving investment in the sectors subject to **notification**. For example, branches of foreign banks are now allowed to process foreign investment applications. Required documentation for investment applications has been reduced. The Foreign Capital Inducement Act was amended in 1994 to eliminate the previous requirement for relevant ministries to review cases submitted under notification procedures and to waive the notification requirement for established foreign investors making new investment in Korea. These changes have reduced the processing time for investment notifications from 20-30 days to a few hours on average.

The Korean government has made progress toward its goal of reducing the length of the process for approving investments in sectors subject to government **approval**. The Korean government reduced required documentation and abolished line ministry review of minor projects.

A **one-stop investment service** system was introduced in 1995, allowing investment procedures to be completed with a single visit to either central or relevant regional government offices. Investors can be provided with comprehensive assistance on every aspect of investment in such areas as notification-acceptance, approval, visas, taxation, etc.

### ***Incentives : Tax***

In April 1994, the Presidential Decree to the Foreign Capital Inducement Act was amended to allow tax benefits to foreign invested companies without the procedure of review by the Foreign Capital Project Deliberation Committee.

In December 1994, the National Assembly amended the Foreign Capital Inducement Act to increase the tax benefits provided to foreign invested companies engaged in certain designated high-tech activities, notably by widening the scope of exemptions and reductions of corporate income and some other taxes. Effective 1 January 1995, the Korean government exempts domestic and foreign invested firms the excess retained earnings tax, provided that retained earnings are placed in a special reserve earmarked for reinvestment. In June 1994, an exclusive work unit for foreign investment was established within the National Tax Court to enhance transparency in tax administration.

### ***Incentives : Financing***

The Korean government has taken a number of additional steps to ease restrictions on financing for foreign invested companies. Effective 1 December 1994, the Korean government raised the limit on short-term offshore borrowing for foreign investments employing advanced technology. Effective 1 April 1995, these manufacturers were allowed to borrow long-term

offshore loans equal to 100% of their paid-in capital. In both cases, these funds must be used to finance the import of needed equipment or components.

***Incentives : Land-Use***

The Korean government allocated land for foreign investors' industrial use in Kwangjoo and Cheonan, which will be made available in 1995 and 1996, respectively.

***Incentives : Labor Relations***

A work unit within the Ministry of Labor has started to work exclusively for foreign invested companies. Workers, employers and government officials met twice in 1994 in an effort to further enhance their understanding of Korea's labor/management relations.

**4. Other Measures**

**4.1 Making Markets Work Better**

***Intellectual Property Rights (IPR)***

The Korean government has made much effort to better enforce its existing laws, strengthen the legal framework and institutions for IPR protection by amending IPR-related laws and by raising public awareness of the importance of IPR.

For example, the inter-agency investigative teams reinforced their activities, conducting intensive investigations in the areas of Seoul and Pusan at least twice a month and in other areas at least once a month. Their investigations focused on the manufacturing and sale of counterfeit goods, illegal copying or use of computer software, illegal reproduction of textile designs and other IPR infringements. The enforcement activities were funded with a budget of US\$519,000, an increase of 95% over the previous year. If necessary, additional funds will be provided from the contingency budget.

***Competition Policy***

An Amendment to the Monopoly Regulation and Fair Trade Law entered into force in April 1995, eliminating the mandatory international contract reporting requirement and replacing it with a voluntary consultation. In accordance with the same amendment, the Korea Fair Trade Commission (KFTC) can levy the maximum surcharge, up to 2% of the total sales amount, for unlawful collusion and other forms of unfair trade practices.

**4.2 Measures On Other Regulatory Regimes**

### *Foreign Exchange*

As a measure to liberalize foreign exchange, the range of daily exchange rate fluctuation was expanded from +/- 1.0% to +/- 1.5%, effective from 1 November 1994. The allowable band of daily fluctuation will continue to be widened until its scheduled abolition in 1997.

### *Standards & Conformance*

To streamline safety inspection procedures for imported cars, the Korean government decided to exempt inspection requirement for foreign cars imported from countries whose safety standards are equivalent to, or stricter than those of Korea.

## **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **3.1 Measures On Merchandise Trade**

#### **3.1.1 Tariff Measures**

##### **3.1.1.1 Industrial Products**

As a result of the Uruguay Round negotiations, the scope of tariff binding has been expanded to 91% from the current 7% (by number of products). The average reduction rate in Korea's bound tariff during the implementation period will be 54.2% (from 17.86% in 1986 to 8.18% by the time of completion of UR commitments) for manufactured goods and 26.4% (from 76.5% to 62.8% by the time of completion of UR commitments) for agricultural products.

##### **3.1.1.2 Agricultural Products**

Import of agricultural products is being liberalized according to two tracks; one being Korea's graduation from GATT Article XVIII.B. and the other being Korea's obligation under the UR Agreements. According to the agreement with the GATT/BOP Committee in October 1989, Korea discontinued the application of GATT Article XVIII.B. on 1 January 1990, and the remaining import restrictions will be gradually eliminated or otherwise brought into conformity with GATT provisions by 1 July 1997. In accordance with the results of the 1989 consultation with the Committee on Balance of Payments Restrictions, Korea notified the GATT in March 1991, of its second-stage liberalization schedule (total: 150 items) for the period 1995-1997. In 1995, the import of 49 items in the attached Annex 1 were liberalized, including 43 agricultural



and livestock products and six fishery products. Concerning UR obligations, Annex 2 lists 111 import items liberalized under Uruguay Round agreements on 1 January 1995.

### **3.1.2 Administrative And Other Measures**

In order to ensure the conformity of domestic laws with the obligations as provided for in the WTO Agreements, the Korean government is working on a comprehensive plan to overhaul its laws and regulations. Under the plan, the Korean government enacted or revised 33 laws among a total list of 48 targeted laws in the regular session of the National Assembly in 1994, and the further 15 laws listed in the attached Annex 3 will be legislated by the end of 1995.

### **3.2 Measures On Services Trade**

The list of service trade liberalized in 1995 for foreign investment, with brief remarks on the scope of liberalization, is attached herewith as Annex 4.

### **3.3 Measures On Investment**

### **3.4 Other Measures**

The Korean government will submit to the National Assembly in September 1995, draft amendments of domestic IPR-related laws to bring them into conformity with the WTO / TRIPs Agreement. The Korean government plans to complete the amendment by the end of 1995. The Korean government's legislative amendment plan is attached as Annex 5.

## **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

## **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

Refer to each entry.

## **VI. FUTURE DIRECTION**

President Kim Young Sam declared, right after the 1994 APEC Summit in Bogor, that every sector of Korean society should be internationalized and globalized. This sets a general direction the Korean economy will take in the years to come. Deregulation and liberalization are the core elements of the Five Year New Economy Plan. On

such a basis, the Korean government will continue to deregulate and open its economy to promote Korea's trade and foreign investment and to participate in multilateral efforts for further liberalization, including APEC.

## VII. KEY CONTACTS FOR ADDITIONAL INFORMATION

No. of Measure	Division	Ministry	Address	Tel & Fax	Comment:
II.1.1 Para 2 II.2 Para 4 II.4.2 Para 2	Transportation Machinery Div.	MOTIE <sup>2</sup>	1 Jungang-Dong, Kwacheon, Kyungki-Do	(T) 500 2486 (F) 504 3955	
II.1.3 Para 2	Food Circulation Div.	MOHW <sup>3</sup>	“	(T) 504 6206 (F) 504 6207	
II.1.3 Paras 3 & 4	Sustainable Agricultural Div.	MAFF <sup>4</sup>	“	(T) 503 7284 (F) 507 3963	
II.1.3 Para 5	Electric Safety Div.	IAA <sup>5</sup>	“	(T) 503 7927 (F) 503 6755	
II.1.3 Para 6	Medical Device Div.	MOHW	“	(T) 503 7554 (F) 503 7555	
II.1.3 Para 7	Technology Standards Div.	MIT <sup>6</sup>	100 Sejong-Ro, Chongno-Ku, Seoul	(T) 750 2360 (F) 750 2365	
II.1.3 Para 8	Import Policy Div.	MAFF	1 Jungang-Dong, Kwacheon, Kyungki-Do	(T) 503 9441 (F) 502 1754	
II.2 Para 2	Finance Policy Div.	MFE <sup>7</sup>	“	(T) 503 9241	
II.2 Para 3	Telecommunications Planning Div.	MIT	100 Sejong-Ro, Chongno-Ku, Seoul	(T) 750 2661 (F) 750 2675	
II.3 III.3.2	Foreign Investment Div.	MFE	1 Jungang-Dong Kwacheon, Kyungki-Do	(T) 503 9419 (F) 503 9076	
II.4.1 Para 1	Int'l Law Div.	MOJ <sup>8</sup>	“	(T) 503 9505 (F) 504 1378	
II.4.1 Para 3	Foreign Business	KFTC <sup>9</sup>	“	(T) 504 5145 (F) 507 3544	

II.4.2 Para 1	Div. Foreign Exchange Policy Div.	MFE	“	(T) 503 9247 (F) 502 9990
III.3.1.1.1	Regional Cooperation Div.	MOTIE	“	(T) 503 9450 (F) 503 9444
III.3.1.1.2	Trade Promotion Div.	MAFF	“	(T) 503 7298 (F) 507 2095
III.3.1.2 III.3.4	Multilateral Trade Organization Div.	MOFA <sup>10</sup>	100 Sejong-Ro, Chongno-Ku, Seoul	(T) 720 2188 (F) 738 9726
III.3.2	Foreign Investment Div.	MFE	1 Jungang-Dong, Kwacheon, Kyungki-Do	(T) 503 9149 (F) 503 9076

<sup>1</sup> Country code: 82, Area code: 2

<sup>2</sup> Ministry of Trade, Industry and Energy

<sup>3</sup> Ministry of Health and Welfare

<sup>4</sup> Ministry of Agriculture, Forestry, and Fisheries

<sup>5</sup> Industry Advancement Administration

<sup>6</sup> Ministry of Information and Telecommunications

<sup>7</sup> Ministry of Finance and Economy

<sup>8</sup> Ministry of Justice

<sup>9</sup> Korea Fair Trade Commission

<sup>10</sup> Ministry of Foreign Affairs

**IMPORT LIBERALIZATION ITEMS  
(ACCORDING TO GATT/BOP CONSULTATION)**

Order	HS Number	Item Name	Date of Liberalization
1	0302-69-2000	Yellow tail (excluding liver and roe/fresh or chilled)	1.7.95
2	0303-75-0000	Dogfish and other sharks (excluding liver and roe/frozen)	1.7.95
3	0304-20-1000	Alaskan pollack (fillet/frozen)	1.7.95
4	0304-90-1010	Alaskan pollack (surimi/frozen)	1.7.95
5	0306-23-3000	Shrimps and prawns (salted or in brine)	1.7.95
6	0402-10-1010	Skim milk powder (not containing added sugar or other sweetening matter/concentrated/of a fat content, by weight, not exceeding 1.5%)	1.1.95
7	0402-10-1090	Milk and cream (not containing added sugar or other sweetening matter/concentrated/of a fat content, by weight, not exceeding 1.5%/ excluding skim milk powder)	1.1.95
8	0402-10-9000	Milk and cream (containing added sugar or other sweetening matter/concentrated/of a fat content, by weight, not exceeding 1.5%)	1.1.95
9	0402-21-1000	Whole milk powder (not containing added sugar or other sweetening matter/concentrated/of a fat content, by weight, exceeding 1.5%)	1.1.95
10	0402-21-9000	Milk and cream (not containing added sugar or other sweetening matter/concentrated/of a fat content, by weight, exceeding 1.5%/ excluding whole milk powder)	1.1.95
11	0402-29-0000	Milk and cream (containing added sugar or other sweetening matter/concentrated/of a fat content, by weight, exceeding 1.5%)	1.1.95
12	0404-10-1000	Whey powder	1.1.95
13	0404-10-9000	Other whey (excluding whey powder)	1.1.95
14	0406-10-1000	Cheese (fresh)	1.1.95
15	0406-20-0000	Cheese (grated or powdered)	1.1.95
16	0406-30-0000	Cheese (processed/not grated or powdered)	1.1.95
17	0406-40-0000	Cheese (blue-veined)	1.1.95
18	0406-90-0000	Other cheese	1.1.95
19	0408-90-0000	Birds' eggs (not in shell/not dried)	1.1.95
20	0703-10-1000	Onions (fresh or chilled)	1.1.95
21	0703-20-0000	Garlic (fresh or chilled)	1.1.95
22	0709-60-0000	Fruits of the genus capsicum or of the genus pimienta (fresh or chilled)	1.1.95

23	0711-90-1000	Garlic (provisionally preserved)	1.1.95
24	0711-90-5090	Other vegetables (provisionally preserved/but not onions, olives, capers, cucumbers and gherkins, garlic, mushrooms, bamboo shoots, carrots and blacken)	1.1.95
25	0712-20-0000	Onions (dried/whole, cut, sliced, broken or in powder, but not further prepared)	1.1.95
26	0712-90-1000	Garlic (dried/whole, cut, sliced, broken or in powder, but not further prepared)	1.1.95
27	0714-10-1000	Manioc (cassava/fresh)	1.1.95
28	0714-10-2010	Chips of manioc (dried)	1.1.95
29	0714-12-2020	Pellets of manioc (dried)	1.1.95
30	0802-40-1000	Chestnuts (in shell/fresh or dried)	1.1.95
31	0802-40-2000	Chestnuts (shelled/fresh or dried)	1.1.95
32	0802-90-1010	Pinenuts (in shell/fresh or dried)	1.1.95
33	0802-90-1020	Pinenuts (shelled/fresh or dried)	1.1.95
34	0808-10-0000	Apples (fresh)	1.1.95
35	0810-90-3000	Jujubes (fresh)	1.1.95
36	0813-40-2000	Jujubes (dried)	1.1.95
37	0902-10-0000	Green tea (not fermented/in immediate packings of a content not exceeding 3kg)	1.1.95
38	0902-20-0000	Other green tea (not fermented)	1.1.95
39	0904-20-1000	Fruits of the genus capsicum or of the genus pimienta (dried/crushed or ground)	1.1.95
40	0904-20-2000	Fruits of the genus capsicum or of the genus pimienta (dried/crushed or ground)	1.1.95
41	0910-10-0000	Ginger	1.1.95
42	1107-20-1000	Malt (roasted/smoked)	1.1.95
43	1207-40-0000	Sesamum seeds (whether or not broken)	1.1.95
44	1515-50-0000	Sesame oil and its fractions	1.1.95
45	1604-20-4090	Fish cake (not of crab flavor)	1.7.95
46	1901-10-1010	Prepared dry milk (for infant use/for retail sale)	1.1.95
47	1901-90-2000	Food preparations of milk, cream, yogurt, kephir and whey)	1.1.95
48	2009-60-0000	Grape juice, including grape must	1.1.95
49	2202-90-2000	Beverage of fruit juice (excluding orange juice, grapefruit juice and other single citrus fruit juice/not containing added sugar or other sweetening matter)	1.1.95

**IMPORT LIBERALIZATION ITEMS OF AGRICULTURE  
(ACCORDING TO UR AGREEMENTS)**

Order	HS Number	Item Name
1	0102-10-1000	Live bovine animals/pure-bred breeding/milch cows
2	0102-10-2000	Live bovine animals/pure-bred breeding/beef cattle
3	0102-10-9000	Live bovine animals/pure-bred breeding/Other
4	0103-10-0000	Live swine/pure-bred breeding animals
5	0105-11-1000	Live poultry/weighing not more than 185g/pure-bred breeding animals
6	0105-91-1000	Live poultry/weighing more than 185g/pure-bred breeding animals
7	0407-00-1000	Birds' eggs for breeding/in shell/fresh
8	0506-90-2000	Powder of bones
9	0511-10-0000	Bovine semen
10	0511-99-2000	Swine semen/other animal semen (excluding those of bovine)
11	0511-99-3000	Animal embryos (of bovine and swine)
12	0511-99-9010	Silkworm eggs
13	0602-20-1000	Apple trees
14	0602-20-2000	Pear trees
15	0603-20-3000	Peach trees
16	0602-20-6000	Citrus trees
17	0602-99-9030	Mulberry trees
18	0701-10-0000	Potatoes/fresh or chilled/seed
19	0701-90-0000	Potatoes/fresh or chilled/Other
20	0712-90-2090	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared/Others (sweet-corn)
21	0713-31-1000	Beans of the species vigna/for seed
22	0714-31-9000	Beans of the species vigna/Other
23	0713-32-1000	Small red (Adzuki) beans/for seed
24	0713-32-9000	Small red (Adzuki) beans/Other
25	0714-10-2090	Manioc/dried/chips, pellets/Other
26	0714-20-1000	Sweet potatoes/fresh
27	0714-20-2000	Sweet potatoes/dried
28	0714-20-9000	Sweet potatoes/Other
29	0714-90-9000	Monioc, arrowroot, salep/Other
30	1002-00-0000	Rye (for seed)
31	1003-00-1000	Malting barley
32	1003-00-9010	Unhulled barley
33	1003-00-9010	Naked barley
34	1003-00-9090	Barley/Other
35	1004-00-0000	Oats (for seed)
36	1005-10-0000	Maize (corn)/Seed
37	1005-90-0000	Maize (corn)/Feeding

38	1005-90-2000	Maize (corn)/Popcorn
39	1005-90-9000	Maize (corn)/Other
40	1007-00-0000	Grain sorghum (for seed)
41	1008-10-0000	Buckwheat
42	1008-20-0000	Foxtail millet (for seed)
43	1008-90-0000	Buckwheat, millet and canary seed/Other cereals
44	1102-90-1000	Cereal flours other than of wheat or meslin/Barley flour
45	1102-90-9000	Cereal flours other than of wheat or meslin/Other
46	1103-11-0000	Cereal groats, meal and pellets/Groats and meal/of wheat
47	1103-12-0000	Cereal groats, meal and pellets/Groats and meal/of oat
48	1103-13-0000	Cereal groats, meal and pellets/Groats and meal/of oat/of maize (corn)
49	1103-19-1000	Cereal groats, meal and pellets/of other cereals/of barley
50	1103-19-9000	Cereal groats, meal and pellets/of other cereals/Other
51	1103-21-0000	Pellets/of wheat
52	1103-29-2000	Pellets of other cereals/of barley
53	1103-29-9000	Pellets of other cereals/Other
54	1104-11-0000	Rolled or flaked grains/of barley
55	1104-12-0000	Rolled or flaked grains/of oats
56	1104-19-9000	Rolled or flaked grains/Other
57	1104-21-0000	Other worked grains/of barley
58	1104-22-0000	Other worked grains/of oats
59	1104-23-0000	Other worked grains/of maize (corn)
60	1104-29-1000	Other worked grains/of other cereals/of coicis semen
61	1104-29-9000	Other worked grains/of other cereals/of other
62	1105-10-0000	Flour, meal, flakes, granules and pellets of potatoes/Flour and meal
63	1105-20-0000	Flour, meal, flakes, granules and pellets of potatoes/Flakes, granules, and pellets
64	1108-11-0000	Starches/wheat starch
65	1108-12-0000	Starches/maize (corn) starch
66	1108-13-0000	Starches/potato starch
67	1108-14-0000	Starches/manioc (cassava) starch
68	1108-19-1000	Starches/other starches/of sweet potato
69	1108-19-9000	Starches/other starches/Other
70	1108-20-0000	Inulin
71	1201-00-0000	Soya bean, whether or not broken
72	1202-10-0000	Ground nuts, not roasted or otherwise cooked, whether or not shelled or broken/in shell
73	1202-20-0000	Ground nuts, not roasted or otherwise cooked, whether or not shelled or broken/shelled
74	1209-91-0000	Vegetable seeds
75	1209-99-3000	Tobacco seeds
76	1209-99-9000	Seeds, fruit and spores, of a kind used for sowing/Other
77	1211-20-1100	Ginseng roots/raw ginseng
78	1211-20-1210	Ginseng roots/white ginseng/major roots
79	1211-20-1220	Ginseng roots/white ginseng/ginseng tail
80	1211-20-1240	Ginseng roots/white ginseng/minor roots
81	1211-20-1310	Ginseng roots/red ginseng/major roots

82	1211-20-1320	Ginseng roots/red ginseng/ginseng tail
83	1211-20-1330	Ginseng roots/red ginseng/minor roots
84	1211-20-2210	Red ginseng powder
85	1211-20-2220	Red ginseng tablet, capsule
86	1211-20-2290	Red ginseng powder/Other
87	1211-20-9100	Leaves and stems of ginseng
88	1211-20-9200	Ginseng seeds
89	1211-20-9900	Ginseng/Other (excluding ginseng roots, powder leaves and stems seeds)
90	1214-90-1000	Fodder roots
91	1214-90-9000	Fodder roots/Other (excluding alfalfa and bale)
92	1302-19-1210	Red ginseng extract
93	1302-19-1220	Red ginseng extract powder
94	1302-19-1290	Saps and extracts of ginseng roots/Other (excluding red ginseng extract, red ginseng extract powder)
95	2106-90-3021	Red ginseng tea
96	2106-90-3029	Products of ginseng roots/Other
97	2301-10-1000	Flours, meals, and pellets, of meat or meat offal
98	2306-90-1000	Oil-cake and other solid residues/of sesamum seeds
99	2308-90-0000	Vegetable materials and Vegetable waste, vegetable residues and by-products/Other (excluding almond hull meal and cotton seed hull)
100	2309-90-1090	Preparations of kind used in animal feeding/Other (excluding dog, cat, pig, fowl, fish, bovine)
101	2309-90-2010	Supplementary feeds/chiefly on the basis of inorganic substances or minerals
102	2309-90-2020	Supplementary feeds/chiefly on the basis of flavoring
103	2309-90-2090	Supplementary feeds/Other (excluding automatic approval items)
104	2309-90-9000	Other (excluding mixed feeds, supplementary feeds, feed additives)
105	3505-10-3000	Dextrins and other modified starches/roasted starches
106	3505-10-4000	Dextrins and other modified starches/pregelatinised or swelling starch
107	3505-10-5000	Dextrins and other modified starches/etherified or estorified starches
108	3505-10-9000	Dextrins and other modified starches/Other
109	3505-20-1000	Glues/starches glues
110	3505-20-9000	Glues/dextrin glues
111	3505-20-9000	Glues/Other



**LAWS AND REGULATIONS TO BE ENACTED OR REVISED  
BY THE END OF 1995  
IN RELATION WITH THE UR COMMITMENT**

**A. To Implement Commitments And Obligations Under The  
WTO Agreement (11)**

- Budget and Accounting Law
- Tax Exemption and Reduction Control Law
- Foreign Capital Inducement Law
- Tax Accountant Law
- Coal Industry Law
- Patent Law
- Trademark Law
- Copyright Law
- Technology Development Promotion Law
- Computer Program Protection Law
- Law on the Research and Development for Information and Communication

**B. To Enhance Competitiveness Of The Domestic Industries (4)**

- Law on Hygienic Processing of Livestock Products
- Fertilizer Management Law
- Dairy Promotion Law
- Law on Farmland Improvement Cooperatives

**LIST OF SERVICE SECTORS LIBERALIZED IN 1995**

Date of Liberalization: 1 January

1995

Sectors	Service Sectors	Remarks
Agro-fishery & mining (2)	Growing of fruit Growing of nursery products	Partial liberalization (Joint venture with foreigners allowed only for the seed and seedling of floriculture)
Wholesale & retail sales/repair of personal & household goods (10)	Wholesale of grain and seed Wholesale of fruits and vegetables Wholesale of books and other printed matter Retail sale of fruits Retail sale of pharmaceutical and medical goods Retail sale of cosmetic articles and toiletry items Retail sale of books and newspapers Retail sale of liquid fuel Retail sale of gaseous fuel Commodity Chain stores	Partial liberalization (allowed except for grains)          Partial liberalization (less than 20 stores & smaller than 3,000 SM)

<p>Transportation, storage, and communication (11)</p>	<p>Non-classified sea and coastal water transport (renting of excursion boats on the sea, etc.)</p> <p>Pilotage</p> <p>Freight forwarding</p> <p>Freight brokerage and agencies</p> <p>Charter bus transport</p> <p>Scheduled air transport</p> <p>Non-scheduled air transport</p> <p>Airplane rental with operator</p> <p>Air and land freight handling</p> <p>Ground maintenance of airplane</p> <p>Courier activities other than national post activities</p>	<p>Partial liberalization (allowed except for the tug boat business)</p> <p>Partial liberalization (allowed only in aviation related businesses)</p> <p>Partial liberalization (20% or less foreign equity ratio)</p> <p>Partial liberalization (20% or less foreign equity ratio)</p> <p>Partial liberalization (less than 50% foreign equity ratio)</p> <p>Partial liberalization (less than 50% foreign equity ratio)</p> <p>Partial liberalization (less than 50% foreign equity ratio)</p> <p>Partial liberalization (for commercial documents courier, 50% or less foreign capital allowed)</p>
<p>Real estate rental and business services (4)</p>	<p>Credit rating services</p> <p>Advertising preparation</p> <p>Photographic production</p> <p>Photographic processing</p>	<p>Partial liberalization (foreign ownership allowed only in credit rating services; on 1 January 1997, scope of foreign ownership will be expanded)</p>



**SCHEDULE OF AMENDMENT OF DOMESTIC IPR-RELATED LAWS  
IN CONFORMITY WITH GATT / WTO AGREEMENT**

The Korean government will submit to the National Assembly, in 1995, draft amendments of domestic IPR-related laws, as appropriate, to bring them into conformity with the WTO/TRIPs Agreement. The Korean government plans to complete the amendment by the end of 1995. The Korean government's legislative amendment plan comprises, *inter alia*, the following:

Laws	Content of Amendments	Relevant TRIPs Articles	Amendment Schedule <sup>1</sup>
Copyright Law	1. Compilation of data (database) is protected.	10.2	1 July 1994
	2. Commercial rental of phonograms for sales is prohibited.	14.4	“
	3. The term of protection available to performers, producers of phonograms and broadcasting organizations will last until the end of a period of 50 years, computed from the end of the calendar year in which the fixation was made or the performance or the broadcast took place.	14.5	“
	4. Carrying pirated copyright goods with the intention of selling them is regarded as punishable infringement.		“
	5. Copyright infringement is punished with a fine of 30 million won, maximum, and can be sentenced simultaneously with imprisonment with labor.		“
	6. Existing foreign copyright works will be protected on a national treatment basis pursuant to the provisions of the Berne Convention, except for derivative works (i.e. creative works produced by translation, rearrangement, change, dramatization, cinematography, etc.) which shall not be provided retroactive protection during the five-year grace period.	9, 70.2	1995

<sup>1</sup>1995 means that the draft amendment of the law will be submitted in 1995 to the National Assembly for its approval.

Copyright Law	7. The term reserved for authorized publication of copyright works, in organizations' name or cinematographic works, will be extended from the current ten years from the work to 50 years.	12	1995
Computer Program Protection Law	8. Reproduction rights on fixation of performance will be conferred on the performs.	14.1	“
Trademark Law	1. The term of protection will be extended from the current 50 years from making to 50 years from the end of the calendar year of the authorized publication.	12	“
Patent Law	2. Existing works protected in other member countries of the WTO will be protected.	10.1, 70.2	“
Patent Law	1. Combinations of colors capable of distinguishing the goods or services of one undertaking from those of other undertakings will be eligible for registration as trademarks.	15.1	“
Patent Law	1. National treatment will be accorded to the nationals of WTO members as well as to those of the signatory countries of the Paris Convention.	3	“
Patent Law	2. Patents will be available for “inventions of material which can be manufactured through the transformation of atomic nuclei”.	27.1	“
Patent Law	3. “Offering for sale” will be added to the exclusive rights conferred on the patent owner.	28.1 (a)	“
Patent Law	4. In case there is request by the applicant, patent applications will be publicly announced prior to the current one and a half-year announcement prohibition period.		“
Patent Law	5. The obligation for prior consultations with the right holder for authorization of compulsory licensing will be partially relieved.	31 (b)	“

Patent Law	6. Conditions for authorization of compulsory licensing will be made less strict.	31 (b), (k), (l)	1995	
	7. A new provision will be introduced to enable authorization of compulsory licensing of semiconductor technology.	31 (c)	“	
	8. Assignment of compulsory license will be possible only with that part of the enterprise or goodwill which enjoys such use.	31 (e)	“	
	9. A new provision for the restriction of the purpose of authorization of compulsory licensing will be introduced.	31 (f), (k)	“	
	10. Conditions for the termination of authorization of compulsory licensing will be made less strict.	31 (g), (k)	“	
	11. Conditions for expropriation of patent rights will be changed from “in case it is necessary for national defense” to “in case it is necessary for national defense under emergency”.	73	“	
	12. The term of protection will be extended to 20 years counted from the application date.	33	“	
	Seedlings Management Law / Law on Seeds of major Agricultural Products.	1. Protection of certain plant varieties either by patents or by an effective <u>sui generis</u> system will be provided. Implementation schedule of the amended Law will be specified in the Law.	27.3 (b)	“
	Semi-conductor Maskwork Protection Law	1. The scope of protection has been expanded to discretions and gate arrays.	36	5 January 1995
		2. Application for compulsory licensing, without consultations with the right holder, has been made available in situations of national emergency or other circumstances of extreme emergency.	37	“

Semi-conductor Maskwork Protection Law	3. The provision that cancels the right of the right holder, in case authorization for other use without the authorization of the right holder is not used for two years, has been abolished.		5 January 1995
	4. Fees paid to the right holder by <u>bona fide</u> infringer have been changed from a sum equivalent to direct profits reaped through the infringement to a sum equivalent to a reasonable royalty such as would be payable under a freely negotiated license.	37	“
	5. The provision that confined damages payment to less than direct profits reaped by the manufacturer of an article incorporating an IC with an unlawfully reproduced layout design has been abolished.	45	“
	6. Regarding remuneration to the right holder for other use without his/her authorization, the economic value of the authorization will be taken into full account.	31 (h)	1 July 1995
Agricultural Chemicals Management Law	1. The current system which requires registration of agricultural chemicals only will be changed to simultaneous registration of the manufacturer and the chemicals to protect undisclosed test or other data against unfair commercial use by preventing dual registration by other manufacturers.	39.3	1995
Ministerial Regulation of the Pharmaceuticals Law	1. Undisclosed test or other clinical data of pharmaceuticals are protected since a pharmaceutical product identical to another, which is currently under re-examination, has to be applied for approval with data on efficiency per disease or patient, and current status of use.	39.3	18 July 1994
Customs Law	1. A right holder may apply for the suspension by customs authorities of the clearance of counterfeited or pirated goods.	51	12 December 1994



<p>Customs Law</p>	<p>2. In case of counterfeited trademark, <u>ex officio</u> clearance suspension by customs authorities is possible.</p> <p>3. Right holders applying for clearance suspension have to provide a security.</p> <p>4. Importers or exporters may get clearance certification if they apply providing a security.</p>	<p>53</p> <p>53</p>	
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**MALAYSIA**

## **I. BACKGROUND INFORMATION**

Malaysia is a small, open economy with a long tradition as a trading nation. In recent years, it has enjoyed high rates of economic growth, due to a combination of factors, including the pursuit of economic diversification and the adoption of market-oriented economic policies. Malaysia has a liberal trade regime and its average tariff on a trade-weighted basis at 10.2% is expected to be reduced to 8.9% in the post-UR period. Malaysia's investment policies and its program of deregulation and privatization have attracted large inflows of investment, which have helped fuel its economic growth.

Trade and investment liberalization are major elements that contribute to the high rates of economic growth as well as provide an environment for further resilience and competitiveness in the economy. Accordingly, Malaysia has undertaken various measures every year to this effect. Malaysia instituted a series of liberalization and deregulation measures in late 1994 and 1995 as part of the continuing process towards enhancing growth and development objectives as well as fulfilling its commitments under the WTO. These unilateral measures taken include the abolishment and reduction of import duties. In addition, the prohibition on the import of certain items was abolished, while new measures were introduced to streamline customs procedures as well as further liberalizing the financial sector.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

In the 1995 Budget, and an additional exercise in August 1995, Malaysia abolished and reduced tariffs on more than 3,000 items, comprising both industrial and agricultural goods.

#### **1.2 Non-Tariff Measures**

Three types of goods, which previously were absolutely prohibited from importation, have been given a conditional prohibition status, meaning that the goods concerned can now be imported subject to obtaining permits or licences from the relevant authorities.

- Effective 27 January 1994  
Coral, alive or dead, except those which have been processed and used as jewelry

- Effective 26 May 1994  
All goods from Israel
- Effective 16 February 1995  
Go carts (8703.10)

Effective 23 March 1995, all imports of polypropylene (HS Code 390210300 and 390230000) and polyethylene (HS Code 390110000 and 390230000) have been liberalized and are now subject to automatic licensing, i.e. licences will be issued freely upon application by bona fide importers.

### **1.3 Administrative Measures**

The Royal Customs and Excise Department has implemented several new measures to facilitate trade, including:

- A direct release system for goods;
- Lodgement of goods declaration permitted prior to submission of manifests;
- Removal of customs physical control on licensed manufacturing warehouses;
- Reduction in the number of forms used;
- Creation of a new unit for handling express cargoes;
- Declaration of goods permitted at customs inland stations.

## **2. Measures On Services Trade**

### ***Financial Services***

Foreign banks, insurance companies, representative offices, financial leasing companies and charge card companies presently operating in Malaysia will be allowed to increase the number of expatriate personnel.

Foreign banks operating in Malaysia will also be allowed to introduce new products, subject to approval.

Financial, leasing and stockbroking companies will be allowed to increase their foreign equity participation to 49% with effect from 1 July 1998.

Foreign insurance companies, which incorporate locally, will be allowed to increase their equity participation from 30% to 49%. This liberalization will

also be extended to those insurance companies which have already complied with the restructuring policy required by Malaysia (30%:70%).

Fund Management companies are now allowed 100% foreign ownership, but these companies must conduct their non-Malaysian activities in Malaysia. Their income will also be subject to a 10% tax. Companies which are allowed to source funds locally will be required to reduce their foreign equity to 70%.

For the stockbroking industry, approval for listing will be given as long as the firm fulfils the requirements set by the Securities Commission. Stockbroking companies will now be allowed to operate unit trusts.

### **3. Measures On Investment**

Effective 28 October 1994, withholding tax on technical fees and royalty was reduced from 15% to 10%. This is expected to encourage the transfer of high technology and know-how to Malaysia.

### **4. Other Measures**

#### **4.1 Making Markets Work Better**

#### **4.2 Measures On Other Regulatory Regimes**

##### *Exchange Control : 1994/1995*

Exporters are allowed to retain a portion of export proceeds in a foreign currency account maintained with a Designated Bank in Malaysia.

Non-residents controlled companies (NRCCs) can obtain domestic credit facilities up to an aggregate amount of RM10 million. The domestic debt to eligible capital funds ratio required to be complied with by NRCCs, which intend to obtain total domestic credit facilities exceeding RM10 million, is raised from 2:1 to 3:1.

Banking institutions are allowed to extend credit facilities up to an aggregate of RM5 million to a foreign stockbroking company or a correspondent bank. Other external account holders are allowed to obtain credit facilities up to RM200,000 each.

Operational Headquarters (OHQs) are permitted to obtain any amount of foreign currency credit facilities from a licensed bank, licensed merchant bank or any non-resident; open one foreign currency account or one multi-currency account, with a Designated Bank in Malaysia to receive export proceeds up to an overnight balance of US\$5 million; or open any number of foreign currency accounts with Designated Banks, Licensed Offshore Banks in Labuan or overseas banks to deposit other

foreign currency receivables, freely obtain domestic credit facilities in ringgit (up to RM10 million) or lend in foreign currency to related companies outside Malaysia.

Threshold for requiring exporters to file Form KPW X for submission to Controller is raised from RM20,000 f.o.b. per shipment to RM100,000 f.o.b. per shipment.

Residents are allowed to obtain, from a licensed bank or licensed merchant bank, any amount of short-term foreign currency trade financing facility with a tenure not exceeding 12 months and guarantee facilities.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### **3.1 Measures On Merchandise Trade**

##### *Market Access - Tariffs*

A total of 7,197 items, comprising 5,900 industrial products and 1,297 agricultural products have been bound with effect from January 1995. Out of this, a total of 1,670 items had their tariffs reduced/abolished in 1995. About 790 items comprised raw materials and components whilst 880 were food items such as meat, dairy and vegetable products.

#### **3.2 Measures On Services Trade**

Malaysia made standstill commitments and undertook several measures to liberalize the services sectors in its GATT/WTO offer list. These include:

- Two specialists/experts per service organization are allowed entry while additional specialists/experts may be allowed subject to market tests and the training of Malaysians;
- Aggregate foreign shareholding in a joint-venture corporation is allowed where applicable but is limited to 30%;
- Representative/regional office is allowed to be established for integrated engineering services; rental/leasing services related to ships, aircraft, construction and engineering-related services; and maritime transportation/agency services;
- Commercial presence for legal services allowed through a corporation incorporated in Labuan;

- Commercial presence is allowed for accounting, auditing and bookkeeping services through a locally registered partnership with Malaysian accountants or accounting firms;
- For OHQ services, commercial presence is allowed through a locally incorporated wholly foreign-owned company;
- For telecommunication services, commercial presence is allowed through the acquisition of shares of an existing licensed value-added services operator/corporation.

#### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

Malaysia is a member of the ASEAN Free Trade Area (AFTA), which was launched in 1993. Member countries, comprising Brunei, Indonesia, Philippines, Singapore, Thailand and Vietnam, aim to establish an ASEAN FTA by 1 January 2003. Members are expected to implement a package of tariff reductions through the Common Effective Preferential Tariff (CEPT) scheme, to achieve the target of zero to 5% by year 2003.

##### **Merchandise Trade**

###### **- *Tariffs***

Malaysia revised its tariff reduction schedule under CEPT based on the new ten year time frame for AFTA. Taking into account the new time frame, beginning 1 January 1995, the total items offered by Malaysia in the Inclusion List will be 8,840 items, of which 3,545 items are in the Fast Track and 5,295 items are in the Normal Track. Malaysia currently maintains 631 items in the Temporary Exclusion List and 1,860 items in the Permanent Exclusion List. Both of these will eventually be phased into the CEPT scheme. About 50% of Malaysia's offer in 1995 are already at the targeted tariff level of zero to 5%.

###### **- *Services***

ASEAN has started work on developing a framework of cooperation in services to stimulate economic growth. An ASEAN Framework in Services is currently being formulated. A Framework Agreement on Intellectual Property Rights is also being drawn up. In the telecommunication and transport sectors, projects and activities to be covered under a Plan of Action for Transport and Communication aimed at supporting AFTA, have been identified. These projects would be implemented with a view towards reducing transport and communication constraints and barriers in the region.

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

The tariff reductions undertaken unilaterally as well as those under WTO obligations are expected to provide greater business and trading opportunities. The resultant open and competitive environment will stimulate greater economic activity and, hence, enhance the overall growth of the economy. The abolition of duties on over 1,400 raw material items in particular, is expected to reduce operating costs and increase productivity. In addition, further liberalization of the financial sector will encourage foreign participation in this sector while the relaxation of certain foreign exchange rules will also increase the efficiency of cross-border transactions and reduce formalities for business by providing investors greater access to credit facilities.

**VI. FUTURE DIRECTION**

Malaysia will continue to undertake liberalization and deregulation measures, particularly with regard to its obligations under the WTO. Steps are being taken by Malaysia to modify its policies and legislation to bring them into conformity with the improved trading rules in the Uruguay Round agreement. These include the phasing out of local content measures tied to incentives over five years, phasing out export subsidies in the manufacturing sector over eight years, improvements to existing legislations for protecting intellectual property rights, making import licensing procedures more transparent and assuming new obligations in the areas pertaining to rules of origin and customs valuation.

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

Please see Annex 1.



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## PREVAILING REGULATORY POSITION IN MALAYSIA

### I. IMPORT AND EXPORT SYSTEM

Tariffs are the main trade policy instrument of Malaysia. The tariff structure is reviewed and revised regularly in line with the government's move to liberalize trade and to fulfil domestic policy objectives. In recent years, tariffs have been reduced on a broad range of products. In the 1993 and 1994 Budget, tariff cuts were made on more than 1,100 items, while in the 1995 Budget, duties were reduced for more than 2,500 items.

Most goods can be imported freely and where import licences are required, the conditions imposed relate mostly to policies on health, sanitary and phytosanitary, public morals, security and standards.

Importers/exporters of certain products (e.g. palm oil and palm oil products, rubber and timber) are required to be registered or licensed with the appropriate authorities, mainly for administrative purposes.

Export duties and export licensing requirements are imposed on a small number of products. In most cases, these are imposed to complement measures, to ensure adequate supply and to enforce standards on health, plant and animal conservation, or security.

### II. LEGISLATION GOVERNING THE APPLICATION OF TRADE POLICIES

- *Customs Act 1976/Customs Regulations 1977*

Rules and principles of the customs system

- *Exchange Control Act 1953*

Relates to the recording, monitoring and supervision of payments to non-residents

- *Countervailing And Anti-Dumping Duties Act 1993 And Regulations (1994)*

- *Intellectual Property Protection (IPR)*

Patents Act 1983/Patents (Amendment) Act 1986 and Regulations

Trade Marks Act 1976/Trade Marks Regulations 1983

Copyright Act 1987, Copyright (Amendment) Act 1990 and Regulations

- ***Food Act 1983***

On the protection against health hazards in the preparation, sale and use of food

- ***Direct Sales Act 1992 And Direct Sales Regulations 1993***

Regulation of door-to-door and mail-order sales

- ***Various Legislations Pertaining To Labeling And Packaging***

### **III. INVESTMENT REGIME**

Malaysia welcomes foreign investment and maintains a liberal and open regime for investment activities, taking into account the objective of strengthening the manufacturing sector and increasing the participation of Malaysian companies in these activities. Among the regulations in force to ensure the orderly development of investment are:

#### ***Licensing***

A manufacturing licence is only required for manufacturing projects with shareholders' funds of RM2.5 million and above, or which engage 75 full-time workers. This licence is obtainable from the licensing officer (Secretary-General of the Ministry of International Trade and Industry).

#### ***Equity***

No equity conditions are imposed on manufacturing projects with shareholders' funds of less than RM2.5 million or those which export 80% or more of their production. Manufacturing projects that produce high technology or high priority-products and projects which involve the extraction, or mining and processing of mineral ores may be permitted foreign equity participation of up to 100%. Apart from the above, the level of equity permitted would generally depend on the level of exports, level of technology, size of the project and location.

Foreign-owned projects with equity conditions are given the assurance that they will not be required to restructure their equity as long as the projects continue to comply with the original conditions for approval and retain the original features of the project.

#### ***Employment***

Any company with foreign paid-up capital of US\$2 million and above will be allowed five expatriate posts. Additional expatriate posts will be given when necessary upon request.

Any company with foreign paid-up capital of less than US\$2 million will be considered for expatriate posts subject to certain qualifications.

### ***Low Tax Regime***

Corporate income taxes have been progressively reduced from 40% in 1985 to the current 30%. A development tax of 5% was abolished in 1993. In line with this, personal income tax rates were also reduced.

The withholding tax rates on interest, royalty and technical fees are reduced to 15% for interest, and 10% for royalty/technical fees.

### ***Deregulation In Administrative Procedures***

The Malaysian Industrial Development Authority (MIDA) assumed the role as the Center on Investment (COI). This means that investors need only approach MIDA to obtain most of the necessary approvals/permits required at Federal Level. At the State Level, one stop centers for investment were also established. The main regulation governing investment in the manufacturing sector is the Industrial Coordination Act 1975 (Amended).

## **IV. SERVICES SECTOR**

### ***Telecommunications***

Malaysia has liberalized its telecommunications services sector through the corporatization of Jabatan Telekom Malaysia as Telekom Malaysia in 1987. Since then, the Government has licensed new telecommunication operators to compete with Telekom Malaysia. At present, there are five local networks, six long-distance and five international gateway operators licensed by the government. Value-added services are open for full competition. For the mobile telephone service, a number of operators were licensed to provide AMPS analog, GSM and PCN services. There are several public pay-phone operators providing nationwide services.

Under the GATS, the Government has committed to open up enhanced, value-added services for open competition and foreign equity participation not exceeding 30%. Currently, the telecommunications licences are being rationed with the view towards reducing infrastructure duplication, maximizing usage of existing facilities and promoting competition.

### ***Broadcasting***

Malaysia has introduced a number of privatization measures recently in the area of broadcasting services. Under the Government's Privatization Action Master Plan of 1994/1995, privatization of broadcast services was introduced, with several projects which include:

- A radio network which is a joint-venture between a government company which holds 30% equity, and a consortium of private companies, with 70% equity;

- A new television channel which commenced services on 1 July 1995;
- A subscriber five-channel cable network which is now undergoing transmission testing. This network is owned by a government company and a consortium of private companies with 30% and 70% equity respectively;
- Negotiations are on-going for several other wholly-owned private radio channels.

With the imminent launch of Malaysia's own satellite, Malaysia East Asia Satellite (MEASAT), licences were granted to a private company and its subsidiaries to operate satellite television and radio channels. Terms and Conditions of licences are now being finalized.

Even before the inclusion of broadcasting services in the Government's Privatization Action Master Plan, a wholly private-owned cable-radio network and a private television network were already in operation.

Overall, privatization which removes barriers to competition, has generated productivity, innovation, variety and above all, efficiency and quality in broadcast services.

### ***Transport***

#### ***- Aviation***

Malaysia's domestic air services policy is being liberalized by allowing more airlines to operate domestic air services. Malaysia has a policy of negotiating liberal bilateral air services agreements, provided that the negotiating partner is willing to reciprocate.

Malaysia's designated international air carrier, Malaysian Airline System (MAS), is a private company. Since early 1995, other companies have been formed to provide regional services, especially to areas not yet served by MAS.

In terms of ground-handling services, the government has approved a second company to provide such services.

#### ***- Shipping***

Malaysia has corporatized the management of the major ports such as Port Kelang, Penang Port, Johor Port and Bintulu Port. In the Port Kelang area, three companies have been given licences to operate port services.

Although Malaysia has a cabotage policy to protect domestic shipping, foreign vessels are allowed to ply between Port Kelang and Penang Port for transshipment of cargo only.

Several measures have been undertaken to improve port operations via the introduction of EDI and pre-clearance of customs and immigration procedures.

- ***Roads***

The privatized construction of toll expressways facilitates greater mobility. It also removes road mileage limitations and allows a more flexible modal split with rail and shipping.

- ***Rail***

The Malayan Railways was corporatized in 1995 and this allows the private entity to plan and to promote the railway transport as an effective transport mode. An electric commuter rail service project is nearing completion and will start commercial operations in October 1995.

## **V. EXCHANGE CONTROL**

Malaysian exchange control regime is liberal and applies uniformly to transactions with all countries except Israel and the Federal Republic of Yugoslavia (Serbia and Montenegro), for which special restrictions apply. No permission is required for a non-resident to undertake direct or portfolio investment. Payments by a resident to a non-resident for any purpose, including the repatriation of capital, profits and dividend, fees, royalties and proceeds from the sale of assets in Malaysia may be made in any foreign currency other than the aforementioned countries. There are, however, some guidelines covering domestic borrowing by non-resident controlled companies, but there has been a general relaxation since 1 December 1994. The Exchange Control Act 1953 governs the conduct of the exchange control regime in Malaysia.

## **VI. INTELLECTUAL PROPERTY PROTECTION**

There are a number of legislations in Malaysia which accord intellectual property protection. These consist of two branches, namely industrial property and copyright, covering:

- ***Industrial Property***

Trade marks as governed by the Trade Marks Act 1976; patents as governed by the Patents Act 1983 and Patents (Amendment) Act 1986; and industrial designs as governed by The United Kingdom Designs (Protection) Act 1949 for Peninsular Malaysia, United Kingdom Design (Protection) Ordinance Chapter 152 for Sabah and Design (United Kingdom) Ordinance Chapter 59 for Sarawak.

- *Copyright*

Copyright as governed by the Copyright Act 1987, Copyright (Amendment) Act 1990 and the regulation made thereunder.

Malaysia is also a signatory to the Paris Convention in 1989 and the Berne Convention in 1990.



**MEXICO**

## I. BACKGROUND INFORMATION

The aim of this report is to present some of the most important deregulation and liberalization initiatives implemented by the Mexican government in 1995.

## II. UNILATERAL MEASURES

### 1. Measures On Merchandise Trade

#### 1.1 Tariff Measures

During the Uruguay Round, Mexico agreed to bind its tariff rates at 35% for most goods.

The Mexican bound tariff rate for industrial goods before the Uruguay Round was 50%, with some exceptions. During the Uruguay Round negotiations, Mexico offered to reduce its bound tariff rate from 50% to 35% for almost all goods<sup>1</sup>. This reduction will take place annually in five equal phases. The first of these reductions started on 1 January 1995. Thus, the current bound tariff is 47%.

In the Uruguay Round, Mexico committed to reduce its bound tariffs on agricultural goods by an average of 24% (including tariffed items), with a minimum reduction of 10% by tariff line. Mexico granted minimum access opportunities for 67 tariff lines. The average bound tariff for agricultural products, offered by Mexico in the Uruguay Round, is 33.5%.

Applied import duties, however, are substantially lower than the bound rate for most tariff items. The maximum rate of duty is 35%, and applies to leather goods, footwear and apparel. Frozen beef meat has a tariff of 25%. Rates of duty for finished products range between 15% and 20%. The range for intermediate goods is between 5% and 15%, and for capital goods between zero and 10%. The weighted average tariff is 11.3%.

In 1995, Mexico has continued to dismantle tariff barriers under three new trade agreements that came into force in January: the Mexico-Costa Rica FTA, the Mexico-Bolivia FTA, and the Mexico-Colombia-

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<sup>1</sup> Exceptions are contained in the Annex of Section II of the Mexican Schedule of concessions

(Schedule LXXVII-Mexico) attached to the Marrakesh Protocol.

Venezuela FTA (G-3). These agreements incorporated provisions on trade in goods, technical barriers to trade, government procurement, investment, trade in services (including telecommunications, financial services and temporary entry for business persons) and intellectual property rights. At the same time, they contain dispute settlement rules, including those related to anti-dumping and countervailing duty matters.

Further tariff reductions were enforced according to the commitments contained in the North American Free Trade Agreement (NAFTA), which came into force in 1994, and the Acuerdo de Complementacion Economica (ACE) with Chile, which came into force in 1992.

As a result, 75% of Mexico's imports<sup>2</sup> from Costa Rica and 99% from Bolivia are now duty free. The phasing out of tariffs with Colombia and Venezuela will take place in 12 years. In relation to NAFTA, around 41% of Mexican imports from the U.S. and Canada are now duty free.

With Chile, the maximum tariff for most goods is 2.5% for 1995, and it will be reduced to zero in 1996. For a small number of exceptions, the rates of duty will be lowered gradually from 6% in 1995 to zero in 1998.

## **1.2 Non-Tariff Measures**

In accordance with WTO commitments, Mexico has tariffed import permits on 61 tariff items, covering products such as cheese, poultry, coffee and tobacco, among others. Only 148 tariff items remain subject to import permits, including automobiles, hydrocarbons, used machinery and used apparel, among others. These items represent 1.3% of total tariff items.

## **1.3 Administrative Measures**

During 1995, Mexico will continue to grant importers and exporters greater transparency in the application of non-tariff barriers and standards. The Ministry of Trade is currently engaged in identifying tariff items covering products subject to technical standards, labeling requirements, and anti-dumping and countervailing duties. Once such exercise is completed, lists of those tariff items and applicable provisions will be posted in the government's official register so as to inform economic agents of the requirements that must be fulfilled when importing or exporting goods.

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<sup>2</sup> Excludes oil and agricultural products.

Furthermore, in April 1995, an inter-ministerial agreement was reached whereby the Ministries of Agriculture, Health, Energy and the Environment will soon publish "procedures guidelines", which will explicitly state import requirements for specific products (e.g. restriction on the importation of toxic chemicals).

In relation to customs, in 1995, Mexico is implementing measures with the aim of simplifying procedures. Among the measures outstanding are the implementation of an automatized system to link the customs house brokers with the customs administration; the submission of clearance documents and the payment of duties prior to cargo inspection; payment of customs duties at financial institutions within the customs administration premises; aleatory inspection of cargoes and a second aleatory inspection by independent parties; and the verification of exporters and importers declarations after the cargoes are cleared.

Regarding standards, in 1995, the National Commission for Standards is reviewing the criteria for setting them. The aim is to avoid the issuing of standards with no justification and to limit their scope to health and safety purposes. A guide for the elaboration of standards is underway and expected to be completed this year.

As in the case of technical barriers, Mexico is implementing its sanitary and phytosanitary measures in accordance with the WTO disciplines, with the aim of improving transparency and ensuring that these measures do not create unnecessary obstacles to international trade. In this regard, Mexico is complying with the notification requirements established in the agreements of the WTO.

In relation to anti-dumping, subsidies and safeguards, Mexico has notified its legislation to the WTO.

## **2. Measures On Services Trade**

Mexico supports the services negotiations in GATS. The list of specific commitments that Mexico presented before GATS, covers 68 services sectors which encompass 329 activities. Most services have been liberalized in all four modes of delivery. Exceptions relate to certain services that are reserved to Mexicans or to the State. Several sectors have been liberalized as a result of legislative changes since November 1994. Among these sectors are the railway, telecommunications and financial services.

Two of the major service sectors being negotiated in GATS are the telecommunications and financial sectors. According to Mexico's offer on financial services, minority foreign investment is allowed for most financial services, and foreign financial institutions may establish representatives offices. In the telecommunications sector, Mexico's offer will depend on the level of commitments offered by other participating countries.

The unilateral measures adopted in relation to services in 1995 relate basically to investment (see next section).

### **3. Measures On Investment**

In the period between November 1994 and May 1995, the following activities have been liberalized:

#### **- *Railroad Industry***

Under the Foreign Investment Law (FIL), the railroad industry was classified as an activity reserved to the State. On 12 May 1995, the FIL was amended to allow private investment (domestic and foreign) to participate in the railroad sector. Approval from the National Commission for Foreign Investment is required for foreign investors willing to participate with more than 49% of the capital of a firm in this sector.

#### **- *Satellite Communications***

The satellite communications sector was also classified by the FIL as an activity reserved to the State. On 18 May 1995, Congress passed an amendment to the law that allows foreign investment, in the satellite communications sector, up to 49% of the capital of a firm; except for cellular telephones, where foreign investment may add up to 100%.

#### **- *Financial Services***

Financial regulations were amended on 15 February 1995. Foreign investment may now participate up to 49% in the following activities: holding companies for financial groups; commercial banking, credit institutions; securities brokerage firms; and securities market specialists. Prior to those amendments, the FIL allowed foreign investment to participate in those activities only up to 30%.

#### **- *Gas Industry***

On 11 May 1995, domestic regulations were modified. Under the reforms, the private and social sectors may participate in gas transport, storage and distribution. Likewise, the private sector may build, operate and own pipelines, installations and equipment for the use or the exploitation of gas.

At the same time, Mexico has fulfilled its WTO notification requirements in accordance with the Agreement on Trade Related Investment Measures (TRIMs).

### **4. Other Measures**

Mexico's legislation on intellectual property is consistent with the WTO Agreement on Trade Related Intellectual Property Rights (TRIPs). Mexico will fulfill its notification commitments as required by the TRIPs agreement.

In regard to deregulation, the central government is working with state authorities to reduce local regulations affecting the establishment and operation of firms. Also, within the newly formed Council for Small and Medium Enterprises, requirements for the establishment and operation of Small and Medium Enterprises are being simplified.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

The measures adopted during 1995 will contribute to increase the efficiency and competitiveness of the Mexican economy. This situation is reflected in the growth rate of exports and in the flows of foreign direct investment in 1995. For the business/private sector of the region, the measures adopted will continue to generate more trade and investment opportunities, to enhance efficiency and to reduce transaction costs in business operations.

### **VI. FUTURE DIRECTION**

Despite the economic difficulties that Mexico has been facing in the last months, the government will continue with the deregulation/liberalization efforts, according to the evolution of the Mexican economy.

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## **DEREGULATION AND LIBERALIZATION INITIATIVES IN PAST YEARS**

### **I. INTRODUCTION**

The aim of this annex is to present some of the main deregulation and liberalization initiatives adopted by the Mexican authorities in past years. The annex does not pretend to be exhaustive.

### **II. MERCHANDISE TRADE**

#### *Tariff And Non-Tariff Measures*

Faced with the debt crisis of 1982, Mexico implemented an economic strategy aimed at transforming the country from an inward-looking to an outward, market-oriented economy. The strategy included unilateral trade liberalization measures.

The unilateral liberalization process started in 1983 and was accelerated in 1985. The process comprised basically the elimination of tariff and non-tariff measures. Accordingly, tariffs and tariff levels were reduced and import permits eliminated gradually.

Mexico became a member of the General Agreement on Tariffs and Trade (GATT) in 1986 and adopted the following commitments:

- A bound rate of 50% ad valorem for all products in its import schedule, except for a few products where the bound rate was lower;
- The elimination of import prices for customs valuation purposes;
- A continued effort to eliminate import permits;
- The adoption of the Harmonized System;
- The accession to four “codes of conduct” of the Tokyo Round (Anti-dumping, Customs Valuation, Import Licences, and Technical Barriers to Trade).

At the end of 1982, all imports require import permits and there were 16 tariff levels. The maximum tariff was 100%. The average tariff was 27% and the average weighted tariff was 16.4%.

By the end of 1994, only 1.3% of the tariff items required import permits, including products such as oil and automobiles, used machinery and used apparel. The

maximum tariff was 20%, with the exception of frozen beef meat, with a duty of 25%. The average tariff was 12.5% and the average weighted tariff was 11.3%.

As an additional commitment to trade liberalization, on 1 January 1992, Mexico and Chile created a free trade area, through an agreement officially called Acuerdo de Complementacion Economica (ACE). The agreement includes provisions on tariff phasing out, rules of origin and safeguards, among others.

The ACE will eliminate import tariffs on most goods from both countries by 1996 and, for a small number of goods (some agricultural products, lumber, some chemicals and petrochemicals, textiles and glass), by 1998. The only products exempted from tariff elimination are oil and oil-products, marine products, some agricultural goods, vegetable oil, powdered milk and used clothes.

Furthermore, on 1 January 1994, the North American Free Trade Agreement (NAFTA), comprising Mexico, the United States and Canada, came into force. The NAFTA incorporated liberalization commitments in the areas of trade in goods (including agricultural goods), technical barriers to trade, government procurement, investment, trade in services (including telecommunications, financial services and temporary entry of business persons) and intellectual property rights. At the same time, it contains dispute settlement rules, including those related to anti-dumping and countervailing duty matters.

As a result of NAFTA, the three North American countries will gradually eliminate tariffs and non-tariff barriers for all products within ten years, with some sensitive products (e.g. maize) being liberalized fully within 15 years. Upon entry into force of NAFTA, Mexico eliminated tariffs for 41% of its imports coming from the United States. Tariffs will be eliminated for 19% of those imports in the mid-term<sup>1</sup> within ten years for 38%, and within 15 years for 2%. In relation to Canada, 40% of total imports coming from that country were duty free in 1994. In the mid-term<sup>2</sup>, 19% of Canadian imports will be duty free, within ten years 38%, and within 15 years 2%.

It is noteworthy that in past years, measures were adopted to simplify and clarify procedures related to the administration of import permits. Such measures included the systematization of procedures and the publication of the new regulations, including a list of the goods subject to import permits.

### ***Customs Procedures***

Mexico has also strived to modernize administrative procedures in order to facilitate trade in goods. A salient step in this direction is the reform of customs administration procedures undertaken by the Mexican government since the late 1980s. In 1987, Mexico adopted the Harmonized System and joined the Customs Cooperation Council and the Customs Valuation Code of the GATT. In 1989, the main customs facilities introduced automated systems to record import and export operations and,

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<sup>1</sup> Mostly five years.

<sup>2</sup> Mostly five years.



since then, most entry ports have adopted similar systems. In addition, a computer-based random selection system was established in 1989 at all entry ports in the country for customs inspection purposes. As a result, only 10% of all operations are subject to inspection. More recently, the private sector was allowed to participate in activities related to customs administration that were previously administered exclusively by the government, such as the storage, handling, and custody of merchandise being imported or exported.

### *Administrative Measures*

In 1992, the Mexican authorities issued the New Federal Law on Metrology and Standardization. The law reduces the costs of compliance with standards. According to it, both domestic and imported goods must comply with the Mexican Official Standards (mandatory). The setting of standards was decentralized to the respective regulatory agencies, function that had been centralized in one agency. At the same time, National Advisory Committees for Standardization were created, where public officials and representatives of the private sector discuss the setting of standards. Authorized private bodies may issue voluntary standards, and authorized private laboratories may certify both mandatory and voluntary standards.

In relation to sanitary and phytosanitary measures, the new sanitary and phytosanitary laws were enacted in 1993 and 1994 respectively. Those regulations reflected the principles agreed upon by Mexico in international agreements, including the Uruguay Round. According to those principles, Mexico reaffirmed its right to adopt sanitary and phytosanitary measures in order to protect human, animal and vegetal life and health. However, measures shall be based on scientific evidence and in appropriate risk assessments, and shall not constitute unnecessary obstacles to trade.

Finally, regarding trade remedies issues, regulations were revamped in 1993. Procedural aspects of investigations concerning dumping and subsidy practices became more open and transparent. Foreign exporters were granted the right to challenge decisions of the trade authority, a right which had been granted only to Mexican importers.

The terms for issuing determinations were extended to those used internationally. At the same time, the new provisions oblige the parties involved in proceedings to send to the other party any briefs submitted to the trade authority; this makes the process more transparent. In addition, all investigations are subject to public hearings.

On the technical side, the new legislation is far more detailed than the old one. For instance, the criteria for calculating variable and fixed costs in an anti-dumping investigation are rigorously spelled out. Similarly, the criteria for determining injury are specified more precisely. Criteria for establishing threat of injury, casualty and cumulation were introduced. These reforms significantly curtailed the discretion of administrators in the handling of a case and make very explicit the technical norms upon which the administrators have to base their decisions.

### III. INVESTMENT MEASURES

Prior to the mid-1980s, foreign direct investment (FDI) played a relatively small role in Mexico's total external financing.

As a result of its long-standing restrictive foreign investment policy, Mexico had a very low share of FDI. However, since the mid-1980's Mexico has undertaken several measures to increase capital inflows to the country as means to obtain non-debt financing.

Between 1982 and 1988, the government adopted less restrictive policies towards FDI. Projects with 100% foreign ownership were permitted in a number of sectors, particularly in manufacturing.

In 1989, the administration issued the "Regulations of the Law to Promote Mexican Investment and to Regulate Foreign Investment of 1973" in order to support trade liberalization. It provided greater certainty by establishing clear investment rules for classified activities and improving application procedures. A long-standing 49% limit on foreign ownership was raised to 100% in 58 sectors. Minority participation was allowed up to 49% in 36 sectors where foreign investment was previously excluded (e.g. secondary petrochemicals, mining and fisheries). The Regulations also provided for an "automatic authorization procedure" by which approval of the National Commission of Foreign Investment (NCFI) was no longer necessary for investments under 100 million dollars in manufacturing plants outside the three largest metropolitan areas. In addition, the 1989 Regulations allowed foreign investors to participate in the Mexican stock market through a neutral investment scheme.

In December 1993, Mexico adopted a new Foreign Investment Law (FIL), which substantially modified the provisions of the 1973 Law. The FIL liberalized the activities which were subject to specific regulations. Today, foreign investment may participate in the expansion of an investment, the creation of new lines of products and the establishment of new fields of economic activities. Furthermore, the FIL prohibited the imposition of performance requirements that may distort international trade with respect to the establishment, operation or expansion of an investment. Thus, the FIL extended the investment liberalization commitments under NAFTA to all foreign investors.

The new legal framework removed restrictions for Mexican companies which do not have a foreigners' exclusion clause to acquire real estate for non-residential purposes within the so called "restricted zone" (i.e. 100 km inland along the borders, and 50 km inland along the sea coasts). Foreign individuals and foreign corporations may acquire real estate located within the restricted zone through a trust for a 50-year term, renewable.

The neutral investment scheme allowing Mexican companies to issue shares (with no voting rights) that can be acquired by foreign investors was incorporated into the new law.

Under the new legislation, FDI is welcome in almost all sectors of the economy. Of the 754 activities listed in the Catalogue of Economic and Productive Activities, approximately 696 are 100% open to foreign participation; 28 allow up to 49% FDI; 11 permit FDI up to 100% with prior approval of the NCFI; and, only 19 activities are prohibited to foreign ownership or control.

#### **IV. OTHER MEASURES - COMPETITION POLICY**

Regarding economic competition, a federal law was enacted on 23 June 1993 with the aim of fostering competition and efficiency in the Mexican economy. The Federal Competition Commission as an autonomous and decentralized body is responsible for enforcing the law. The functions of the Commission are:

- To investigate competition violations;
- To issue administrative rulings and assess penalties for non-compliance;
- To advise other agencies on competition policy issues;
- To participate in the negotiation of international agreements regarding competition policy.

Among the markets affected, so far, by the decisions of the Federal Competition Commission outstand the following: credit cards, gasoline distribution, and copper wire for cable communications.

In relation to deregulation, the Mexican government launched an ambitious program in past years involving ports, telecommunications, road transportation, railroads, financial institutions, and customs, among other activities. As a consequence, the efficiency of the Mexican economy has improved significantly.

**NEW ZEALAND**

## I. BACKGROUND INFORMATION

Key objectives of the New Zealand Government are to maintain strong economic growth and build a fair, inclusive society. The Government believes that an open and competitive economy, functioning within a stable macro policy framework, will best achieve sustained economic growth, increased business and employment opportunities, wider consumer choice and strengthened incentives for companies to become more efficient and innovative.

Since 1984, New Zealand has implemented a comprehensive program of economic reform. Successive governments have introduced policies directed at opening up the economy to competitive pressures and allowing market signals to guide investment, production and consumption decisions. This drive for openness has facilitated global sourcing of key factors such as capital, technology and skilled labor and strengthened international market linkages for New Zealand producers and traders. Enterprise and innovation have been encouraged.

The key elements of the program have included:

- Establishment of a stable macro economic environment with particular emphasis on ensuring price stability and low inflation under the Reserve Bank Act (1989) and improving the Government's financial position;
- Comprehensive tax reform to simplify the tax system, broaden the tax base and lower income tax;
- Comprehensive microeconomic reform to remove sector specific regulations and their replacement with a general competition framework (designed to promote competition, not individual competitors) for business conduct provided in the Commerce Act 1986 and the Fair Trading Act. Substantial deregulation has occurred in virtually all sectors of the economy;
- Wide ranging deregulation of the financial sector and removal of exchange rate controls;
- Export and agricultural producer subsidies removed;
- An extensive program of corporatization and privatization of state-owned enterprises to maximize efficiency and to assist in the development of competitive markets for services provided by the government;
- Border liberalization with unilateral reduction of tariffs, the removal of all import licensing and the establishment of an open and liberal investment regime;

- Reform of the labor market to maximize its flexibility and responsiveness to changing market requirements.

The economic reform process has been underpinned by a quiet revolution in the way government conducts its business to ensure continuing overall policy coherence and accountability. Departmental statements of objectives must reflect the Government's declared strategic result areas. Robust management accountability mechanisms have been established for all government agencies. Budget planning and financial practice follow best practice in the private sector. Government agencies are independently audited both in terms of their financial accountability and their performance. Cabinet processes require policy proposals, submitted to Cabinet, to be consistent with the Government's strategic objectives, fiscal responsibilities and international obligations.

New Zealand has begun to reap the benefits of its extensive reform process. Since mid 1991, the New Zealand economy has grown by over 17% with growth exceeding 5% in each of the last two years (6.2% in 1994); non-traditional exports have grown rapidly; export markets are greatly diversified; unemployment levels have fallen; and inflation has remained low. The fiscal position moved into surplus in 1994.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

As at December 1994, 90% of imports (by value) entered New Zealand free of duty. The simple average tariff level (including free-all-sources items) is 8.5%. The average tariff level for dutiable imports is 16.6%.

Under the GATT Uruguay Agreement, New Zealand has bound all tariff items in its Tariff, except for used motor vehicles, used clothing and used footwear. New Zealand maintains a number of preferential tariffs for developing countries under its Generalized System of Preferences (GSP). Australian goods enter New Zealand free of duty under ANZCERTA (Australia-New Zealand Closer Economic Relations Trade Agreement). Goods from Pacific Island members of the South Pacific Forum also enter free in accordance with SPARTECA (South Pacific Regional Trade and Economic Cooperation Agreement). Some Canadian imports are also free under a bilateral trade agreement.

New Zealand has been committed to a comprehensive, ongoing program of annual tariff reductions since the mid 1980s (See Annex 1). Under the current program announced in 1991, around half of those tariff items in "Part I" of the New Zealand Tariff will be duty free by July 1996. The balance will be in the range of 5% to 15%, with the

exceptions of motor vehicles, textiles, footwear and carpets which will have tariffs in the 20-30% range. There are, in addition, extensive duty concessions under Part II of the Tariff for otherwise dutiable items which are not made in New Zealand.

In December 1994, the Government announced a three year program of tariff reductions to apply from 1 July 1997 to 1 July 2000. Under this program, all tariff rates will be reduced with "normal" (non-preferential) tariffs moving to 15%, 10%, or 5%. Rates of 5%, as at 1 July 1996, will be reduced to zero by 1 July 1998. By the year 2000, the simple average tariff level (all tariffs) will be around 3%. The Government has made a commitment to further review tariffs in 1998, to determine how to move towards a zero end-point under a unilateral domestic tariff reduction program.

## **1.2 Non-Tariff Measures**

New Zealand has no import licensing, variable levies, seasonal tariffs, non-automatic licensing, minimum pricing regulations or price surveillance. Those import restrictions which remain are maintained for reasons of public health and safety, plant and animal health, morality (pornography) and are GATT/WTO-consistent.

New Zealand has never been a member of the Multifibre Arrangement (MFA).

## **1.3 Administrative Measures**

### ***Import Prohibitions/Restrictions***

New Zealand operates some GATT-consistent restrictions on imports, based on requirements of:

- Phytosanitary and security;
- Public safety;
- Plant and animal quarantine;
- Public interest (e.g. morality);
- Environmental protection;
- Internationally-mandated political sanctions.

There are no tariff quotas, voluntary export restraints (VERs) or orderly marketing arrangements (OMAs). As a signatory of the Montreal Protocol, New Zealand restricts the importation of ozone-

depleting substances under the provisions of the Ozone Layer Protection Act 1990.

### ***Subsidies***

New Zealand has no export subsidies. All trade-distorting agricultural production subsidies were eliminated over a short period of time in the mid 1980s. There are no government supports to either output prices or agricultural inputs. There are currently some residual taxation advantages in the agricultural sector, and a concessionary tax regime applies in the forestry sector. Other industry assistance measures (e.g. Research & Development) are consistent with New Zealand's National Treatment obligations as a member of the WTO.

### ***Trade Remedies***

New Zealand's legislation governing anti-dumping and countervailing duties and safeguards is consistent with the WTO Agreements in these areas. Anti-dumping duties are currently levied on eight different products from 14 countries. Anti-dumping investigations are currently being carried out in respect of six products by country applications, and reviews are being carried out into eight products by country actions.

### ***Customs Procedures***

New Zealand operates GATT-consistent Customs valuation and origin regimes. The Customs Bill, currently being drafted, is intended to provide a legislative environment which further reduces impediments to legitimate business. It provides for a Customs Appeal Authority and a process whereby, within a certain time frame, binding decisions are given in respect of the classification of goods, concession determinations and excise liability.

A Customs Modernization Project was introduced in 1994 to introduce a client-focused environment. Key account managers, help desks and business assistance programs will facilitate business interaction with the Customs Department and will help to lower the costs of compliance. A paperless EDIFACT import declaration system has been introduced to facilitate the movement of goods over the border, irrespective of whether they arrive by sea, air or mail. It allows clearance of goods within four hours of receipt of the electronic message.

### ***Goods And Services Tax (GST)***

All goods sold in New Zealand are subject to a goods and services tax (GST) of 12.5%, be they imports or locally produced goods. GST is charged on the duty inclusive price of imported goods. Certain spirits,



tobacco products and fuels incur excise-equivalent duty (i.e. a duty equivalent to the excise levied on the same goods when produced locally).

### ***Export Credit Insurance***

New Zealand has no government-supported export finance or export credit guarantee scheme and believes that the provision of export credit guarantees is best left to the private sector which has better information on which to assess commercial and non-commercial risks. The Government sold its export credit insurance business, EXGO, in 1990, and ceased issuing export credit insurance in 1991. Although there is still a provision for the Crown to underwrite export credit insurance contracts, which it considers to be in the “national interest” (by way of a contract with EXGO), this provision has never been taken up, mainly because of strict approval criteria.

## **2. Measures On Services Trade**

### ***Financial Services***

Most controls on financial services were lifted between 1984 to 1987, and the current system of registration and prudential supervision was implemented through the Reserve Bank Act (1989). There are very few barriers to entry, or restrictions on operations.

A revision of banking supervision policies and procedures is currently under way. The main changes proposed involve a shift away from direct prudential supervision by the Reserve Bank towards a regime based on market scrutiny of banks’ operations. The Reserve Bank would continue to ensure the maintenance of a sound banking system in New Zealand through its roles in bank registration and surveillance of relevant published information.

### ***Telecommunications***

The Government’s view is that competition is the best regulator of telecommunications markets in New Zealand. New Zealand does not have a telecommunications specific regulatory authority. Instead, reliance is placed on the Commerce Act (1986) which is the general competition law in New Zealand.

- Foreign suppliers can participate in the supply of basic telecommunications in all sub-sectors and categories;
- There are no basic telecommunications sub-sectors or categories which are reserved to supply by monopoly or exclusive suppliers;

- There are no restrictions on the introduction of new telecommunications services;
- There are no requirements regarding cost-accounting. Prices are determined by supply and demand by way of normal commercial negotiation and are subject to the requirements of the Commerce Act.

### ***Broadcasting***

Regulatory barriers to competition have been removed in broadcasting. Two national radio networks and two television channels are provided by State-Owned Enterprises, Radio New Zealand Limited and Television New Zealand Limited; and there are numerous private radio stations, a private national television channel, several regional channels and a paid subscriber five-channel broadcast service.

There are no restrictions on foreign ownership of broadcast media or on cross-media ownership.

### ***Energy***

The Government's key objective in the energy area is to ensure that energy services continue to be available at the lowest cost to the economy through properly functioning commercial systems with competitive incentives and are consistent with sustainable development and take energy conservation into account.

Reform in the New Zealand energy sector has been on-going since 1987. Specific measures implemented during the past year include:

- Completion of corporatization of local electricity distribution authorities (now limited liability companies with clear commercial objectives);
- Local electricity distribution franchise areas for customers using more than 0.5 GWh per year abolished;
- Information disclosure requirements for the electricity companies implemented;
- The national grid is now owned by an independent State Owned Enterprise company, Trans Power New Zealand Ltd.

### ***Postal Services***

New Zealand's postal services are very open to competition by international standards. The Government has announced its intention to introduce legislation to remove the remaining postal service monopoly.

## ***Transport***

In the past ten years most legislative barriers to competition in the transport sector have been removed:

### **- *Aviation***

New Zealand's domestic air services policy has no restrictions on entry or operation other than safety requirements. New Zealand has a policy of negotiating liberal bilateral air service agreements, provided that the negotiating partner is willing to reciprocate. Legislation was changed in 1994 to allow New Zealand to offer cabotage rights to other countries in future air services negotiations.

Air New Zealand, New Zealand's designated international carrier, was privatized in 1989.

### **- *Shipping***

Legislation corporatizing and permitting privatization of New Zealand ports was passed in 1989. Since the reforms of the port industry, ship turn-around times have been halved and freight rates have fallen as a result of increased competition and productivity improvements. In November 1994, legislation permitting foreign vessels to compete in New Zealand's coastal trade was passed and is expected to increase competition in transport services and further reduce costs.

### **- *Road***

Road area mileage limits on long-haul road transport have been removed allowing direct competition with long-distance rail and coastal shipping services.

### **- *Rail (and the Interisland Road / Rail Ferry Links)***

While the Crown retains ownership of the railbed land, the rolling stock and services of NZ Rail Ltd and the "Interislander" road / rail ferry services were privatized in 1993.

## ***Labor Market Reform***

The Employment Contracts Act (ECA) passed in 1991 legislated for the comprehensive deregulation of the labor market. The ECA allows employers and employees to determine the terms of employment within the constraints set by contract law and minimum standards. Union membership is voluntary,

and employees can choose whether to negotiate their contracts individually or collectively. This framework is enforced by a specialist labor tribunal and court.

### ***Government Sector Reform***

Extensive reforms of the public sector have been implemented since 1986 to improve accountability and management and to provide the framework for more efficient monitoring and operation of fiscal policy. The principle mechanisms for this have been: a clear distinction between the Crown's purchase and ownership interests; clear performance measures for government departments; corporatization of state owned trading enterprises along commercial lines; alignment of public and private sector accounting principles and increased disclosure of financial information.

The Fiscal Responsibility Act 1994 sets out the principles of responsible fiscal management. The Act requires the Government to outline explicitly both its long-term fiscal objectives and its short-term fiscal intentions and to benchmark those against the principles of responsible fiscal management laid down in the Act. The Act also requires regular, high-quality financial reporting using Generally Accepted Accounting Practices.

### ***Immigration Policy***

In 1991, New Zealand introduced a points based system for the General Category which targets immigrants with human capital skills. A separate Business Investment Category requires the investment of legally obtained business funds in New Zealand in either direct or portfolio investments. Both the Business and General Immigration Categories are currently under review.

New Zealand has visa-free visitor arrangements with 34 countries, including ten of the APEC member economies.

## **3. Measures On Investment**

New Zealand welcomes foreign investment, and regulations governing foreign investment are liberal by international standards. There is no restriction on the maximum level of equity interest that a foreign investor may take in a New Zealand enterprise, except in fishing quotas and, in compliance with international aviation conventions, Air New Zealand.

An application to the Overseas Investment Commission (OIC) must be made for non-residents to establish a business, or to purchase an equity share of greater than 25% or NZ\$10 million, in an asset. It is exceptional for an investment application to be declined. OIC approval is also required for investment in land over five hectares, islands, the foreshore or reserves. All applications for investment in New Zealand are considered for approval on a MFN basis. Once approval has been granted, investments receive National Treatment under New Zealand laws and regulations. The government has

introduced legislation to simplify existing requirements for notification and approval of investment in 1995.

There are no restrictions on movements of funds in or out of the country, or on repatriation of profits.

Significant changes have been made to the tax treatment of investment income over the last ten years. The company tax base was made substantially more comprehensive, and company tax rates were reduced to 33%. Reforms to the international tax regime have been aimed at taxing New Zealanders on their worldwide income (with a credit for foreign taxes) and reducing taxes on non-residents, where doing so reduces the domestic cost of capital without risking serious erosion of the New Zealand tax base.

Foreigners investing in a New Zealand company (including a foreign-owned subsidiary) are taxed at a 33% rate on accrued income. The Government has recently released for discussion, proposals to tax distributed income at 33%, and to introduce a new transfer pricing regime to protect the tax base.

No performance measures relating to export or trade performance are imposed on investments made in New Zealand.

#### **4. Other Measures**

##### **4.1 Making Markets Work Better**

###### ***Competition Policy***

The business policy environment in New Zealand relies upon market mechanisms rather than direct regulation of business activity.

The Commerce Act 1986 prohibits conduct that restricts competition, including takeovers and mergers that create or strengthen a dominant position in a market. The Commerce Act applies to virtually all business activity in New Zealand, including that carried out by the Government and the professions. The only conduct which has been exempted from the Act is conduct which is specifically permitted by other legislation. Exemptions of this kind are rare. There are no exemptions for entire industries or sectors of the economy.

###### ***Consumer Information/Fair Trading Act***

The Fair Trading Act was enacted to promote competition and protect both consumers and traders from the behavior of unscrupulous traders by prohibiting misleading and deceptive conduct and false representations about the provision of goods and services. Consistent with the Government's approach to market regulation and recognizing the role of informed and discriminating consumer choice in stimulating innovation and competition, the Act, along with the

Consumer Guarantees Act 1993, provides generic protection to consumers and reduces the need for industry-specific regulation.

### ***Privatization And Corporatization***

An integral part of New Zealand's reform strategy since 1986 has been the corporatization and privatization of many former Government enterprises. Since 1987, 24 former State-Owned-Enterprises have been corporatized and privatized, and further plans to divest assets were announced in the Government's 1994 Budget. The principal aim of the reforms is to improve the efficiency and accountability of the enterprises and reduce the Government's exposure to business risk.

### ***Producer Boards***

New Zealand has five major producer marketing boards with power to control export and marketing of dairy products, wool, meat, kiwifruit, and apples and pears. Three of the boards currently exercise these powers.

The government is reviewing the residual powers of the other two boards (meat and wool). The aim of the review is to amend legislation governing these boards to be more in line with present market conditions and industry needs. A related objective is to allow better access to investment opportunities.

### ***Intellectual Property Rights (IPRs)***

New Zealand is a member of the two principal international conventions protecting intellectual property - the Paris and Berne Conventions. For the full range of intellectual property rights, protection is provided by way of the Patents Act 1953, the Designs Act 1953, the Trade Marks Act 1953, the Plant Variety Rights Act 1987, the Copyright Act 1994 and the Fair Trading Act 1986.

New Zealand also has well-defined laws relating to trade secrets and passing-off which has been developed through case law by the courts. Intellectual property rights are enforced mostly by private individuals through the courts. Enforcement has regularly and successfully taken place.

New Zealand has been carrying out a review of its industrial property rights law (patents, designs, and trade marks) to ensure that these laws are appropriate for New Zealand businesses in the 1990s and beyond.

The principal initiatives during 1994 were:

- Enactment of a new Copyright Act 1994 which meets New Zealand's GATT Uruguay Round obligations and modernizes the entire statutes;
- Passage of legislation to meet GATT Uruguay Round obligations in relation to laws of other than Copyright (principally patents and trade marks);
- Passing of the Geographical Indications Act (1994), which provides for the protection of geographical descriptions of product origin. (In order for a product to be covered by the Act, it must be first listed by an Order-in-Council).

## **4.2 Measures On Other Regulatory Regimes**

### ***Exchange Control***

The New Zealand dollar (known internationally as the "Kiwi") has floated freely since March 1985. There has been no direct intervention in the foreign exchange market to influence the value of the dollar since the exchange rate was floated. There are no controls on foreign exchange transactions.

### ***Monetary Policy***

The Reserve Bank Act 1989 formalized the independence of the Reserve Bank from government and established "price stability" as the sole objective of monetary policy. Price stability is defined as maintaining underlying inflation within a target range of 0 - 2%. New Zealand's inflation rate has remained within this range since 1991.

### ***Standards And Conformance***

New Zealand has a policy of only applying mandatory standards and conformance measures where these are necessary to protect health safety and the environment. This policy is consistent with the WTO TBT Code, of which New Zealand is a signatory, and is founded on the principle of international best practice, i.e. minimum level of regulation, non-prescriptive standards, international standards and acceptance of testing and certification by competent bodies located in other markets.

New Zealand has, over the past year, progressed negotiations with Australia on a mutual recognition agreement in respect of goods and occupations. It is proposed that the agreement will allow goods that are legally able to be sold in one jurisdiction to be sold in the other jurisdiction without the need to comply with any additional requirements of the latter jurisdiction. It will also allow a person

registered to practice an occupation in one jurisdiction to carry out an equivalent occupation in the other jurisdiction.

New Zealand is also negotiating a mutual recognition agreement with the European Union on conformity assessment. Under the agreement the EU and NZ will grant mutual acceptance, in designated sectors, of reports, certificates and marks of conformity drawn up and issued by competent bodies in NZ and the EU.

### ***Government Procurement***

New Zealand maintains no preferences for government procurement. Government purchasing policy is based on the principle of best value for money through open and effective competition, including full and fair opportunity for domestic suppliers. Government purchasing decisions are seen as essentially no different from any other corporate or private purchasing decision taking place in an open, deregulated and competitive marketplace. An Industrial Supplies Office was established in 1991 to facilitate efficient information flows about domestic industry capabilities.

New Zealand was not a member of the 1979 GATT Government Procurement Code. Nor did it participate in the negotiation on the new limited plurilateral agreement within the WTO on Government Purchasing. New Zealand's assessment was that the potential gains from membership were insufficient to outweigh the associated administrative costs. Certain sectoral restrictions and other requirements limit the applicability of the code and could require administrative procedures which would be more onerous than New Zealand's existing regime.

Consistent with the ANZCERTA, New Zealand has signed the Australian Government Procurement Agreement. New Zealand enjoys national treatment in access to Australian Commonwealth and State Government purchasing markets and has undertaken to continue its current policy of not applying a preference margin to any purchasers.

## **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **3.1 Measures On Merchandise Trade**

#### **3.1.1 Tariff Measures**

New Zealand's Uruguay Round tariff offer reflected New Zealand's 1988-1992 program of unilateral tariff reductions. New Zealand has therefore not been required to adjust its existing tariffs or planned tariffs to implement its UR commitments. The sole exception is New



Zealand's participation in the zero-for-zero arrangement for pharmaceuticals, which has required tariff reductions to be accelerated to meet the date of 1 July 1997 for the removal of duty. The final procedural steps for implementing this requirement are currently being taken.

With the exception of used motor vehicles and used clothing and footwear, New Zealand has bound 100% of its tariffs, up from 58% in the pre-Uruguay Round period. The trade-weighted average bound tariff rate for agricultural products, pre-Uruguay Round, was 17.8%; and post-Uruguay Round, 7.1%, a 60% reduction. New Zealand maintains no tariff quotas for agricultural products and therefore was not required to establish minimum or current access opportunities. For industrial products, the trade-weighted average bound tariff rate, pre-Uruguay Round, was 24.2%; and 11.9% post-Uruguay Round, a 52% reduction. In practice, New Zealand's applied tariff rates are significantly lower than its bound rates, as explained in Section II (1).

### **3.1.2 Administrative And Other Measures**

New Zealand's Uruguay Round implementing legislation contained the necessary amendments to bring existing legislation and regulations on SPS, TBT, ROO, Subsidies and Countervailing measures and Safeguards into conformity with the UR agreements.

## **3.2 Measures On Services Trade**

New Zealand has made specific commitments under the GATS in the following sectors:

- Professional services: accountancy, architecture, engineering, legal, tax preparation and veterinary services;
- Business services: advertising, building cleaning services, computer and related services, real estate services, rental and leasing of equipment, services incidental to agriculture, forestry and hunting, and translation services;
- Communications services: audio-visual services, value-added telecommunications:
  - Construction and related engineering services;
  - Distribution services: commission agents' services, retail and wholesale trade.
- Education services: private education at primary, secondary and tertiary levels;

- Financial services: banking, insurance and securities services;
- Tourism services: hotels and restaurants, travel agencies, tour guides and tour operators services;
- Transport services: aviation soft rights, maritime, pipeline, rail and road transport.

### **3.3 Measures On Investment**

New Zealand's Uruguay Round implementing legislation contained the necessary amendments to implement the Trade-related Investment Measures Agreement.

### **3.4 Other Measures**

New Zealand's Uruguay Round implementing legislation contained the necessary amendments to bring existing legislation and regulations on TRIPs and anti-dumping into conformity with the UR agreements. New Zealand is not a signatory to the Agreement on Government Procurement.

## **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

### ***Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA)***

ANZCERTA is now a mature free trade arrangement. All goods that meet local content requirements are now duty free, there are no quantitative restrictions and no obligations to maintain preferences in favor of either partner. It is comprehensive in coverage, including all goods, and now extends to all services other than those for which there is an explicit reservation. ANZCERTA was the first FTA to include services, and there is a commitment to review those sectors currently excluded so that they can be included in the agreement at the earliest possible opportunity.

ANZCERTA is supported by an extensive network of memoranda of understandings on business law, harmonization and cooperation on standards, and government procurement. While ANZCERTA is not a customs union, (each partner remains responsible for its own independent trade policy in relation to non-members) there is cooperation on customs procedures.

### ***South Pacific Regional Trade And Economic Cooperation Agreement (SPARTECA)***

SPARTECA (the South Pacific Regional Trade and Economic Cooperation Agreement) is a non-reciprocal trade agreement under which New Zealand and Australia offer duty free and unrestricted or concessional access for virtually all

products originating from the developing countries of the South Pacific. Amendments to Rules of Origin requirements have recently been introduced to enable countries to better exploit the opportunities which SPARTECA presents. But there is recognition in the region that under New Zealand's overall trade policy of reducing tariffs, the preferential benefits of SPARTECA will reduce each year.

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

**VI. FUTURE DIRECTION**

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

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## SUMMARY OF RECENT STRUCTURAL REFORMS

### International Capital Controls

- 1984 Removal of controls on outward investment and borrowing.  
 1985-89 Free entry of foreign direct investment (subject to approval by the Overseas Investment Commission, and except in specified classes of land, fishing and Air New Zealand).

### Exchange Rate

- 1984 Deregulation of foreign exchange trading.  
 1985 Free float of currency on foreign exchange markets without direct control.

### Monetary Policy

- 1989 Independence of Reserve Bank from government, formalized through the Reserve Bank Act.  
 1989 The Reserve Bank is given the sole objective of achieving and maintaining price stability (0 to 2% annual increase) by 1992/93.  
 1992 Having achieved price stability, the Reserve Bank is charged with maintaining a stable general level of prices (0 to 2% annual increase).

### Finance

- 1984 Abolition of credit growth guidelines.  
 1984 Removal of interest rate controls.  
 1984 Abolition of export credit guarantees.  
 1984-88 Removal of price freeze regulations (1984) and gradual removal of price control.  
 1985-87 Removal of many requirements on financial service providers (such as trustee banks, building societies, finance houses, stockbrokers).  
 1985-86 Removal of quantity restrictions and other entry barriers to banking.  
 1985 End of most formal financial controls (New Zealand continues to comply with Basle Convention Requirements).  
 1985 Removal of ownership restrictions on financial institutions.

## **Commerce**

- 1984-2000 Tariff reform policy was tied into the Government's economic reform program. Three major tariff reduction programs announced / implemented.
- 1986 Commerce Act enacted to increase the competitiveness and efficiency of the economy.
- 1986 Fair Trading Act enacted to promote competition, protect consumers and traders and reduce the need for industry specific regulation.
- 1987-88 Removal of import licencing for majority of products.
- 1991 Resource Management Act enacted to provide for the sustainable management of natural and physical resources. The Act does not discriminate between domestic and foreign investors requiring environmental resource consents.
- 1992 Removal of import licensing on the final residual product (clothing).

## **Telecommunications**

- 1987 Ownership of telecommunications acquired by Telecom Corporation of New Zealand Ltd (a state-owned enterprise) from the Post Office (a state monopoly).
- 1989 All telecommunications markets in New Zealand opened to competition. Competitors not provided with statutory rights for interconnection into the Public Service Telecommunications Network and terms of access left to negotiation and market forces, subject to section 36 of the Commerce Act 1986.
- 1990 Government sells all its shares in Telecom save one (the "Kiwi Share") to privately-owned-interests.

## **Transport**

- 1982-91 Corporatization of state rail, air and bus services and air traffic control.
- 1983-86 Removal of restrictions on road and rail carriage.
- 1986 End of quantity licencing of trucking and domestic air services.
- 1987 Opening up of domestic aviation industry to competition.
- 1988 Corporatization of ports. Privatization of Air New Zealand and removal of limits to foreign ownership of domestic air services.
- 1989 Granting of several landing and on-flying rights to foreign airlines in New Zealand.
- 1989 Deregulation of stevedoring industry.
- 1989-91 Deregulation of taxi and other land passenger transport services.
- 1992 Agreement with Australia providing for the establishment of a single aviation market.
- 1994 Foreign vessels permitted to compete in New Zealand coastal trade.
- 1995 Review of airport regulation.

## **Labor Market**

- 1983 Introduction of voluntary unionism.
- 1984 More market based bargaining under Industrial Relations Act Amendments, Compulsory unionism re-instituted.
- 1987 Some contestability in union coverage under Labor Relations Act.
- 1991 Extensive reform through Employment Contract Act (voluntary unionism, contestable unions of any size, flexibility in employer / employee bargaining at joint or individual level).

## **Taxation**

- 1986 “Goods and Services Tax” (currently 12.5%) on virtually all final domestic consumption.
- 1988 Flattening and lowering of personal income tax rates.
- 1986-91 Removal of most other indirect taxes.
- 1987 Removal of tax concessions for savings.
- 1992-5 Review of the International Tax Regime.

## **State Trading Operations**

- 1986 State Owned Enterprise Act established government trading agencies, limited liability companies run on private sector lines. This involved corporatization of 24 state-owned enterprises (in transport, finance, tourism, forestry, broadcasting, utilities and service industries).
- 1989-95 Privatization of Air New Zealand, Bank of New Zealand, Petroleum Corporation, Rural Bank, Government Life, Post Bank, Talcum Corporation, New Zealand Rail, and other assets, notably forestry cutting rights.
- 1990-91 Local authorities required to corporatize Local Authority Trading Enterprises and tender out services.

## **Key Public Sector Reforms**

- 1988 State Sector Act abolished the concept of “permanent heads” in Government departments, and established the procedure of employing Chief Executives on five year performance-based contracts. The Act clarifies the accountability of chief executives to their Ministers for the performance of their departments. It also devolved responsibility for management including hiring, firing and rewarding personnel to Chief Executives.
- 1989 The Public Finance Act changed the basis of parliamentary appropriation and control from cash for inputs to the full accrual cost of the goods and services the Government purchases from departments, Crown entities and third parties. It prescribes the information required at the start of each financial year to establish clearly the expected service and financial performance of each

department and Crown entity, and the reporting required at the end of each year to assess whether the expected performance has been achieved. This reporting includes full accrual financial statements prepared in accordance with generally-accepted accounting practice for the Government as a whole, for each department, and for each Crown entity.

1989 The Reserve Bank Act formalized the independence of the Reserve Bank from government, and established “price stability” as the sole objective of monetary policy. Price stability is defined in the Policy Targets Agreement between the Minister of Finance and the Governor of the Reserve Bank.

1994 The Fiscal Responsibility Act requires regular disclosure, including at the time of a general election, of the Government’s fiscal position and fiscal forecasts for the next three years. It establishes a set of principles of responsible fiscal management against which the Government’s fiscal strategy and performance can be assessed. It also requires a Budget Policy Statement to be published three months before each year’s Budget, setting out the Government’s strategic priorities, its longer term fiscal objectives and its fiscal intentions for each of the next three years.

### **Other Key Reforms**

1989 Reform of educational administration, in particular, devolution of decision-making to boards of trustees with respect to day-to-day operations and direction of schools.

1993 Separation of funding from provision of state health services, and establishment of Regional Health Authorities that purchase health services from Crown Health Enterprises, and other health care providers.

Until the early 1980s, New Zealand's import policy was characterized by the extensive use of high tariffs, import licensing and quotas. As a result, New Zealand had one of the highest levels of effective protection in the OECD. By 1979, the Government had come to regard high import barriers as impediments to growth. A moderate but systematic program of import liberalization began with several key industries, subject to Government-approved Industry Plans being treated separately. The reduction of industry assistance has occurred in a phased manner, with certain key dates and events:

### **Pre-1980**

High levels of industry protection, including tariffs and import licensing and some bounties. Export subsidies were also common.

### **1980 - 1984**

Import licensing reform began in earnest, particularly affecting key industries subject to Government-approved "Industry Plans" with relatively high tariffs. General economic reform did not get under way in this period.

### **1985 - 1987**

The 1984-90 Labor Government tied tariff policy to its economic reform package and directed its attention towards the progressive lowering of levels of assistance for all parts of the exporting and import-competing sectors, making assistance levels more even. In 1985, a policy was implemented to provide duty free entry to goods with locally-made equivalents. Also, non "industry plan" goods, with tariffs over 25%, were reduced by set percentages of the existing rates on 1 July 1986 and 1 July 1987.

### **1988 - 1992**

In December 1987, the Government announced a Swiss Formula tariff reduction program (coefficient 175) which operated from 1 July 1988 to 1 July 1992. Main features:

- General rates halved on most manufactured products;
- A five-step reduction plan;
- Biggest cuts early on;
- Higher tariff undergo the highest reductions.



Industry plan tariffs were meshed into the general reduction policy after the expiry of plans (e.g. rubber and plastics). The major plans, however (especially textiles, clothing, footwear, carpets and motor vehicles), followed individual reduction programs. These industries tended to have higher levels of protection, and it was felt they needed more time to adjust.

### **1993 - 1996**

In September 1991, the Government announced the tariff reduction program for 1 July 1993 to 1 July 1996. Over this period, most tariffs will gradually reduce by one-third, with the largest cuts occurring at the end of the cycle (of the 1988-92 program). Some goods (textiles, apparel, tyres, footwear, motor vehicles and components and carpets) are not yet part of the general program but are subject to individual reduction programs; however, the principal policy remains: generalized reductions and a leveling out of the variations in the tariff profile.

For the past seven years, annual across-the-board tariff reductions have been the norm. The policy of reducing tariffs has been undertaken to improve New Zealand's efficiency and international competitiveness rather than as a response to international pressure.

<b>SIGNIFICANCE OF DUTY-FREE TARIFF ITEMS (AS AT 1 JULY 1995)</b>	
Total	7,392 tariff items, of which:
Duty Free	3,528 (49.7%)
5%	246 (3.4%)
5.5 - 10%	1,067 (15.0%)
10.5 - 15%	1,491 (20.9%)
16 - 20%	105 (1.4%)
21 - 25%	124 (1.7%)
26 - 30%	308 (4.3%)
Specifics	489 (6.8%)
Parts	34 (0.5%)

#### NEW ZEALAND TARIFF PHASINGS 1988-2000

Details for a selection of "Normal" (MFN) tariff rates are set out below:

Products	1 July 1987 (prior to general tariff reductions)	1 July 1992	1 July 1996	1 July 2000
Apparel	65	40	30	15
	40	40	30	15
Textiles				
knitted fabric	30	25	20	10
woven fabric	30	25.5	20	10
twine and cordage (other than baler twine)	35	35	20	10
yarns	25	16.5	13	5
Footwear (adults)	43	45	30	15
Cars	55	35	25	15
Motor vehicle components (aftermarket)	20 - 40	20	12.5	10
Tyres (aftermarket)	25	22.5	15	10
Carpet	40	32	23	15
Rubber	40	25.5	14	5
Clothing accessories of leather	34	21	14	5
Ceramics	20	18	12	5
Electrical machinery	35	19.5	13	5
Certain plastics	23.5	12	8	5
Steel	10	10	7	5
Food Preparations	10	7.5	5	5
Whiteware (e.g. refrigerators)	34	17	11.5	5

**PAPUA NEW GUINEA**

## **I. BACKGROUND INFORMATION**

Papua New Guinea is a small open economy dictated by developments occurring in the global scene. Its domestic environment is characterized by rugged terrain and isolated regions, and, therefore, proves costly to maintain the existing economic, social and infrastructural services.

Since independence in 1975, it had pursued a stability-oriented policy framework to achieve economic growth, stable monetary policy, low rate of inflation, sustainable level of debt servicing and maintenance of international reserves.

In designing its macro-economic policies in the 1990s, to counteract the economic crisis it was facing, more emphasis has been placed on the need to promote investment in the non-mining sector to achieve sustainable economic growth. A structural adjustment program was put in place to improve efficiency in resource allocation and to expand the productivity capacity of the economy.

Deregulation and liberalization initiatives were put in place ahead of the timeframe set within the charter of the WTO and APEC.

The Papua New Guinea economy now pursues more liberal trade and investment policies aimed at achieving broad based sustainable economic growth in all sectors.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

Trade and tariff policy remains an area where important reforms will be pursued over time. It is a complex area for reform due to conflicting pressures, particularly those relating to revenue raising and demands from various interest groups for different levels of effective protection.

The main policy directions being pursued by the Government over the medium term are:

- Maintain the general import levy at 11% as the basic rate (with very few exceptions), at least pending introduction of a more broadly based national sales or value added tax;

- Reductions in duties to the basic 11% level on a large number of business inputs;
- Continued emphasis on availability of the drawback facility, effectively exempting exporters from paying import duties on their imported business inputs;
- Maintaining the standard protection rate at 40% and limiting its availability to viable infant industries which can compete over time;
- Moving completely away from non-tariff forms of protection (such as quotas or import bans) with general replacement of bans with the 40% protect tariff level. Most products under ban are to be changed immediately, while those subject to legal restrictions will be phased in as soon as legal circumstances permit;
- Maintaining the luxury rate of protection at 55% for most products;
- Moving the standard rates of 11%, 40% and 55% downwards as circumstances permit, particularly in conjunction with introduction of a more broadly based taxation system through implementation of a national sales or value added tax.

## **1.2 Non-Tariff Measures**

The Government has also recently taken important decisions with regard to both domestic and external trading policies.

In respect to external trade, the following decisions have been taken:

- All existing trade bans are to be immediately replaced with tariffs, generally at the current protective rate of 40%. In a small number of cases, where previous Governments have legally committed the State to maintain bans, all avenues will be pursued to have bans replaced by tariffs at the earliest opportunity;
- Import duties have been reduced on a number of food and building products to meet trade liberalization objectives;
- An implementation study relating to tariff and tax reforms is to occur in 1995, with the benefit of technical assistance from the World Bank and IMF. The aim will be to rationalize the tariff structure in conjunction with the broadening of the tax base and the introduction of a national indirect tax. The study will focus on reducing the indirect tax burden on business inputs, especially for efficient business operation in the traded goods sector. It will also chart a course, consistent with sustaining the revenue base, which gradually, but significantly, reduces all the major tariff brackets over time.

### **1.3 Administrative Measures**

#### ***Customs Procedures***

The Government realizes that an important aspect of the work of Customs is to ensure the smooth movement of goods. Therefore, there is a strong commitment to improve trade facilitation.

A number of initiatives have already been taken, or will soon be taken, to improve trade facilitation. Among these are the following:

- The Harmonized System, used for tariff classification, is being updated to incorporate the 1996 changes;
- Increased efforts are being directed towards making information on Customs laws and regulations, procedures and rulings, and other administrative guidelines available to the public;
- The Customs procedures have already been computerized through the introduction of the ASYCUDA. This system needs to be upgraded and further efforts are being redirected to strengthening computerization aspects. The computerization of Customs procedures will facilitate Electronic Data Interchange in the APEC regions;
- WTO valuation principles are being followed for the valuation of goods - therefore, both valuation and classification is in line with international practice.

#### ***Standards And Conformance***

In the area of technical barriers to trade (TBT), the PNG National Institute of Standards and Industrial Technology has extensive cooperation with other similar regional institutions to facilitate accreditation on conformance and quality control, including packaging to reduce the free flow of goods and services. It adopts International Standards (ISO) to conform with most of its export market requirements.

### **2. Measures On Services Trade**

#### ***Transportation***

As part of its restructuring policy directives, the government approved institutional reforms in the transportation public sector. Department of Transport (DOT) has been charged with the responsibility to coordinate all

transport policies (land, sea and air) in Papua New Guinea. DOT is currently working on its operational structure.

### ***Telecommunications***

The Government's priority continues to include rural Telecommunications infrastructure development. PNG will aim to improve and expand services to all areas, particularly to the rural population, support funding of rural projects, support human resource management and address some level of private sector investment in the Telecommunications Industry progressively. Some major projects currently in place include:

- A cost and tariff study by the International Telecommunications Union (ITU) to review all Telecommunications Service tariff;
- An extensive Domestic Satellite Project using the International Telecommunication Satellite Organization (INTELSAT);
- A mobile telephone service to be launched towards the end of 1995;
- Modernization (Digitalization) of the Telecommunications Network before the year 2000;
- Establishment of the INTERNET service before the second quarter of 1996. Currently, four companies have been short-listed to work with Telikom on this project.

### ***Energy***

The Government has passed a resolution requesting all State-Owned Enterprises (SOE) to investigate and consider privatizing all or certain commercial activities of the organizations. The energy sector, in particular the electricity supply industry, is to be considered by Government and an official policy on privatization will be issued in the near future. While this policy is under consideration, the Government has, on an ad hoc basis, allowed for privatization of certain sectors of the electricity supply industry by way of Build, Own and Operate (BOO) in order to reduce the financial burden of the SOE.

The BOO scheme, currently being pursued by the SOE with private companies, will involve the execution of a Power Purchase Agreement (PPA) for the supply of electricity to the national grid. Under the proposed BOO arrangement, the private supplier will be responsible for financing, construction and operation of a power station. The first BOO arrangement is expected by 1998.

## **3. Measures On Investment**

The Government recognizes the importance of introducing policies specifically aimed at improving the competitiveness, profitability and growth of the private sector (excluding mining and petroleum).

Policies aim to provide a conducive investment environment within which domestic savings can be mobilized and to which foreign investment can be attracted. Key elements of policies being pursued by the Government are as follows:

- A responsible medium-term fiscal strategy which provides for increased public investment through increased expenditure allocations to physical infrastructure, maintenance of assets, law and order, health and education;
- An attractive taxation regime and low or zero tariffs on business inputs with significant reforms to proceed in 1995 with regard to domestic and external trade policies;
- A monetary policy stance which targets appropriate private sector credit growth and pursues internationally competitive interest rates; further liberalization of already liberal exchange control regulations, to facilitate capital flows and the achievement of a less regulated investment regime;
- Continued pursuit of the start up of a Stock Exchange;
- Financial sector policy reforms, including encouragement of new investment vehicles such as new funds and unit trusts; activation of the Government securities market and trading in other financial instruments;
- By stepping up the momentum of privatization, the new Government wishes to create room for private business to operate in key areas of the economy, previously the domain of State-owned enterprises.

In its effort to generate broadly based economic growth, the Government continues to try and attract foreign investment in all sectors of the economy. At the same time, measures to increase national savings and domestic business are being vigorously pursued.

To assist in the promotion of foreign investment, the Government has proceeded to phase out the reserve list of business available solely for Papua New Guineans. Increased access to capital, skills and competition will be of benefit to consumers and potential employees.

A major obstacle to domestic investment has been the lack of equity or venture capital available to underpin the demand for credit. This has led to highly geared capital structures which are difficult to finance during times of economic recession. The Government recognizes the imperative of developing domestic sources of equity capital and thus attaches high priority to the development of a Stock Exchange and securities market.



## 4. Other Measures

### 4.1 Making Markets Work Better

Some of the major policy initiatives pursued by PNG government in relation to APEC action plan to make market system work better.

It intends to enact legislations on Competition Policy and intellectual Property Rights within the next two years.

#### *Competition And Efficient Policy*

Introducing an effective National Competition Policy will increase the transparency of the pricing practices of public monopolies and provide a more systematic basis for achieving reform in sectors such as agricultural production and marketing.

The synopsis of the program is as follows:

- General application of trade practices legislation, including all government and corporate business;
- A systematic process for review and reform for regulatory restrictions on completion, with any such restrictions measured against a public interest;
- A legally based regime for providing access to essential facilities that cannot be duplicated economically;
- A national price oversight mechanism for markets or firms where competition is deficient;
- Pro-competitive principles to be adopted where public monopolies are corporatized or privatized;
- Competitive neutrality between public and private business.

#### *Intellectual Property Rights (IPR)*

Papua New Guinea has not enacted intellectual Property Rights Laws but proposes to seek membership into WIPO in 1996, which will pave the way for the introduction of respective legislation such as Copy Rights, etc.

#### *Privatization*

The Government of Papua New Guinea approved the privatization policy in 1994 to corporatize public cooperations as well as sell off state equity in various investments. The privatization program is partly subject to the establishment of the proposed Papua New Guinea Stock Exchange, to allow wider participation from residents towards the acquiring of shares.

#### **4.2 Measures On Other Regulatory Regimes**

The following programs have been initiated to review and deregulate existing business practices and regulations:

- Enactment of Trade Practices Act/Anti-trust legislation;
- Review and Reform of existing Business Practices and Regulations;
- Liberalization of entry into a market;
- Removing barriers to new entry to a market as a whole;
- Removal of controls that inhibit the use of market powers;
- Removal of regulations which govern the nature of the product and the terms under which it is produced.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

Papua New Guinea was formally admitted as a contracting party to the GATT on 16 December 1994. Subsequently, it sought membership to WTO in early 1995. In doing so, Papua New Guinea submitted schedules of commitments in these areas:

- Commitments on binding levels on tariffs for agricultural goods;
- Binding levels on tariffs for other (industrial) goods;
- Commitments on market access on services.

Papua New Guinea has offered a 45% ceiling binding with the following major exceptions on the agricultural goods:

- That agricultural commodities of wheat, beef, sheep and rice be set at a 45% bound rate, to be reduced over a period of ten years to 20% by the year 2004;
- As regards sugar, a commitment was made to a 175% bound rate, to be reduced to 75% by the year 2008;

- For fruits and vegetables, a commitment was made to a 150% bound rate, to be reduced to 75% by the year 2004;
- Apart from that, commitments were also made to bind tariff rates at 11% on items that were not of sensitive nature, and 55% to 100% on items which have some degree of sensitivity.

On the commitments offered on other products (industry), Papua New Guinea offered:

- A ceiling binding of 40%, to be reduced to 30% over a ten year period, with a two year grace period; and reductions starting from 1997, for ten years, on all products except those on the exception list;
- On the exception list, Papua New Guinea offered 11% and 75% to 150% on items of sensitive nature. These include items such as cement which will have a bound rate of 150%, to be phased down to 90% by the year 2004, for forestry products.

As regards the services sector, Papua New Guinea made a commitment in the following areas:

- Legal services;
- Accounting, auditing and bookkeeping services;
- Architectural services;
- Engineering services;
- Consultancy services relating to installation of computer hardware management consultancy services;
- Courier services;
- Banking and other financial services, excluding insurance;
- Hotel and restaurant services;
- Maritime and transport services;
- Freight transportation services.

#### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

Papua New Guinea is a member of various regional and sub-regional international trading arrangements which include the EU LOME convention, the Generalize

System of Preferences (GSP), etc. However, Papua New Guinea is a beneficiary rather than a cooperating member and, as such, at this stage does not offer much in terms of regional and sub-regional cooperation in tariff reduction, etc.

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

Over the years, Papua New Guinea has adopted non-tariff barriers to trade, on a case by case basis, to stimulate local production of desired goods and services in a market failure situation which had created more costs than expected benefits to the economy.

With the current market-oriented strategies pursued, the overall efficiency of the private sector, in a competitive environment, is likely to increase new business activities and income opportunities, while creating employment and contributing to the GDP growth.

**VI. FUTURE DIRECTION**

In support of the macroeconomic measures taken to stabilize the economy in the short-term, the Government also saw the need for further medium-term structural changes to improve the efficiency of the economy. These changes were, to a large degree, in response to the significant global changes that have affected the volume of both international trade and capital movements. These changes have been most impressive in the Asia-Pacific region. For Papua New Guinea to benefit from these changes, there was need to make major structural changes for the country to become a significant recipient of foreign investment and capital and to remain an important trading partner with its regional neighbors.

These structural reforms will enhance Papua New Guinea's competitiveness and restore business confidence, and thus bring about a recovery in private investment. As a first formal step, Papua New Guinea became a member of GATT in December 1994. This was subsequently followed by application for membership to the WTO.

The above structural changes will ensure Papua New Guinea's commitment to the Bogor Declaration's vision statement and will continue to reduce barriers to trade and investment to enable goods, services and capital to flow freely among our economies.

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

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**PAPUA NEW GUINEA**  
**INDIVIDUAL INITIAL ACTIONS**

**1. TARIFF MEASURES**

- Date of Measure - 7 March 1995
- Outline of Measure - Maintain General Import Levy at 11%; reduction of duties on products to basic 11%; maintaining standard industry assistance rate of 40%; maintaining 55% revenue rate and moving the standard rates of 11%, 40%, 55% downwards as circumstances permit.

**2. NON-TARIFF MEASURES**

- Date of Measure - 7 March 1995
- Outline of Measure - Removal of all existing trade bans, licenses and quotas. Implementation Study to Tariff Reform focusing on broadening of the tax base.

**3. MEASURES ON SERVICES**

- Date of Measure - 1995
- Outline of Measure - Development of Telecommunication Infrastructure. Privatization of Energy Sector, Institutional Reforms Transportation Sector.

**4. MEASURES ON INVESTMENT**

- Date of Measure - 7 March 1995
- Outline of Measure - Deregulation of Investment Regimes.

**5. OTHER MEASURES**

- Date of Measure - 7 March 1995
- Outline of Measure - Introducing a effective National Competition Policy to increase transparency, assessing possibilities for introduction of International Property Rights, Privatization of State Own Cooperations.

**6. MEASURES TO GATT / WTO**

- Date of Measure - 31 May 1995
- Outline of Measure - Membership to GATT on 16 December 1994. Application for membership to WTO. Schedules of commitment on Tariff Levels on Agriculture and Industrial products, along with the Services scheduled, were submitted to WTO and have since been verified.

**THE REPUBLIC OF THE PHILIPPINES**

## **I. INTRODUCTION**

The Philippines pursues a positive policy environment, having adopted growth strategies geared toward economic stabilization; improving the climate for industry, trade and investment; and providing the necessary infrastructure for growth. The economic policies pursued are intended to set the stage for global competitiveness embodied in the 1993-98 Philippine Medium Term Development Plan.

The Philippines is committed to promoting an open economy as a means to attain economic growth. This is particularly evident in the outward-looking strategies and market-oriented policy reforms pursued, and which are intended to transform the Philippines into one of the dynamic economies in the Asia-Pacific. The dismantling of existing cartels or monopolies to promote free and equal competition; deregulation of the foreign exchange market; and the opening of the power generation, telecommunications and banking sectors to foreign investors, to provide for better services and more effective competition, were among the significant market opening initiatives pursued by the government. A significant feature of the country's development strategy is the importance attached to the role of the private sector in propelling the country's economic growth.

These initiatives shall be dealt with in the following section spelling out the sectoral policy framework and essential elements of the liberalization and deregulation measures. Information has been culled from various sources such as Executive Orders, Government Circulars, country reports and other publications.

## **II. UNILATERAL MEASURES**

### **1. Measures On Investment**

The Philippines Government has taken important steps in recent years in pursuit of a more conducive investment environment that will effectively attract domestic and foreign capital to productive activities; encourage private enterprises; generate employment; facilitate technology transfer; and promote industry dispersal.

Republic Act 70-42, otherwise known as the Foreign Investments Act of 1991 (FIA), was legislated on 13 June 1991. The FIA allows foreign equity in domestic enterprises to exceed 40%, provided no incentives are sought, and provided the company does not engage in an activity which appears in the Negative List. The Negative List consists of three parts:



- List A restricts foreign investment in certain areas because of either legal or Constitutional constraints. Included are mass media, advertising, public utilities and retail trade, among others;
- List B is composed of activities regulated for reasons of security, defense and moral concerns, and to protect small and medium scale enterprises;
- List C includes those activities which have been deemed “adequately served” by domestic firms.

The First Regular Foreign Investment Negative List (RFINL) was issued on 22 June 1994 by virtue of Executive Order 182. This is to be in effect for a period of two years, i.e. 24 October 1994 to 23 October 1996. The said list is empty, since no firms/industries/institutions requested inclusion in List C during the period prescribed by the National Economic and Development Authority. Thus, the insurance industry, import and wholesale activities, not integrated with production or manufacture of goods, and conference organizers, among others, are open to foreign equity participation up to 100%.

The above EU has been amended with the issuance of Executive Order 269 on 8 August 1995. Under this, the construction stage of build-operate-transfer (BOT) projects is opened to contractors with more than 40% foreign equity pursuant to RA 7718 or the Expanded BOT Law. Foreign equity ownership in the project proponent and facility operator of a BOT project requiring franchise is restricted to a maximum of 40%, pursuant also to RA 7718.

In general, there are no restrictions on the extent of foreign ownership of export enterprises, except those using raw materials from depleting natural resources which is required by law to have a paid-in-capital of at least US\$500,000. There is a proposal, however, to lower this amount to US\$150,000.

To further encourage foreign investments, Republic Act 7652, "An Act Allowing the Long Term Lease of Private Lands by Foreign Investors," was enacted on 31 May 1993. This allows foreign investors to lease private lands for a period of 50 years, renewable once for a period of 25 years.

The development of the former U.S. military facilities (Subic Bay, Clark and Camp John Hay) into free ports and/or special economic zones further enhanced foreign business activity. Favorable response from foreign investors has transformed these areas into dynamic business sites.

Another significant development in this field is the issuance of Republic Act 7888 amending Article 7(13) of the Philippine Omnibus Investments Code. Specifically, the Act provides for the “suspension of the nationality requirement in cases of ASEAN projects, or investments by ASEAN nationals, regional ASEAN or multilateral financial institutions, including their subsidiaries in preferred projects and/or projects allowed through either financial or technical assistance agreements entered into by the President; and, in cases of regional

complementarity for the manufacture of a particular product which seeks to take advantage of economies of scale”.

Still forming part of the business reforms, pursued in support of a liberalized policy toward foreign investments, is the liberalization of foreign exchange. Under such a regime, foreign exchange may be freely sold and purchased outside the banking system. Foreign exchange earnings, receipts, or acquisitions may also be deposited in foreign currency accounts, whether in the Philippines or abroad.

Equally important to note are the investment enhancing bills which also form part of the efforts to further improve the existing investment climate:

- Senate Bill 1713, “An Act to Further Liberalize Foreign Investments Amending For the Purpose of RA 7042 and For Other Purposes”, proposing among others the deletion of the three year requirement before a domestic market enterprise may change its status to export enterprise;
- House Bill 11491, “An Act Liberalizing the Retail Business”;
- Senate Bill 355, "An Act to Expand the Concept of the Condominium Law to include horizontal application”;
- Senate Bill 450, “Net Operating Loss Carry Over Accelerated Depreciation”;
- Senate Bill 1428, “An Act Changing the Basis of the Cost Component of the Current Cost, Insurance and Freight System of Assessing Imported Articles”.

## **2. Measures On Services Trade**

One of the many positive developments which transpired, ushering in brighter prospects for foreign investors, is the liberalization and deregulation of certain service sectors. Significant improvements took place resulting from these initiatives. It will be noted that services is a significant and fast growing sector of the Philippine economy.

### ***Financial Services***

Laws relating to foreign banks entry have been relaxed creating big opportunities for foreign owned banks. Republic Act 7721, "An Act Liberalizing the Entry and Scope of Operations of Foreign Banks," was enacted on 18 May 1994, with the objective of creating a more competitive environment and encouraging greater foreign participation through increase in ownership in domestic banks and the entry of new foreign bank branches. Before this new law, only four foreign banks were allowed to operate but could not open new branches. Increased foreign bank presence is expected to lead to lower interest rates and further improvement in existing banking services.

RA 7721 allows ten new foreign banks to set up branches. In addition, an unrestricted number of foreign banks are allowed to buy up to 60% of the equity in an existing local bank or a new banking subsidiary incorporated under Philippine laws. Foreign bank branches will be allowed to put up six branches nationwide, and are required to put in at least P210 million for the first three branches and P35 million for each of the remaining three branches. Moreover, the law requires that the first three branches be situated in locations designated by the Monetary Board of the Bangko Sentral ng Pilipinas (BSP).

Ten foreign banks have already been granted authority to establish branches with full banking authority in the Philippines (ANZ Banking Group of Australia, ING Bank of Netherlands, Deutsche Bank of Germany, Chemical Bank of the USA, Fuji Bank and the Bank of Tokyo, of Japan, Korea Exchange Bank of South Korea, Development Bank of Singapore, Bangkok Bank and the International Commercial Bank of China). Of this, six foreign bank branches have started operating in the country as of end July 1995. There are two applications of foreign banks for authority to establish a new banking subsidiary. One of these applications to establish a new banking subsidiary has been approved in principle by the Monetary Board, and is now in the process of complying with the pre-condition requirements for licensing; while the other application has yet to be approved by the Monetary Board.

Other reforms instituted in the financial sector include:

- Expansion in the coverage of the dealership network through liberalized accreditation guidelines for securities dealership of treasury bills;
- Simplification of the reportorial procedures of banks;
- Expansion in the products and services offered by banks e.g., expanded use of ATMs;
- Further easing of regulations covering bank branching, including thrift banks and rural banks, subject to compliance to capitalization requirements and prudential measures required by BSP;
- Raising of the minimum capitalization requirements of banks, including thrift banks and rural banks, in light of the globalization of the financial system and greater competition;
- Approval by the Monetary Board of the BSP of the proposal of the Department of Finance (DOF) to issue long-term government securities (ranging from three to five years) to deepen the local capital market;
- Authorizing government depository banks and private banks to maintain 50% liquidity floor in the form of government securities with respect to deposit of, borrowings from and all liabilities to the government and its entities to further

enhance banks' capacity to meet immediate withdrawals of clients and other operating expenses;

- Lowering of the reserve requirements against all types of deposits, and deposit substitutes of commercial banks and non-banks with quasi-banking functions, and certain types of deposits and deposit substitutes to reduce intermediation cost;
- Approval in principle by the Monetary Board of the implementation of the Basle capital measurement framework by commercial banks.

### ***Telecommunications***

The firm stand taken by the government on the liberalization of the telecommunications sector has led to the eventual breakdown of existing monopolies and opening up of the domestic market to foreign competition. On 24 February 1993, Executive Order 59 was issued, requiring compulsory interconnection of authorized public telecommunications carriers to create a universally accessible and fully integrated nationwide telecommunications network.

The commitment to provide a conducive policy environment for telecommunications development has elicited commitments from both new and established telecom service providers. Three companies have recently been awarded provisional authorities by the National Telecommunications Commission (NTC) to operate cellular mobile telephone systems (CMTS), i.e. Smart Information Technologies, Inc., affiliated with First Pacific of Hong Kong; Globe Telecom, with tie-ups with Singapore Telecommunications; and ISLA Communications, in partnership with Shinawatra of Thailand. These companies join PILTEL and Extelcom in the cellular mobile telephone service field. Meanwhile, two companies were allowed entry into the lucrative international gateway facility (IGF) operations, i.e. Globe Telecom of the Ayala Group, and the International Communications Corporation of the Lopez Group.

The authorization granted to the new entrants (CMTS and IGF) carried with it the obligation to install conventional telephone land lines in areas to be designated by the NTC, thereby addressing the considerable backlog in the country's telephone requirements. The keen competition resulting from more players in this sector has, therefore, paved the way for the establishment of a better range of telecom services - opening the door to international standards.

### ***Transportation***

Recognizing the need to improve air service availability, quality and efficiency through exposure to foreign markets and competition, Executive Order 219, "Establishing the Domestic and International Civil Aviation Liberalization Policy," was promulgated on 3 January 1995. The EO provides, among others:

- At least two international carriers shall be designated official carriers for the Philippines;
- Exchange of traffic rights and routes with other countries based on national interest;
- An increase of existing frequencies or capacities of and/or the grant of new routes or traffic points to any foreign carrier.

The policy to liberalize the country's air space for foreign flagged carriers led to increase in aircraft, passenger and cargo movements.

Domestic shipping operations have also been liberalized with the issuance of Executive Order 185, "Opening the Domestic Water Transport Industry to New Operators and Investors", on 28 June 1994. EO 185 provides for the entry of new operators into the domestic water transport industry to enhance the level of competition and bring about reasonable rates and improved quality of services, through:

- Opening-up of all routes;
- Encouraging entry into developmental routes; deregulating entry of newly-acquired vessels into routes already serviced by franchised operators; and vessel rerouting or amendment of authorized route and change in sailing schedules and frequency.

### ***Ports***

Executive Order 212, "Accelerating the Demonopolization and Privatization Program for Government Ports", was also issued on 28 November 1994. The EO allows and encourages competition in the provision of cargo handling and other port services in every government port or terminal facility; expands the participation of the private sector in the operation, maintenance and development of all government ports; and stipulates that free access to the ports be allowed to all sectors of the industry and that there shall be no discrimination in the provision and availment of services or contracts.

## **3. Measures Affecting Exports And Imports**

### ***Exports***

The policy enunciated is to champion exports as a focal strategy for a sustainable agri-industrial development with the private sector taking the lead in the collective effort to promote exports. Viewed as the key to national survival, the government encourages commodity exports which generate foreign exchange earnings.

Most commodities are freely exportable unless regulated or prohibited for reasons of national interest. As of July 1995, there are:

- 23 regulated commodities requiring clearances/permits from appropriate government agencies e.g., garments and textiles, copper concentrates and natural fibers;
- Prohibited items, e.g., buri seeds and seedlings, abaca and ramie seeds, shells, and wildlife species.

Current BSP rules (CB Circular 1389, 13 April 1993) provide for liberal trade transactions, e.g., allowing a wider range of modes of payment without prior BSP approval for exports; and all commodity exporters may, at their option, sell for pesos to authorized agent banks (AABs) or outside the banking system, retain or deposit in foreign currency accounts, whether in the Philippines or abroad, their foreign exchange earnings and use freely for any purpose.

### ***Imports***

Under CB Circular 1389, the rules and regulations on foreign trade transactions have been substantially deregulated through the following:

- Removal of import licensing/quota requirement;
- Simplification of the system of classification of trade commodities;
- Removal of restrictions on the various schemes of settlement for trade obligations;
- Removal of the CB release certificate.

Generally, all kinds of merchandise imports are allowed. However, the importation of certain commodities are regulated or prohibited for reasons of public health and safety, national security, international commitments and development/ rationalization of a local industry. As of December 1994, there are still 186 items which remain to be liberalized under the country's Import Liberalization Program, e.g., motor vehicles, coal and derivatives, refined petroleum products, and ammunitions and firearms. This figure would be further reduced upon issuance of an appropriate circular by the Monetary Board providing for the immediate liberalization of the importation of brand new vehicles (i.e. cars, motorcycles, trucks (below 6 tons), and buses).

In line with our commitments to the GATT/WTO, the Philippines is committed to remove all quantitative restrictions on agricultural products except rice. A pending bill (House Bill 14458, "An Act Replacing Import Restrictions on Agricultural Products, Except Rice, With Tariffs, and Adopting Ordinary Customs Duties as the Sole Measure for Protecting Agricultural Producers"), once approved, would effectively replace all QRs with tariffs.

### ***Tariff Reforms***

To promote global competitiveness and to facilitate customs procedures, the Philippines is further reducing the level and spread of tariff rates towards a uniform level of protection across sectors. The current Tariff Reform Program involves a gradual phase down in the rates of duty over a nine and one-half year period starting July 1994, and the imposition of a uniform tariff by the year 2004.

Except for agricultural products negotiated under the WTO, rates of duty will be reduced to 3% on raw materials and other imports, and 10% on finished articles by the year 2003, and to a uniform 5% by the year 2004.

The phase down program started with the reduction in the rates of duty on most capital equipment (Executive Order 189, 18 July 1994). This was followed by the reduction in the rates of duty on textiles, textile articles and chemical inputs (Executive Order 204, 30 September 1994). On 22 July 1995, EO 264 was issued implementing the program of tariff reduction on articles under Chapters 25-97 of the Tariff and Customs Code, including the program of tariff reduction on items covered by EO 204 for the period 1995-2000. With the issuance of EO 264, tariff reduction has been implemented for 85% of the total HS lines.

#### **4. Measures On Privatization**

Under the government's rationalization program, all acquired non-performing assets were to be sold to the private sector, while some public corporations were to be privatized, abolished, consolidated or merged with existing line agencies. As of December 1994, the government has disposed of 421 accounts: 84 government-owned and/or controlled corporations (GOCCs) were privatized and 337 involved sale of transferred assets. Privatization was effected in the banking, airline, pulp and paper, copper and mining, and steel and fertilizer sectors, among others.

#### **5. Measures On Standards And Technical Requirements**

As a general policy and whenever applicable, international standards (ISO, IEC and ITU) are adopted as Philippine national standards in order to ensure that Philippine products conform to the requirements of export markets. These international standards include guidelines for certification of quality systems and products, laboratory accreditation, quality system certification, body accreditation, etc.

The Philippines has participated in 42 ISO technical committees in the development of international standards that may later be adopted as Philippine national standards. These committees are in the fields of mechanical engineering, ores and metals, agriculture, transportation, etc.

The Philippines has also operationalized the GATT/TBT Inquiry Point for the exchange with other WTO members of technical information on standards and regulations.

## **6. Measures On Energy And Infrastructure**

The government has likewise opened the door for private companies wishing to participate in infrastructure development. The new mode of collaboration, i.e., the partnership of the government and the private sector in implementing the country's infrastructure development by way of the Build-Operate-Transfer (BOT) scheme, and its variants, is a significant feature of the Philippine Infrastructure Privatization Program.

The BOT scheme is a contractual arrangement between the government and a private contractor (domestic or foreign) wherein the latter undertakes the construction and financing of a project for the government. Aside from encouraging private sector participation in the provision of infrastructure facilities, the scheme is likewise intended to reduce the fiscal burden of the government and avail of additional financing, technology and expertise in the construction and operation of major infrastructure projects.

The BOT policy framework is anchored on two sectors: power and non-power infrastructure.

- Executive Order 215 which was issued in 1987 dismantled the monopoly of the the National Power Corporation by allowing the private sector to enter into the power generation business through the Build-Operate-Transfer (BOT), Build-Operate-Own (BOO), and other private power schemes.
- Republic Act 6957 spells out the rules for non-power infrastructure development, later amended in May 1994 by Republic Act 7718, creating a more comprehensive and flexible BOT policy instrument. The new law allows more projects to be eligible for BOT implementation, which includes highways, ports, airports, canals, dams, water supply, irrigation and telecommunications, among others. Certain refinements provided for such variants as Rehabilitate-Operate-Transfer (ROT), Develop-Own-Transfer (DOT), and Build-Own-Operate (BOO), etc. This made it possible for proponents to earn a reasonable return on investments and maintenance costs.

As of June 1995, twenty-two private power projects, with a total capacity of 3,430 megawatts (MW) have been completed, participated in by foreign investors from the United States, Hong Kong, China, Japan, Singapore and Malaysia. Another eight projects (2,512 MW) are under implementation, seven projects (2,371 MW) are in various stages of the bidding process and negotiation, and eight more projects (1,630 MW) are open for private sector participation. It will be noted that while the energy crisis experienced by the Philippines prompted the government to fast track power generation and transmission line projects, the cost of power purchased from independent power producers or IPPs,



has been declining, thus indicating real efficiency gains. The Philippines is acknowledged as the leader in private power generation among developing countries.

For non-power infrastructure projects, eight transportation projects are in the pipeline, which includes the construction of two additional light railway systems; also in the pipeline are two water resource projects; three industry development projects; and one tourism project.

## **7. Measures Related To Environmental Protection**

Coupled with the economic reforms and deregulation initiatives, the government likewise is setting up the framework necessary for environmental development and protection, cognizant of its importance in the country's overall growth strategy. Particular attention is being given to the problem of rapidly declining resources (e.g., forestry, mining and fishery) aggravated by the rapidly increasing congestion, pollution and such other environmental problems associated with the growth of the country's manufacturing sector. Intensified campaigns against environmental degradation, alongside efforts directed at environmental protection and conservation, are being pursued.

Policy issuances are directed at protecting such sectors as forestry, mining and environment, including wildlife. For instance, with respect to industrial activities, Administrative Order 14 was issued on 18 March 1993 setting the rules and regulations applying to industrial emissions and other establishments which are potential sources of air pollution.

The government has likewise initiated moves to improve the existing environmental impact statement system to include, among others, the programmatic issuance of environmental compliance certificates (ECC) to projects in regional agri-industrial centers. To maximize the use of resources, project proponents are now directed to simultaneously conduct environmental impact assessment and a feasibility study of proposed projects.

Furthermore, to facilitate review and issuances of ECCs, there is a move to strengthen the capabilities of DENR Regional Offices to lessen the burden at the central office. Furthermore, recognizing the potential adverse effect of the transfer, handling and use of Living Modified Organism (LMOs), the government strengthened its capability to enforce biosafety measures consistent with national and international policies.

## **8. Measures Affecting Prices And Fair Competition**

Although the country has statutes which prohibit unfair trade practices (e.g., Article 186 of the revised Penal Code prohibiting unfair trade practices, monopolies and combinations in restraint of trade), the Philippines does not have

a comprehensive anti-trust legislation. Recognizing the importance of promoting free and fair competition in creating a favorable business environment, Senate Bill 2058, "An Act Prescribing A Fair Competition Law, Its Enforcement, the Establishment of a Fair Trade Commission, Delineating its Powers and Functions, and for Other Purposes," was proposed in February 1995.

In particular, the bill defines the proscribed restrictive business practices, e.g., monopolies, cartels, price fixing, price discrimination, tie-in arrangements, including anti-competitive practices with respect to mergers, consolidation or asset acquisition.

The creation of a Fair Trade Commission would at least ensure that the specific provisions of the Act are effectively implemented and enforced, which would benefit Filipino consumers in terms of lower prices and better services and, at the same time, enhance domestic and foreign investments.

Other domestic reforms pursued include the dismantling of the coconut, sugar, meat and fertilizer monopolies, and the lifting of price controls on rice, corn, other feed grains, poultry and pork.

Equally important to note is that the government provides protection to consumers by stabilizing the prices of basic commodities and by prescribing measures against undue price increases during emergency situations.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **IV. MEASURES RELATED TO OTHER REGIONAL, SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

The Philippines, together with the other ASEAN member countries, have committed to abolish tariff and non-tariff barriers among themselves under the ASEAN Free Trade Area (AFTA). Lowering of tariffs is being effected through the Common Effective Preferential Tariff (CEPT) Scheme. Implemented in 1994, the CEPT allows member countries to lower tariffs on ASEAN goods to between 0%-5% by the year 2003. The Philippines has already implemented the initial phase of tariff reduction covering industrial and processed agricultural goods.

The AFTA is expected to bring in benefits in the form of cheaper inputs for Philippine industries, larger market base, increased attractiveness of the Philippines to foreign investors and greater efficiency of Philippine industries and services.

Philippine participation in the AFTA is a clear indication that its national policies and strategies are attuned to the realities shaped by the worldwide trend of trade liberalization and globalization of business operations.

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

**VI. FUTURE DIRECTION**

It is evident from the above discussions that the foundations laid down for economic recovery and sustained growth brought the economy on the right track to progress. The shifting of national policies toward outward-oriented and free-market strategies, through liberalization measures and deregulation in a wide range of sectors, creates the signal that the Philippines is open to business. It will be noted that the business environment is now more favorable with most, if not all, restrictions on trade and investments eliminated.

It is encouraging to note that the Philippines is back in business in the heart of a booming Asia. The P38.1B foreign investments registered for the first semester of 1995, higher by 53.08% compared with the same period last year, is a cause for optimism. This clearly indicates that foreign investors have started to notice the improvements in the country's business climate as shown by the influx of foreign investments.

The Philippines, however, recognizes the need to further accelerate the implementation of its market-oriented policy reforms, particularly in key sectors, to ensure that it will continue to provide a favorable environment for business expansion and growth. In order to continue to tread the path of progress, particular emphasis is being given to the pursuit of economic policies that will provide the opportunities for viable, long-term growth and development; enhance productivity, efficiency and global competitiveness of Philippine industries; provide employment opportunities; and ensure delivery of better goods and services.

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

**SINGAPORE**

## **I. OVERALL ECONOMIC & TRADE POLICY**

The primary objective of Singapore's economic policy is to promote the creation of national wealth through sustained and stable economic growth. A guiding principle of economic policy is the free market system, that is, to allow market forces to determine the pattern of trade. The Singapore Government seeks to ensure that the trading system is, as far as possible, unfettered by tariffs and other border measures and that customs and trade documentation procedures are streamlined to minimize inconvenience to traders. Singapore does not have any sector-specific policies or trade instruments to promote exports.

The private sector is encouraged to play a leading role in economic development while the Government provides an environment conducive for private sector business activities. Fiscal policy is hence aimed at supporting the private sector in economic development. On the revenue side, the objective is to raise sufficient revenue to finance expenditure while maintaining a competitive tax structure. The implementation of the Goods and Services Tax from April 1994 is to further enhance competitiveness of Singapore's tax structure.

On the expenditure side, efforts are made to maintain a small and efficient public sector to release maximum financial and manpower resources to the private sector. Hence, certain operations are being privatized to give them greater autonomy to be run according to commercial practices. This includes telecommunications, broadcasting, electricity and gas etc.

The privatization program in Singapore was undertaken to achieve the following objectives:

- To withdraw from commercial activities which no longer need to be undertaken by the public sector;
- To add breadth and depth to the Singapore stock market by the flotation of government linked companies and statutory boards and through secondary distribution of government owned shares;
- To avoid or reduce competition with the private sector;
- To improve efficiency of services through market discipline; and
- To increase the assets of Singaporeans through share ownership in the privatized companies.

## II. UNILATERAL MEASURES

### 1. Measures On Merchandise Trade

Singapore's trade policy is to maintain an open and free trading regime. Hence, both tariff and non-tariff measures have been kept to a minimum. Import duties on the remaining few tariff lines were abolished on 1 January 1994. The 1 January 1994 exercise reduced to zero 406 tariff lines leaving only 83 tariff lines out of the 5,842 commodity codes under the Harmonized System dutiable. These remaining import duties were imposed not to protect industries but for social reasons.

The handful of non-tariff measures maintained are those administered for the purpose of meeting Singapore's obligations under international or bilateral agreements or understandings and for health, safety, environmental or security reasons.

### 2. Measures On Services Trade

#### *Financial Sector*

Singapore's financial sector is open to international participation and is highly competitive. One of the recent measures undertaken by the Singapore Government to liberalize its financial industry is the deregulation of its national retirement plan, the Central Provident Fund (CPF). The deregulation which began on 1 January 1995 will be done in three phases:

- Phase 1 (with effect from 1 January 1995)

Individuals are now permitted to use part of their CPF funds to buy foreign stocks and bonds listed on Hong Kong, Malaysian, South Korean, Taiwan and Thai exchanges through CPF-approved unit trusts and fund management accounts. Such foreign investment can account for up to 20% of the fund's market value.

- Phase 2 (beginning in January 1997)

CPF unit trusts will be allowed to purchase stocks on regional exchanges up to 40% of a fund's value.

- Phase 3 (beginning in January 1999)

Both CPF unit trusts and fund management accounts will be allowed to invest in capital markets in Germany, Japan and the United States. The ceiling on these and other foreign investments will be increased to 50% of the fund's value.

### ***Telecommunications Sector***

In the telecommunications sector, liberalization has started with the following market opening measures:

- A second mobile data licence was awarded to ST Mobile Data Pte Ltd in June 1994;
- Allowing shared use of Private Automatic Branch Exchange within the same premises or between occupants of the same building with effect from 1 August 1994;
- Allowing the operation and provision of satellite uplink/downlink facilities for broadcasting services in August 1994;
- Allowing the operator of audiotext service to provide a greater variety of information packaging with effect from August 1994;
- Liberalization of the operation and provision of Differential Global Positioning System services in Singapore in November 1994 to provide users with more accurate positioning within two to ten metres on a one-way non-interactive basis;
- Allowing companies to apply for licences to set up their own private telecommunications networks using Very Small Aperture Terminal (VSAT), with effect from November 1994, to provide for closed-user and intro-corporate reception and transmission of telecommunications signals;
- Allowing resale of public switched telecommunications services in December 1994 so that companies can buy telecommunications services from Singapore Telecom and resell these services to their customers. With the implementation of this resale policy, hotel surcharges were reduced.

This process of liberalization will continue. Increasing competition will be introduced into the Public Cellular Mobile Telephone Services (PCMTS) and Public Radio Paging Service (PRPS) markets in April 1997. The second PCMTS operator and three more PRPS operators will be able to start commercial operations by 1 April 1997.

### ***Architecture***

The Singapore Government has removed the requirement that at least two-third shareholdings in limited architectural corporations must be held by registered architects or allied professionals. However, the Chairman and at least two-thirds of the directors, will have to be registered architects or allied professionals.

## ***Engineering***

Similarly, for the engineering sector, the previous ruling of at least two-thirds of the shares must be held by registered engineers or allied professionals is removed. However, the requirement that the Chairman and at least two-thirds of the directors will have to be registered engineers or allied professionals remains.

### **3. Measures On Investment**

Singapore has always adopted an open-door policy towards investments. Therefore, there are no restrictions in equity requirements, commercial presence, repatriation of profits, liquidation of enterprise, performance requirements, employment of qualified expatriates, etc.

To encourage both inward and outward investments, corporate tax rate has been reduced consistently over the last ten years. The current corporate tax rate of 27% is amongst the lowest in the region, besides Hong Kong.

In addition, to encourage Singapore companies to venture overseas, measures were introduced to remove double taxation of foreign-source income. Companies are exempted from tax on dividends paid out of foreign income. This program was further refined in 1995 to remove restrictive rules affecting companies that form consortia or set up complex group structures to venture overseas. The changes were in response to the needs of businesses and to grant more flexibility in business structures.

Singapore continued to build on and develop government to government arrangements to facilitate cross-border business partnerships and identify investment opportunities for our enterprises. In this respect, bilateral arrangements such as the Vietnam-Singapore Commission for Cooperation, the Philippines-Singapore Business Council, etc. were formed to facilitate discussions.

## **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

Under the WTO, Singapore has bound more than 4,000 industrial and agricultural goods or 70% of our total tariff lines. 769 tariff lines have been bound at 0%, 191 lines at 5.5%, 598 lines at 6.5% and 2,480 lines at 10%.

### **3.1 Measures On Merchandise Trade**

#### **3.1.1 Tariff Measures**

##### **3.1.1.1 Industrial Products**

- Binding ratio

Pre-UR: 0%

Post UR: 65%



- Tariff Average Weighted by Total Imports

Pre-UR: 12.4%

Post UR: 5.1%

- Tariff Profiles

Tariff Rates	% of Tariff Lines Bound*		% of Tariff Lines (Effective)**
	Pre-UR	Post-UR	
Total	100.0	100.0	100.0
Duty Free	34.1	49.1	99.54
0.1%-5%	0.0	0.0	0.0
5.1%-10.0%	15.0	50.4	0.0
10.1%-15.0%	0.2	0.3	0.24
15.1%-35.0%	50.5	0.1	0.0
Over 35.0%	0.2	0.1	0.22

### 3.1.1.2 Agricultural Products

- Simple Average of Tariff Reduction - 61%

- Tariff Profiles

Tariff Rates	% of Tariff Lines Bound*		% of Tariff Lines (Effective)**
	Pre-UR	Post-UR	
Total	100.0	100.0	100.0
Duty Free	1.0	3.3	100.0
0.1%-5%	0.0	0.6	0.0
5.1%-10.0%	0.0	96.1	0.0
10.1%-15.0%	0.7	0.0	0.0
15.1%-35.0%	98.3	0.0	0.0
Over 35.0%	0.0	0.0	0.0

\* Information obtained from GATT Secretariat.

\*\* Figures do not include those lines subject to specific rates of duty.

### 3.1.2 Administrative And Other Measures

The Singapore Government is presently reviewing its various regimes to bring them into conformity with the WTO Agreements in these areas.

**IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

Singapore implemented its commitments under the ASEAN Common Effective Preferential Tariff (CEPT) Scheme with the abolition of import duties on 373 items on 1 January 1993 for imports from the ASEAN countries. Thus, Singapore has effectively implemented the CEPT Scheme even though the ASEAN CEPT program calls for tariff reduction to 0-5% by the year 2003.

**V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

**VI. FUTURE DIRECTION**

As a small market economy with limited resources, Singapore is committed to upholding and strengthening the fair and open multilateral trading system. Towards this end, Singapore will continue to maintain an open and liberal trading regime.

**VII. KEY CONTACT FOR ADDITIONAL INFORMATION**

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**CHINESE TAIPEI**

## **I. BACKGROUND INFORMATION**

Liberalization has been the heart of Chinese Taipei's (CT) trade policy since 1980. As an APEC member, we are firmly committed to APEC's goal of free and open trade and investment in the Asia-Pacific region; this is reflected in our continuing support and efforts in trade deregulation and liberalization. Even before our accession efforts to the General Agreement on Trade and Tariffs/World Trade Organization (GATT/WTO), Chinese Taipei has undertaken many measures toward becoming a more liberal trade regime. To implement our policies of liberalization and globalization, Chinese Taipei has voluntarily and significantly lowered tariff rates, while in non-tariff areas, liberalization has been achieved with respect to many products. The following is a summary of deregulation measures that have been implemented or have been committed to be carried out by November 1995, or upon our accession to the GATT/WTO.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

An amendment to the Customs Import Tariff Schedule was promulgated on 12 July 1995, whereby the tariff schedule rates of 514 items of industrial products and 244 items of agricultural products were amended. Presently, the nominal average tariff rates for industrial products, agricultural products and all products, are 6.38%, 20.97% and 8.64% respectively.

#### **1.2 Non-Tariff Measures**

##### ***Rules of Origin***

In order to meet international standards, on 1 January 1995, the Criteria for the Determination of the Origin of Imported Goods was promulgated.

##### ***Import Licensing***

The import licensing requirements have been simplified on the following items:

- Fresh, chilled, or frozen yellow-fin tuna;
- Eggs for breeding or hatching;
- Paper for document bonds and banknotes;

- Lip make-up preparations, face powder, prickly heat powder;
- Fire extinguishers containing halon;
- Other potassium chloride;
- Other freshwater fish fry, other live shrimps and prawns, crustaceans fry, mollusca and aquatic invertebrates fry, other spawn freshwater fish fertile, spawn and shrimp;
- Live glass eels, fry and young eels, milkfish fry and sea perch fry;
- Films and printed books, brochures, leaflets and similar printed matter;
- Adhesive plasters, dental cements and other dental fillings, cardioscope;
- Large motor vehicle (exceeding 3.5 tons in G.V.W. or with more than ten seats).

### **1.3 Administrative Measures**

#### ***Customs Procedures***

The sea cargo clearance automation system was first put into operation in Keelung Customs Bureau on 7 November 1994. It was implemented in the Taichung and Kaoshung Customs Bureaus on 19 June 1995 respectively.

In April 1995, Chinese Taipei promulgated regulations concerning the import and export customs clearance of express consignments to expedite customs clearance procedure.

Chinese Taipei has amended the Regulations concerning the Establishment and Management of Bonded Warehouses to promote the development of transit and triangle trade.

#### ***Sanitary And Phytosanitary Measures (SPS)***

Chinese Taipei will follow, among others, the “Transparency of Sanitary and Phytosanitary Regulations” set out in Annex B of the SPS Agreement to ensure transparency, in particular, the publication and notification procedures provided therein.

## **2. Measures On Services Trade**

### ***Financial***

As of August 1995, local banks, including local branches of foreign banks may apply to engage in the underwriting and certification of short-term bills.

The following restrictions have been committed to be abolished and are currently undergoing legislative review; they will be implemented as soon as the review process is completed:

- Restrictions on the number of securities exchanges (i.e. one) to be established in each geographical area;
- Limiting the transfer or pledge of stocks of a securities exchange incorporated to a Chinese Taipei national or to a juridical person having equity holders other than Chinese Taipei nationals;
- Allowing only Chinese Taipei nationals to be employed as associated persons in the securities industry (which includes securities investment trust, securities investment consulting, securities depository and securities financing enterprises) (please also see Annex 1).

### ***Telecommunications***

The following services were opened to the domestic private sector for competition:

- CT-2 service (Home Base, Wireless PBX), on 1 August 1994;
- CT-2 service (Public), on 1 November 1994;
- X.25 packet-switched data transmission service, on 13 December 1994;
- Store and forward facsimile service on, 13 December 1994.

In addition, the restriction imposed on the lease of domestic and international data circuits by the value-added service providers was also lifted on 13 December 1994. The mobile data, mobile phone, radio paging and trunked radio services will be opened by the end of 1995.

### ***Distribution And Transportation***

The Ships Act has been amended to allow foreign nationals to hold up to 50% of the shares and Board membership of any Chinese Taipei vessel traveling on international shipping routes. The act will be further amended to allow foreign vessels to act as demise charters to be registered as Chinese Taipei vessels.

An amendment to the Harbor Act has been drafted. No priority will be given to Chinese Taipei carriers and Chinese Container Freight Stations (CFSs) to lease and invest in harbor facilities.

### **3. Measures On Investment**

Chinese Taipei has adopted a liberal and open policy towards direct foreign investment. Regulations and measures to encourage direct foreign investment have been enacted and taken in the past few years.

The ceiling of US\$7.5 billion that could be invested by qualified foreign institutional investors in local securities was lifted on 3 March 1995.

Restrictions on foreign equity holding of listed companies is currently undergoing legislative review and will be relaxed as soon as the review process is completed:

- The maximum equity holding allowed to an individual foreign institutional investor or a foreign trust fund (issued indirectly by a securities, investment or trust enterprise), will be increased to 7.5% of the total issued stock of a listed company;
- The maximum holding allowed to all foreign institutional investors and foreign trust funds (issued indirectly by securities, investment and trust enterprises), will be increased to 15% of the total issued stock of that company.

The Negative List for Investment by Overseas Chinese and Foreign Nationals was amended on 6 September 1995, liberalizing foreign investment. The following industries, previously restricted to foreigners, were removed from the negative list:

- Asbestos and its related products, construction of houses, military engineering and construction, real estate brokerage, clay, stone, and gravel quarrying, feed additive, leather finishing, manufacture of chemical fertilizers, gas stations and travel agencies.

The following previously restricted industries were moved from the prohibited industries list to the restricted industries list and are now conditionally open to foreigners:

- Petroleum refineries, coking, recycling of waste metals, electricity supply, water works and supply, railway transport, leasing and engaging harbor facilities, cargo salvaging and airport ground services.

### **4. Other Measures**

#### **4.1 Making Markets Work Better**

### ***Competition Policy***

The Fair Trade Commission has formed a task force to review and discuss the amendment of relevant laws. After several meetings with other relevant agencies, consensus has been reached that 122 provisions in 74 laws should be amended. A report on the result was submitted to the Executive Yuan in January 1995. The Commission will continue to discuss ways to effect the necessary legal changes with other agencies.

### ***Privatization***

The Ministry of Economic Affairs (MOEA) has already privatized and is continuing to privatize many state-owned enterprises. Annex II outlines the state-owned enterprises affected and their relevant information.

## **4.2 Measures On Other Regulatory Regimes**

### ***Exchange Control***

Effective 1 May 1995, authorized foreign banks are allowed to engage in cross currency swaps between NT dollars and foreign currencies.

Effective 25 May 1995, foreign currency financing is available to all underlying transactions, and foreign currency deposit is allowed to pledge against NT dollar financing.

Effective 6 July 1995, resident and non-resident legal entities are allowed to engage in non-delivery forward between NT dollars and foreign currencies.

Effective 5 August 1995, a transaction settled between NT dollars and foreign currencies, less than NT dollar 500,000, is not required to report to the Central Bank (please also see Annex I).

### ***Government Procurement Procedures***

Chinese Taipei is currently drafting the Statute for Government Procurement, which will institute the principles of transparency and competition in accordance with the Uruguay Round Government Procurement Agreement (GPA), and will tender procedures of government procurement in the future.

Chinese Taipei will also amend and revise the existing practice of government procurement by:

- Abolishing the priority of negotiation given to the Ret-ser Engineering Agency for the procurement of public works;



- Including the global business activities of a supplier when judging the qualification of the supplier in the procurement of public works;
- Lifting the area restriction on procurement as necessary under the GPA.

Chinese Taipei intends to complete its negotiations for accession to the Government Procurement Code by the end of this year. To achieve this goal, we are planning a comprehensive reform of the government procurement regime, which will involve institutional restructuring and the establishment of a new regulatory framework.

***Delegation And Decentralization Of Administration And Management***

The current tobacco and wine monopoly system has been in existence for over forty years. Chinese Taipei has overhauled the tobacco and wine system by eliminating the regulatory function and monopoly distribution rights of the Tobacco and Wine Monopoly Bureau (TTWMB). The TTWMB will have no influence on the market access of tobacco exporters. Equal opportunity will be ensured.

**III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

Chinese Taipei is currently not a member of the WTO and not party to either the GATT or the GATS. As a member of APEC, however, and a future member of GATT/WTO, we are drafting the GATT/WTO Accession Law, which will bring any remaining domestic laws and regulations in compliance with the GATT/WTO provisions.

**3.1 Measures On Merchandise Trade**

**3.1.1 Tariff Measures**

***Customs Valuation***

Having completed a review of current laws and regulations, Chinese Taipei will amend the Customs Law and the Implementing Regulation of the Customs Law to bring them into full conformity with Article 7 of the GATT and the Agreement on Customs Valuation.

**3.1.1.1 Industrial Products**

**3.1.1.2 Agricultural Products**

Regarding agricultural tariffs (HS. code chapter I-24 of Chinese Taipei's tariff schedule), the depth of cut undertaken by Chinese Taipei will be in accordance with UR standards. The tariff rate for 206 agricultural products, during the first year, will be 0%; by

the end of the implementation period, the number of items will be increased to 272. The tariff rate for more than 80% of agricultural products will be under 20% by the end of the implementation period. All import bans and quantitative restrictions will be eliminated upon our accession, with very few exceptions, which are all GATT/WTO-justified.

### **3.1.2 Administrative And Other Measures**

#### ***Area Restrictions***

Area restrictions applied to motorcycle imports will be immediately removed upon accession to GATT/WTO.

The current area restriction on small-sized automobile imports will be replaced by a tariff quota scheme; single tariff will be restored at the end of the ten-year transition period.

Area restrictions applied to the import of fruit will be eliminated upon our accession to the GATT/WTO.

#### ***Anti-Dumping, Industrial Subsidies And Countervailing Measures***

Chinese Taipei is amending its definition of normal value to bring its Customs Law in conformity with the Agreement on Anti-Dumping, Subsidies and Countervailing Measures.

Chinese Taipei is revising its regulations concerning anti-dumping duty and countervailing duty. Any further regulatory changes will be effected upon our accession to the GATT/WTO.

The Implementation Regulation on the Imposition of Countervailing Duty and Anti-Dumping Duty will be amended to comply with Article VI of the GATT; the amendment will result in improved investigation and determination of injury.

#### ***Safeguards***

Pursuant to the Foreign Trade Act of Chinese Taipei, the Rules for Handling Import Relief Cases has been enacted and International Trade Commission of the MOEA has been created as the authority for handling import relief cases.

In order to comply with Agreement on Safeguards of the GATT, Chinese Taipei is revising its Rules for Handling Import Relief Cases. This regulatory change will be effected upon our accession to the GATT/WTO.

## 3.2 Measures On Services Trade

### *Financial Services*

Insurance - According to the Regulation Governing the Administration of Insurance Agents, Brokers, and Adjusters, effective January 1995, foreign insurance agent, broker and adjuster companies who have operated the same business overseas for over five years may establish a branch office in Chinese Taipei and offer the same services they offer abroad.

The MOF revised “The Guidelines for the Screening and Approval of the Establishment of Foreign Insurance Liaison Offices” in June 1995, to ease restrictions on foreign insurance companies related to applicant qualification.

The MOF revised “The Criteria for Approving Foreign Insurance Enterprises and The Governing Regulations” and “The Insurance Company Establishment Criteria” in July 1995, to ease restrictions on foreign insurance companies related to applicant qualification.

### *Transportation*

Article 35 of the Highway Law would be amended to read as follows:

- A foreign transport operator establishing a branch office in Chinese Taipei must obtain approval from the Ministry of Transportation and Communication (MOTC) to operate a container trucking business; upon approval of its application, the foreign transport operator may, with its own vehicles, transport import and export ocean containers.
- A foreign transport operator who has established a branch office in Chinese Taipei and has been granted approval to operate a container trucking business, in accordance with the preceding section, shall not commence its business operation until the operator has:
  - Completed the change of company recognition;
  - Changed branch office registration, business enterprise registration and obtained a motor vehicle transportation business license.

The foreign transport operator shall abide by Chinese Taipei’s laws and regulations governing the administration of container trucking business. The business scope shall be limited to trucking import and export ocean containers.

### *Tourism*

In line with government policy, the Tourism Bureau has promised to open up the establishment of branches in Chinese Taipei by foreign travel agencies, and

foreign investment in the establishment of travel agencies in Chinese Taipei. This will be done once Chinese Taipei accedes to the GATT/WTO.

The Tour Guide Management Regulations have been amended to allow foreigners to participate in the Tour Guide Examination and receive qualification equivalent to that of Chinese Taipei nationals.

### **3.3 Measures On Investment**

### **3.4 Other Measures**

#### *National Treatment*

The relevant provisions, with respect to the different business income tax credit rates, available for the procurement of domestically produced machinery and equipment and foreign-made machinery and equipment, will be brought into conformity with national treatment within three years of Chinese Taipei's accession to GATT/WTO.

Within two years of Chinese Taipei's accession to GATT/WTO, the following measures will be removed:

- Local content requirements on automobiles and motorcycles;
- The requirement for foreign invested automobile firms, who want to engage in domestic sales, to form joint ventures with Chinese Taipei nationals.

Chinese Taipei is committed to fully implement TRIPs upon its accession. We have proposed to revise the Copyright Law, Patent Law and the Trademark Law to comply with TRIPs. Furthermore, we are currently drafting a law for the protection of Semi-conductor Layout Designs.

## **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

## **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

Chinese Taipei's continuing deregulation and liberalization efforts have produced the following benefits:

- Greater transparency of current laws and measures;
- Reduced tariff and non-tariff barriers;

- Greater access to domestic/foreign markets;
- Improved efficiency and productivity for companies;
- Enhanced competitiveness and quality of domestic goods and services;
- Increased business opportunities for Chinese Taipei and APEC member economies' nationals.

## **VI. FUTURE DIRECTION**

Chinese Taipei envisages that trade liberalization and globalization will bring great benefits to our economic development as well as that of the international community. We have already made great strides, but will continue to move towards the goals of liberalization and globalization by continuing to lower tariff and non-tariff barriers and deepen liberalization measures.

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## II. UNILATERAL MEASURES

### 1. Measures On Merchandise Trade

#### 1.1 Tariff Measures

The nominal tariff rates for industrial products declined from 24.4% in 1986 to 6.38% in 1995. The normal average tariff rate for agricultural products was reduced from 34.80% in 1986 to 20.97% in 1995. The Customs Import Tariff has been amended eight times from 1984 to 1995, and rates were reduced by as much as 72%; specifically, 701 items were placed in the duty-free category.

#### *Customs Procedures*

To increase cargo clearance efficiency and expand customs handling capacity, the Cargo Clearance Automation Project was approved in 1990. The automation of the air cargo clearance system was implemented at CKS Airport in 1992, and the automation of sea cargo clearance systems was fully implemented in Keelung, Taichung, and Kaoshung Customs Bureaus in June 1995.

#### 1.2 Non-Tariff Measures

#### *Area Restrictions*

Area restrictions applied to the import of fruits, passenger cars and small commercial vehicles, automobile chassis and motorcycles will be eliminated upon Chinese Taipei's accession to the GATT/WTO.

A major policy change has resulted in the expansion of procurement countries or areas which are permissible for import of alcoholic beverages and cigarettes, effective since 1 September 1994.

#### *Import Bans And Quantitative Restrictions*

In 1991, the import ban on ten products, such as cuttle fish and melon seeds, was lifted; in 1992, the import ban on another fourteen products, including saury products, canned meat of fowls and canned garlic bulbs, was lifted.

The import restrictions on waste, parings and scrap of polymers, ethylene, styrene, vinyl, chloride and other plastics were removed in July 1994.



Import control measures on bulk pharmaceuticals, not being produced domestically, have been lifted.

### ***Import Licensing***

Chinese Taipei has used the "Negative List" since 1 July 1994 to simplify the licensing procedure and to make licensing conditions more transparent in order to provide greater certainty to traders.

## **2. Measures On Services Trade**

Some important measures which have been taken in the process are liberalization of interest rates, expansion of business scope of financial institutions, relaxation of restrictions on establishment of local presence, as well as relaxation of foreign exchange control of financial activities.

### ***Financial Services***

In July 1993, the Guidelines for the Screening and Approval of the Establishment of Branches by Foreign Securities Firms were abolished.

There are currently no limitations on the number of branches that foreign securities firms can establish in Chinese Taipei. The business scope of foreign securities firms has no limitations.

In May 1995, the requirements for the establishment of branch offices by a foreign securities firm were relaxed.

The period of non-sanction, by the authority concerned in its home country, has been reduced from three years to two.

### ***Distribution And Transportation***

The Ships Act limited foreign shareholders to own a maximum of one-third of any Chinese Taipei vessel traveling on international shipping routes. Board membership was not available to foreign nationals.

The Rules and Regulations Governing the Permission and Management of Foreign Marine Employees, was amended in July 1994, and allowed the deck department and the engineer department of vessels to each hire one foreign mariner to assume a position no higher than deck officer and engineer officer. Any vessel can maintain foreign employees, but the number of foreign nationals cannot exceed more than half the total crew.

The state-owned Yang Ming Marine Corporation has been privatized. The company's common shares have been listed on Chinese Taipei's stock exchange since 20 April 1992.

The first public offering was one hundred million shares. Another two hundred million shares were issued in mid-March of 1994, which reduced MOTC's shareholdings to 72.13%. It is expected that the government will own less than 50% of the company by the end of the 1996 fiscal year.

### **3. Measures On Investment**

According to the Statue for Investments by Foreign Nationals, foreign nationals are granted the same treatment as Chinese Taipei nationals; in many instances, special incentives are provided to foreign investors. The restrictions on the equity ratio held by foreigners investing in Chinese Taipei's securities and futures brokerage firms were lifted in January 1994.

### **4. Other Measures**

#### ***Exchange Control***

On 5 January 1994, the amount of foreign exchange a company could freely settle against NT dollar was raised from US\$5 million to US\$10 million annually. In addition to payments of exports and imports, coverage of the forward exchange transaction has been extended to cover the payments for freight and insurance (effective 14 March 1994), dividends, commissions and technical services and direct investments and portfolio investments approved by the competent authorities (effective 16 January 1995).

Effective 13 September 1994, non-residents are allowed to open NT\$ demand deposit accounts and demand savings deposit accounts with local banks. A non-resident will also qualify to buy or sell up to US\$100,000 or equivalent against NT\$ for each transaction; if a greater amount is desired, prior approval from the Central Bank of China (CBC) is required.

## **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

### **3.1 Measures On Merchandise Trade**

#### **3.1.1 Tariff Measures**

Chinese Taipei is committed to eliminating import bans, quantitative restrictions and other unjustifiable non-tariff measures, as specified in GATT/WTO provisions. This excludes those measures that have been reported and the transition measures which have been approved by the Working Party.

### **3.1.2 Administration And Other Measures**

#### ***Sanitary And Phytosanitary Standard (SPS)***

Chinese Taipei will comply with the SPS Agreement upon our accession to the GATT/WTO.

### **3.2 Measures On Services Trade**

#### ***Transportation***

Article 35 of the Highway Law specifies that non-Chinese Taipei nationals or juristic persons may not invest in or operate motor vehicle transportation business within Chinese Taipei.

### Privatization Program Of State-Owned Enterprises Under MOEA

Company	Scheduled Year of Privatization	Private Share Holdings (%)	Major Progress
China Petrochemical Development Corporation	FY 1994	63.60	Privatized on 20 June 1994.
BES Engineering Corporation	FY 1994	80.64	Privatized on 22 June 1994.
China Steel Corporation (CSC)	FY 1995	52.53	Privatized on 12 April 1995.
Taiwan Machinery Manufacturing Corporation (TMMC)	FY 1995	0.25	MOEA had intended to auction 60% of TMMC's shares in March 1994, but did not do so due to lack of bidders. MOEA further plans to privatize TMMC by selling its plants.
Taiwan Fertilizer Company (TFC)	FY 1996	0.01	MOEA is planning to sell up to 60% of TFC's shares in FY 1996 through either public offering or auction.
China Ship-Building Corporation (CSBC)	FY 2000	0.99	Restructuring is underway to lessen CSBC's accumulated losses. As CSBC's performance becomes effectively improved, MOEA will privatize it through the sale of shares.
Chinese Petroleum Corporation (CPC)	Calendar Year 2000	0.00	CPC intends to restructure by means of Strategic Business Units (SBUs), which will be completed by the end of 1995. Partial shares are to be sold in FY 1997 through public offering. MOEA plans to privatize CPC by the end of year 2000.
Taiwan Salt Works (TSW)	Calendar Year 2000	0.00	Reorganized into a Corporation on 1 July 1995, TSW is expected to be privatized through public offering by 2001.
Taiwan Power Company (TPC)		0.83	Before TPC is privatized, MOEA will liberalize power industry and increase market competition by loosening restrictions on IPPs. TPC's feasibility study of privatization is under progress. The privatization approach will be determined by the end of 1995.

**THAILAND**

## **I. BACKGROUND INFORMATION**

With a view to enhance the level of development, Thailand's economic policy objectives have been supportive of increased market competitiveness and efficiency. In addition, economic policy also encompasses the country's need for greater international recognition, to be accomplished through gradual liberalization of trade in goods and services.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

Initiatives to undertake tariff reforms endeavor to lower average tariff rates and reduce the number of tariff rates applicable to various categories of product groups. Thirty-six different tariff rates formerly used have now been reduced to six uniform rates, namely:

- Products under tariff exemption such as medical equipment and fertilizer;
- Raw materials, electronic components, and vehicles for international transportation;
- Primary products and capital goods;
- Intermediate products;
- Final products;
- Products requiring special protection.

#### **1.2 Non-Tariff Measures**

Many products subject to import restriction have been targeted for liberalization to support the global free trade movement. Thailand is endeavoring to relax the restriction on the flow of goods entering and leaving the country to indicate Thailand's policy objective towards the liberalization process. For instance, an initiative to lift import restrictions on rice and soya bean is currently being finalized.

### **1.3 Administrative Measures**

#### ***Customs***

The Thai Customs Department is in the process of modifying its computer system to cope with the growing needs of importers and exporters. The major functional areas to be supported by the new computer system will be:

- Maintenance of reference information (particularly tariff and valuation);
- Import and export goods declaration processing, including revenue accounting;
- Preparation of trade statistics and management information;
- Cargo control based on manifests including control of seized and unclaimed goods;
- Export promotion processes such as providing drawbacks and compensations.

The schedule for system implementation spans a three year period beginning in 1995. Initially, system supports for export processing at the Bangkok International Airport Customs House and a Management Information System will be introduced. This will be followed by Electronic Funds Transfer and Import processing for the airport. Next will be export processing for the seaport, cargo processing and then import processing at the seaport.

Objectives of the computerization project are:

- Facilitating rapid and effective movement of goods for import and export;
- Providing more effective Customs control and more effective revenue collection;
- Providing more accurate and timely information through a management information system to assist management decision making.

## **2. Measures On Services Trade**

### ***Financial Sector***

Financial reforms in Thailand have been undertaken in gradual steps and reflects the aim to promote efficiency and create an environment which is conducive and supportive of the nation's future investment and growth needs.

Thailand's financial reform program focuses on various deregulation and liberalization measures such as:

- Deregulation of interest rates;
- Relaxation of foreign exchange controls;
- Expansion of scope of financial institutions;
- Improving financial institutions' portfolio management.

### **3. Measures On Investment**

Where promotional privileges have been granted, and a certificate issued by the BOI, wholly-owned foreign businesses will be allowed to operate investments undertaken in the areas of basic infrastructure, public utilities and development of transportation systems, as outlined under Thailand's Seventh National Economic and Social Development Plan. This policy is a unilateral improvement on national treatment and market access.

### **4. Other Measures**

#### **4.1 Making Markets Work Better**

##### ***Competition Policy***

Thailand's Price Fixing and Anti-monopoly Act of 1979 is used to protect consumers and to regulate restrictive business practices. Currently, this law is being relaxed by means of dropping many businesses and products under its control to allow those businesses to compete under free market conditions. In addition, amendments to this law is currently under consideration so as to improve competition, prevent restrictive practices and conform with the current economic and business environment that requires a higher degree of globalization.

##### ***Intellectual Property Rights Protection***

Intellectual property rights protection in Thailand has been rapidly improved. For example, a new Copyright Law with improved protection for computer software and other copyright works, and which comply with internationally accepted standards, has recently been enacted. With the establishment of the Intellectual Property Department, the protection and enforcement of intellectual property rights have become more effective.

#### **4.2 Measures On Other Regulatory Regimes**

On 2 February 1994, Thailand had further liberalized exchange controls as follows:



- Thai currency, not exceeding 500,000 baht, can now be taken out of Thailand to Vietnam and countries bordering Thailand, up from the previous limit set at 100,000 baht;
- Residents can provide direct foreign investments or loans to their affiliates abroad, not exceeding US\$10 million a year, which is up from the previous limit of US\$5 million per year;
- A person can take out traveling expenses in any form without limit;
- Residents are permitted to use foreign exchange that originates from abroad to service external obligations without surrendering or depositing the currency in domestic banking accounts;
- Additions to existing rules are also made to further facilitate movement of foreign exchange as follows:

The following foreign exchange can be deposited into foreign currency accounts:

- Foreign currency borrowing by residents from the Bangkok International Banking Facilities;
- Foreign currency borrowing by non-residents from authorized banks;
- Foreign currency resulting from conversion of baht withdrawn from non-resident baht accounts for depositing into non-resident's foreign currency accounts.

Non-resident baht accounts can be freely credited with:

- Baht as proceeds from sale of foreign currency withdrawn from non-residents' foreign currency account;
- Baht borrowed from authorized banks.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### ***Financial Sector***

Thailand's financial services sector is committed to withhold the introduction of any new discriminatory measures against foreign financial institutions (standstill on present market access restrictions).

- For banks, finance companies and insurance companies, foreign access to locally incorporated institutions has been increased from 15% to 25% of registered capital;
- For securities companies, foreigners may now acquire up to 49% of registered capital.

From now on financial development can only proceed in the direction of more openness and can no longer back track to a more restricted market environment.

#### **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL ARRANGEMENTS**

Thailand is currently working on a series of programs under the AFTA arrangement aimed at extensive tariff reductions and non-tariff barrier removals by the year 2003.

#### **V. POTENTIAL BENEFITS TO THE ECONOMY, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

Thailand is strongly in favor of tariff reforms and is looking into the possibility of adjusting tariffs for many various products under the Thai Classification List. These reforms are aimed at, among other things, aligning Thailand with her international obligations and with other members of the global society by further unilateral tariff liberalization.

#### **VI. FUTURE DIRECTION**

Thailand is embarking on various economic policy initiatives which would lay the foundations for further liberalization and deregulation. Such initiatives could give rise to numerous developments including:

- The development of the telecommunications network to facilitate flow of information;
- Development of Thailand's financial markets and human resources in science and technology to increase competitiveness;
- Greater involvement of private sector in the development process.

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**UNITED STATES OF AMERICA**

## **I. BACKGROUND INFORMATION AND INTRODUCTION**

The United States has demonstrated a strong and continuous commitment to opening markets and reducing impediments to trade and investment worldwide through multilateral, regional, sub-regional, bilateral, and unilateral initiatives.

The successfully completed Uruguay Round (UR) of multilateral trade negotiations is the centerpiece of a more open global trading system. The United States made changes to its domestic law to implement the UR Agreements by enacting, on 8 December 1994, the UR Agreements Act (URAA). The UR Agreements went into effect for the United States on 1 January 1995. In many instances, the United States provides better treatment to its trading partners than required under the UR Agreements.

The United States has pursued and will continue to seek more open markets through regional, sub-regional, and bilateral initiatives, as well as through multilateral means. In the Western Hemisphere, the United States is vigorously supporting efforts toward negotiation of the Free Trade Area of the Americas (FTAA). In the Asia-Pacific region, the United States is working actively with APEC's member economies to achieve the goal of free and open trade and investment, as adopted by our leaders at Bogor in 1994.

In the North American Free Trade Agreement (NAFTA), which was implemented in the United States through enactment of the NAFTA Implementation Act on 8 December 1993, the United States joined with Canada and Mexico in a plan to eliminate barriers to trade in goods and services and to investment. In December 1994, the United States, Canada, Mexico, and Chile announced their decision to begin the process by which Chile will accede to the NAFTA. Chile's accession to the NAFTA will further reduce trade and investment impediments in the Americas. Finally, the United States has made commitments to maintain and enhance the openness of its market in a variety of bilateral agreements and treaties covering investment, government procurement, civil aviation, telecommunications, textiles, and other areas.

The US economy is already among the world's most open to foreign trade and investment. For example, the United States' trade-weighted tariff, averaged over all industrial items post UR implementation, will be 3.5%. Also, the United States maintains no performance requirements and is both the largest exporter and importer of capital. Under the Generalized System of Preferences program, the Caribbean Basin Initiative, and the Andean Initiative, the US Government extends duty-free treatment to imports from many developing economies. In keeping with efforts to promote domestic deregulation, competition, and more efficient government operations, the United States is moving unilaterally to make its market even more open to foreign competition.

## **II. UNILATERAL MEASURES**

### **1. Measures On Merchandise Trade**

#### **1.1 Tariff Measures**

The United States does not generally reduce tariffs unilaterally since the President's tariff reduction authority is essentially reciprocal in nature. The United States has, however, unilaterally suspended import duties on certain products.

#### **1.2 Non-Tariff Measures**

##### ***Subsidies (Industrial)***

The United States has long held the position that subsidies are generally undesirable. They skew the efficient allocation of resources, represent a non-economic drain on public funds, and unfairly disadvantage the interests of other countries by causing distortions in the production and trade of goods. The United States has therefore historically maintained a low level of industrial subsidization. Consistent with a pattern of progressive reduction, in 1981, the US Government essentially ended subsidization of the domestic commercial shipbuilding industry.

##### ***Agriculture***

The United States has made substantial cuts in domestic supports since 1986. In the Food, Agriculture, Conservation, and Trade Act of 1990 (the "1990 Farm Bill"), which was enacted on 28 November 1990, the United States made substantial cuts in domestic support programs including deficiency payments to US grain producers. Because of these unilateral reductions in domestic support, the United States was not required to make any changes to either domestic law or regulations in implementing the domestic support provisions in the UR Agreement on Agriculture.

##### ***Safeguards***

The United States had unilaterally phased out all of its Voluntary Restraint Agreements (VRAs) prior to the implementation of the UR Agreement on Safeguards. More specifically, in March 1992, the US Government ended use of VRA's on steel, and in December 1993, on computer-controlled machine tools.

#### **1.3 Administrative Measures**

On 8 December 1993, the Customs Modernization Act (“the Mod Act”) was enacted as Title VI of the NAFTA Implementation Act. The primary purpose of the Mod Act is to streamline and automate the commercial operations of the US Customs Service. This law is also intended to improve compliance with customs laws while providing safeguards, uniformity, and due process rights for importers. In particular, the Act enables the US Customs Service to work with the trading community to develop new regulations for an electronic commercial environment.

The Mod Act provides for the following:

- Abolition of antiquated laws and reporting requirements;
- Filing of entry information electronically at one location for merchandise arriving at another location;
- Filing of entries and payment of import duties on a periodic basis;
- Electronic transmission of drawback claims, manifests, invoices, and other documentation used for merchandise entry;
- Establishment of simpler and easier record-keeping requirements for post-audit reviews.

## **2. Measures On Services Trade**

### ***Telecommunications (Services And Equipment)***

The United States has one of the world’s most open and competitive markets for telecommunications services and equipment. With increased competition in services and equipment, technology has improved and, in turn, resulted in enhanced networks that are offering new services, including interactive services, managed voice and interactive networks, full motion video conferencing, multi-featured voice mail and user-friendly access to the Internet. Business and individual consumers enjoy lower prices, more choice, and better quality in communications services and equipment. Reliance on private investment and competition is at the core of US success in maintaining world leadership in information equipment and service markets.

US telecommunications equipment markets are completely open to competition, and the United States hopes to lower tariffs below existing levels on information technology goods in cooperation with its trade partners. Part 68 of FCC Rules provides for the non-discriminatory and minimally-burdensome equipment certification for telecommunications terminal equipment (e.g. telephones, facsimile machines, computers).

The United States maintains no foreign investment restrictions in wireline telecommunications services, and requires licensing of non-dominant competitors only for international services. Legislation pending in the US Congress would allow foreign investment greater than 25% in wireless telecommunications licenses, if the WTO negotiations on basic telecommunications services are successful, or where equivalent opportunities exist in the foreign home market.

A large number of foreign-owned carriers participate in the US domestic resale market, and the international switched resale market. In 1993, the United States permitted foreign-owned resellers of private lines to compete in the international services market, if equivalent private-line resale opportunities exist in the foreign home market. Thus far, the Federal Communications Commission (FCC) has found Canada and the United Kingdom to offer such equivalent resale opportunities.

The domestic long-distance market was legally opened to competition in the mid 1970s. The computer-based value-added (“enhanced”) services market was deregulated through a series of FCC decisions in the 1980s-90s. In 1982, the US government’s anti-trust suit against AT&T successfully broke up the nation’s telephone monopoly. AT&T was required to divest its local exchange operations, thereby creating seven regional local telephone companies, which are required to provide consumers equal, non-discriminatory access to the long-distance company of their choice.

Through a series of government decisions in the decade since the effective date of divestiture, local services have been subject to increasing competition, initially in the business sector.

Cellular was originally licensed to two providers in each market, but personal communications services will offer additional wireless competition. Steps toward local competition in telephone services have been taken in seventeen states and another eighteen are considering such steps. Competitive Access Providers (CAPs) may now compete with local providers to terminate the traffic of the long-distance carriers under the FCC’s “expanded interconnection” policy, which mandates collocation of competitors’ equipment to the facilities of local exchange carriers. The US Department of Justice has recently filed a motion to modify the judgement resulting from the AT&T breakup to allow Ameritech Corporation, a local phone company, to offer long-distance phone service on a trial basis. Before Ameritech can enter long-distance service, the US Department of Justice must find that actual competition and opportunities for competition exist in the local telephone exchange market. Currently pending in the US Congress is legislation that would completely open the local telephone market to competition, while allowing the regional companies into the long-distance market.



**3. Measures On Investment**

**4. Other Measures**

**4.1 Making Markets Work Better**

***Intellectual Property Rights (IPR)***

The United States provides protection on a scale that meets, and in many cases, exceeds that required by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). For example, the United States does the following:

- Prohibits certain parallel imports;
- Accords generally unrestricted national treatment in IPR protection;
- For copyright works, provides a term of protection for authors other than persons of 75 years from the publication or 100 years from creation if for an unpublished work;
- Permits persons acquiring or holding economic rights to freely and separately transfer such rights by contract for purpose of their exploitation and enjoyment by the transferee;
- Protects encrypted program-carrying satellite signals. It is a criminal offence in the United States to manufacture, import, sell, or otherwise distribute devices used in decoding an encrypted program-carrying satellite signal without authorization.

***Competition Policy***

In 1982, the US Government's anti-trust suit against AT&T broke up the nation's telephone monopoly. With this and other measures, detailed in the above discussion of telecommunications services and equipment, competition has increased and technology has improved. Business and individual consumers are thus enjoying more choice, lower prices and better quality service.

***Restructuring Energy Markets***

In recent years, there have been significant changes in US Government oversight of energy markets. The result is the emergence of energy markets increasingly responsive to market forces rather than to

artificial governmental regulatory edicts. In many instances, these changes are ongoing and subject to further refinement. However, measurable benefits for energy users and new energy producers can already be discerned. Two industries where the changes have been most dramatic and far-reaching are electricity and natural gas.

The electricity industry structure and the functions performed by its regulators are now in the early stages of a period of fundamental change. This transformation is being caused by a number of factors, including the following:

- Broad recognition that the generation sector of the industry no longer exhibits the characteristics of natural monopoly and can be substantially deregulated;
- The Energy Policy Act of 1992, which facilitates increased competition in bulk power markets;
- Large disparities in electric rates from utility to utility, which cause customers to seek regulatory changes that will enable access to lower cost suppliers;
- Global economic competition, which causes many firms to seek ways to reduce electricity costs;
- New low-cost generation technologies, which render substantial amounts of existing investment in more traditional generation equipment non-economic.

Although generation is no longer regarded as a natural monopoly, the transmission and distribution networks continue to have characteristics that justify government oversight to protect the public interest.

The process of deregulation involves many issues, including the following:

- Establishing and maintaining competition in the bulk power markets (The Federal Energy Regulatory Commission (FERC) is taking action to ensure that all generators have access to regional transmission grids on comparable terms and conditions. Efficient competition in bulk power also requires an effective separation (or “unbinding”) of generation from transmission and distribution functions);
- The future of Section 210 of the Public Utility Regulatory Policies Act (PURPA). (This section requires utilities to offer to buy electricity produced by non-utility parties who use cogeneration and renewables generation technologies);

- Debate about the degree of responsibility state authorities will have in the future of electricity resource planning, and on how public policy objectives, such as energy efficiency improvements and environmental protection, should be reflected in electric rates.

The natural gas industry and its customers are also experiencing a new operating environment. In 1992, the FERC required interstate pipeline companies to separate (or “unbundle”) all of their services by 1 November 1993. Gas sales and marketing activities are essentially free from regulation, limiting remaining Federal regulatory jurisdiction to sales by an interstate pipeline company as well as interstate transportation. However, more competition has been introduced into the gas industry with the establishment of a secondary market in pipeline transportation. The secondary market permits pipeline company customers to trade capacity rights among themselves, using electronic bulletin boards provided by the pipeline companies.

As a result of these and other changes, the electricity and natural gas industries have become substantially more competitive and market driven, to the benefit of consumers, while not sacrificing essential consumer protections.

## **4.2 Measures On Other Regulatory Measures**

### ***Government Procurement***

The United States recently enacted the Federal Acquisition Streamlining Act of 1994, the most far-reaching government procurement reform in more than a decade. This law will:

- Eliminate many overly burdensome procurement practices;
- Align US Federal procurement with commercial practices;
- Should significantly increase access for foreign firms.

### ***Other Measures***

The United States has initiated other deregulatory actions unilaterally. Under the National Performance Review, regulatory reforms were undertaken with respect to the operations of the Environmental Protection Agency, the Occupational Safety and Health Agency, and the Federal Drug Administration. Executive Order 12866 (30 September 1993), entitled “Regulatory Planning and Review”, initiated a program to make the US regulatory system more efficient. The Paper Reduction Act of 1995, signed into law by the President on 22 May 1995, reduces filing and documentation burdens on business. A

Presidential announcement on 21 February 1995, initiated reform of the Federal Government regulatory system, including adjustments in the process for devising regulations and a review to identify obsolete and burdensome regulations throughout the Federal Government.

### **III. MEASURES RELATED TO GATT / WTO COMMITMENTS**

#### **3.1 Measures On Merchandise Trade**

##### **3.1.1 Tariff Measures**

###### ***Industry***

Before the Uruguay Round, the United States bound 99.3% of its tariff schedule at a trade-weighted average rate of 5.3%. After meeting its UR industrial market access commitments, the US trade-weighted tariff average for all industrial items will be 3.5%, and the scope of bindings will increase to 99.8%. The United States has agreed to completely eliminate tariffs in ten sectors - agricultural equipment, beer, construction equipment, brown distilled spirits, furniture, medical equipment, paper and paper products, pharmaceutical goods, steel, and toys. For toys and pharmaceuticals, tariffs were eliminated completely on 1 January 1995. Tariffs on other products in these "zero" sectors will be phased out in periods ranging from five to ten years. In addition, the United States agreed to final bound rates of 0, 5.5, or 6.5 percent for chemicals contained in Harmonized Schedule (HS) Chapters 28-39. Thirteen percent of the final UR tariff concessions by the United States were implemented immediately on 1 January 1995. When its UR commitments are fully met, the United States will provide MFN duty-free treatment as bound in our WTO schedule on about 36% of industrial tariff lines (3740 tariff lines).

The United States also made significant tariff reductions in the Uruguay Round on key items of export interest to our trading partners, e.g. a cut of 65% to an average level of 1.9% on scientific equipment, and a cut of 50-100% to an average level of 0.5% on electronic items. For textile and apparel products, the United States will reduce tariffs by an average of 12%.

###### ***Agriculture***

All tariffs, with the exception of in-quota rates in tariff-rate quotas (TRQs), will be reduced by an average of 36% over six years starting in 1995. The minimum reduction for each tariff will be 15%. Some tariffs will be eliminated entirely, e.g. those on distilled spirits, beer, crushed or ground cinnamon, palm nuts and kernels, and canned corned beef.

### **3.1.2 Non-Tariff Measures**

#### ***Textiles And Apparel***

Under the UR Agreement on Textiles and Clothing, the United States will integrate this sector into the WTO's rules over a ten year transition period. Quotas will be progressively increased in stages and completely eliminated after ten years.

#### ***Agriculture***

In implementing the UR Agreement on Agriculture, the United States converted existing quantitative restrictions on dairy products, sugar, sugar-containing products, peanuts, cotton, and beef to TRQs. Quotas in the TRQs provide minimum access of at least 3% of consumption per year starting in 1995, growing to 5% per year by 2001.

#### ***Safeguards***

The UR Agreement on Safeguards improves and expands rules and procedures covering safeguard measures; ensures that safeguard measures are transparent, temporary, degressive, and subject to review and termination when no longer justified; and requires notification and monitoring of import relief actions for domestic industries. As a result, the new rules prohibit actions such as VRAs that had proliferated in the 1970s and 1980s. Existing measures are to be phased out within four years. US laws and procedures are fully consistent with the Agreement.

#### ***Subsidies***

Because the United States generally does not subsidize industry, there has been no express need for liberalization in this area to implement the UR Agreement on Subsidies. However, the United States welcomes the UR bans on "de facto" export subsidies and import substitution subsidies. As required in the UR Agreement on Agriculture, the United States is reducing both the quantity and the value of agricultural export subsidies by 21% and 36% respectively, over six years. The quantity reductions will start in July 1995, and the value reductions in October 1995.

#### ***Countervailing Duties***

In the URAA, the United States adopted numerous changes to its domestic law to ensure that countervailing duty measures are taken only where warranted. These changes include the following:

- Incorporation of a clear subsidy definition from the UR Agreement on Subsidies and Countervailing Duties;
- The introduction of sunset review procedures;
- The extension of an injury test to all countries undertaking the obligations of the GATT/WTO Agreements.

### ***Anti-Dumping Measures***

The United States, in the URAA, adopted a number of changes to its anti-dumping law to ensure compliance with the UR Agreement on Anti-dumping, including the following:

- New standards for determining whether dumping margins are de minimis;
- Sunset review procedures to ensure that anti-dumping duty remedies remain in place no longer than is necessary;
- Expedited review procedures;
- New methods for calculating profits in below-cost sales cases.

### **3.1.3 Administrative Measures**

#### ***Rules Of Origin***

US customs procedures are in accord with the disciplines in the UR Agreement on Rules of Origin. Origin laws, regulations, and judicial and administrative rulings are published and publicly available. Interested parties may obtain rulings that bind the US Customs Service until revoked. US Customs rulings may only be revoked upon notice to the public. Changes in US Customs procedures are only made after notice to the public and not applied retroactively. Administrative and judicial review are available. Information that is by nature confidential is kept confidential upon request.

#### ***Standards***

The US had established an internal mechanism to fulfil its obligations under the Tokyo Round Agreement on Technical Barriers to Trade (TBT) and has recently strengthened that mechanism to meet the new obligations under the WTO's Agreements on TBT and Sanitary and Phytosanitary Measures (SPS). Interagency committees meet routinely to ensure that agencies developing new measures are aware of these obligations, and that the procedures for information exchange and transparency are functioning smoothly.

### **3.2 Measures On Services Trade**

As of 1 January 1995, the date of entry into force of the WTO for the United States, the United States was in compliance with its obligations under the GATS including on the following services.

#### ***Business and Professional***

Under the GATS, the United States made commitments to provide market access and national treatment for legal services, accounting, auditing and bookkeeping, taxation services, architectural services, engineering services, urban planning and landscape services, computer and related services, real estate services, rental and leasing services, advertising, market research and public opinion polling, and management consulting.

#### ***Aircraft***

Under the GATS, the United States made commitments to provide market access and national treatment for aircraft repair and maintenance activities when undertaken on an aircraft or a part, while it is withdrawn from service.

#### ***Tourism***

Under the GATS, the United States made commitments to provide market access and national treatment for convention services, hotels and restaurants (including catering), travel agencies and tour operators, tour guide services, other travel and tourism-related services, entertainment services, libraries, archives, museums and other cultural services, and other recreation services (except sporting).

#### ***Telecommunications***

Under the GATS, the United States made commitments to provide reasonable and non-discriminatory access to and use of the public telecommunications network for a broad range of service providers from WTO members, including value-added (or “enhanced”) telecommunications service providers. The United States bound open its value-added telecommunications services market to all WTO members. Through the WTO, the United States has committed to the regulatory environment described in the APEC guidelines for trade in international value-added network services (IVANS).

#### ***Audiovisual***

Under the GATS, the United States made commitments to provide complete market access and national treatment for motion picture and video tape

production and distribution, motion picture projection services, radio and television services, sound recording, and other audiovisual services. Radio and television transmission, other than cable television, is subject to certain quantitative limitations. A single company is barred from owning a combination of newspapers and/or broadcast stations serving the same local market. Radio and television licences may not be held by foreign governments or companies. Foreign investment in, or management of, the parent of a US broadcaster is limited to 25%, absent a determination that a greater percentage is in the public interest.

### **3.3 Measures On Investment**

Current US practices are fully consistent with the provisions of the UR TRIMs Agreement and were consistent even before the United States' became a signatory to the Agreement.

### **3.4 Other Measures**

#### **3.4.1 Making Markets Work Better**

##### ***IPR***

The United States has fully implemented the TRIPs agreement and in some cases, affords higher levels of IPR protection than required under this agreement.

#### **3.4.2 Measures On Other Regulatory Regimes**

##### ***Government Procurement***

As a signatory to the WTO Government Procurement Agreement, the United States extends commitments on transparency and national treatment to cover procurement by subcentral governments and government-owned enterprises, including in services and the construction sector. Thirty-seven individual states have joined in extending this commitment to countries that offer reciprocal opportunities.

## **IV. MEASURES RELATED TO OTHER SUB-REGIONAL / INTERNATIONAL (INCLUDING BILATERAL) ARRANGEMENTS**

The United States is a signatory of the NAFTA, which entered into force for the United States on 1 January 1994. Changes to US law necessary to implement the NAFTA are set forth in the NAFTA Implementation Act, which was signed into law on 8 December 1993. In addition, the United States is a signatory to the US-Canada Free Trade Agreement (CFTA). The CFTA entered into force for the United States on 1 January 1989, and changes to US law necessary to implement the Agreement are



set forth in the US-CFTA Implementation Act, which was enacted on 28 September 1988. The United States also participates in various OECD arrangements and in sector-specific agreements, e.g. on government procurement, civil aviation, telecommunications, textiles, with other economies.

## **1. Measures On Merchandise Trade**

### **1.1 Tariff Measures**

On 1 January 1994, pursuant to NAFTA commitments, the United States eliminated tariffs on 54% of US imports from Mexico. Tariffs on 9% of US imports from Mexico will be phased out over five years and 23% over ten years. Fourteen percent of US imports from Mexico were already duty-free. Tariffs on a small fraction (less than 1%) of US imports from Mexico will be phased out over 15 years. For textiles and apparel, the United States agreed to eliminate tariffs on 80% of imports of products originating in Mexico either immediately or over six years. Remaining tariffs on originating products will be eliminated over ten years.

The agriculture chapter of the NAFTA reflects two bilateral market access agreements - one between the United States and Mexico and one between Canada and Mexico. The market access provisions in the bilateral agreement between the United States and Mexico call for complete liberalization of agricultural trade. Tariffs on about half of the total bilateral trade between the United States and Mexico were eliminated when the NAFTA went into effect on 1 January 1994. Almost all remaining tariffs will be eliminated over a ten year transition period. For a handful of very sensitive products, tariffs will be phased out over fifteen years. For bilateral trade between the United States and Canada, the provisions of the CFTA continue to apply, committing the two countries to phase out all tariffs on agricultural products.

### **1.2 Non-Tariff Measures**

#### ***Textiles and Apparel***

In the NAFTA, the United States and Mexico agreed to eliminate quotas on imports of products originating in Mexico on 1 January 1994.

#### ***Agriculture***

The agreement between the United States and Mexico eliminated all non-tariff barriers to agricultural products on 1 January 1994. In the NAFTA, which incorporated certain CFTA agriculture provisions, the

United States and Canada agreed to eliminate some, but not all, non-tariff barriers.

### ***Shipbuilding***

In December 1994, the United States, Japan, Korea, the European Union, and Norway, signed an agreement to eliminate subsidies and other distortive government practices in the shipbuilding sector. The agreement contains an extensive list of prohibited government subsidies and supports, and establishes a common standard (based on OECD export credit rules) for domestic and export financing for ship construction. The accord also provides a mechanism for dealing with injurious pricing, as well as binding dispute settlement procedures. The agreement is scheduled to go into effect on 1 January 1996, upon formal ratification by all parties. The Signatories are seeking to expand membership to include countries with important shipbuilding or ship repair facilities.

### ***Audiovisual Services***

The commitments undertaken by the United States in this sector under the NAFTA parallel those made under the GATS.

## **1.3 Administrative Measures**

### ***Rules Of Origin***

For determining origin in the NAFTA, the United States used the tariff shift system as described in the Kyoto Convention and in the UR Agreement on Rules of Origin. This codified system will replace the current system of case-by-case determinations for all trade in 1996.

### ***Standards***

Chapter 9 of the NAFTA addresses standards-related issues and contains a higher level of commitments than required in the UR Agreement on TBT. Specifically, Chapter 9 of the NAFTA goes beyond the UR Agreement on TBT to provide for recognition of foreign-based conformity assessment bodies on a non-discriminatory basis. The NAFTA standards chapter also establishes an umbrella Committee on Standards-Related Measures to monitor implementation of the Agreement as well as subcommittees, with specific mandates to work toward harmonization, on the basis of international standards, where possible and appropriate, e.g. the Automotive Standards Council, the Land Transportation Standards Subcommittee, the

Telecommunications Standards Subcommittee, and the Subcommittee on Labeling of Textile and Apparel Goods.

## **2. Measures On Services Trade**

### ***Air Transport***

The United States has reached open skies agreements with the Netherlands and Canada. Similar agreements are expected to be reached shortly with Austria, Belgium, Denmark, Finland, Iceland, Luxembourg, Norway, Sweden and Switzerland.

### ***Ports***

In the NAFTA, the United States made commitments to provide non-discriminatory treatment for landside port activities, including loading and unloading facilities, docks, terminals, and warehouses.

### ***Land Transportation***

In the NAFTA, the United States and Mexico agreed to remove restrictions on cross-border movement of international cargo and investment in trucking. The United States and Mexico also committed to eliminating restrictions on cross-border bus transportation. Restrictions on truck transportation in border states/provinces will be eliminated on 17 December 1995.

### ***Professional Services***

In the NAFTA, the United States committed to extending non-discriminatory treatment to cross-border trade and investment in professional services provided by Canada and Mexico. The United States and its NAFTA partners will also eliminate citizenship and permanent residency requirements as qualifications for licensing of professionals. The NAFTA calls for objective criteria to be used in licensing of professionals, and sets up a mechanism for developing mutual recognition agreements. Engineers from the three NAFTA countries signed, on 5 June 1995, the text of an agreement for mutual recognition of engineers.

### ***Travel and Tourism***

Under the NAFTA, the United States will provide non-discriminatory treatment to investment and to cross-border travel and tourism services. The United States also removed restrictions on Mexican tour buses entering the country. In a Memorandum of Understanding, dated 29 October 1994, the United States joined with its NAFTA partners in establishing a trilateral

technical committee on tourism research and statistics to harmonize statistical collection methods, establish common definitions, and develop a common research program. In coordination with Canada, the United States has proposed revisions in the standard industrial codes covering tourist industries, a step toward a uniform North American system.

The United States, the United Kingdom, Ireland, and nations of the Western Hemisphere have signed ministerial statements calling for developing non-binding “non-papers” to promote growth and investment through tourism.

### ***Telecommunications***

In the NAFTA, the United States committed to reasonable and non-discriminatory access to and use of the public telecommunications network for providers of both services and goods. The United States also committed through the NAFTA to bind open its value-added services market and provide non-discriminatory telecommunications equipment certification for Mexico and Canada. The United States participates in the NAFTA telecommunications standards subcommittee which seeks to harmonize telecommunications equipment certification standards throughout North America. Through the NAFTA, the United States has committed to a regulatory regime described in both the APEC IVANS guidelines and the APEC guidelines on liberalizing equipment certification.

In addition, the United States has concluded bilateral trade agreements on IVANS and equipment certification with Japan and Korea. The United States has also exchanged non-binding letters with the United Kingdom, Hong Kong, Germany, the Netherlands, and France on IVANS.

### **3. Measures On Investment**

Both in the NAFTA and in various bilateral investment treaties, the United States has made a series of commitments that include the following:

- Providing the better of national treatment or MFN treatment, both on and after establishment, subject only to limited sectoral exceptions;
- Prohibiting performance requirements;
- Allowing expropriation for public purposes upon prompt payment of compensation in accordance with international law standards;
- Permitting unrestricted transfer, in a freely usable currency, of funds related to investment;
- Providing investors access to binding international arbitration;
- Permitting investors to hire senior management regardless of nationality.

All forms of foreign investment in the United States are covered in such agreements and treaties. Individual states are bound both by the NAFTA and by bilateral investment treaties. US exceptions from national treatment commitments are mainly in regulated sectors including atomic energy, customhouse brokers, and broadcast, common carrier, or aeronautical radio stations. In addition, the United States excludes from its MFN and national treatment commitments, fisheries, air and maritime transport and related activities, banking, insurance, securities, and other financial services.

The United States also belongs to various OECD instruments. Under the OECD Capital Movements Code, the United States is committed to national treatment for entry of capital, including either through direct investment or acquisition of securities. Under the OECD Invisibles Code, the United States is committed to national treatment of certain transactions and transfers by enterprises of an OECD member, e.g. business and industry, foreign trade, transport, and insurance. Exceptions are comparable to those under our bilateral treaties (e.g. shipping, air transport, banking, insurance, etc.) Individual states are exempted from these Code obligations.

#### **4. Other Measures**

##### ***IPR***

The NAFTA implementation Act provides stronger IPR protection than provided in the TRIPs agreement. Under the NAFTA, the United States protects encrypted satellite signals, provides transitional protection for products previously denied protection under a signatory's patent law, and extends broader national treatment obligations than required under the TRIPs agreement.

##### ***Competition Policy***

As required in the NAFTA's Chapter 15, the United States is committed to proscribing anti-competitive business conduct and to consulting and cooperating in anti-trust enforcement issues. Chapter 15 also contains provisions ensuring that state monopolies and state enterprises do not act inconsistently with the obligations in the NAFTA. In addition, a 1986 OECD recommendation calls on member countries to notify each other, consult, exchange information, and coordinate enforcement action to deal with anti-competitive practices affecting trade.

##### ***Government Procurement***

Under the NAFTA Implementation Act, the United States implemented the NAFTA's Government Procurement Chapter. This extends commitments on transparency and national treatment in government procurement to subcentral governments and government-owned enterprises and to services and construction.

## **V. POTENTIAL BENEFITS, ESPECIALLY TO THE BUSINESS / PRIVATE SECTOR**

The United States' implementation of the UR Agreements, regional, sub-regional, and bilateral trade and investment initiatives, and efforts to promote domestic competition are yielding substantial benefits both for the US economy and for the world trading system as a whole.

The results of the Uruguay Round are expected to stimulate global economic growth by an estimated \$5 trillion over the next ten years. This gain will be shared by all participants in the international trading system. Export industries will benefit from lower tariffs, stronger disciplines on restrictions to trade in goods and services, and better protection of intellectual property. Foreign competition will spur domestic businesses to improve efficiency. Consumers will gain from wider availability of goods at more affordable prices.

Regional, sub-regional, and bilateral initiatives will yield similar benefits. The NAFTA has already contributed to expanding trade between the United States, Canada, and Mexico. Chile's accession to the NAFTA and the FTAA process offer the chance to further facilitate trade and investment flows between and among countries in the Western Hemisphere. Our work in APEC to improve customs procedures, align standards, and otherwise facilitate trade and investment, will make it easier to conduct business in the Asia-Pacific region.

Unilateral measures to promote competition and streamline government are helping to make US industry more productive and US markets more open, especially in the areas of telecommunications and civil aviation. Businesses and consumers are enjoying lower prices, more choices, and better quality in equipment and service.

## **VI. FUTURE DIRECTION**

The United States will continue its efforts - multilaterally, regionally, sub-regionally, bilaterally, and unilaterally - to move toward a more open world trading system. The United States remains actively engaged in ongoing UR negotiations on financial services and basic telecommunications. The United States is also committed to working with its partners in APEC, as well as in the Summit of the Americas, to follow through on commitments made by our leaders. The United States hosted a ministerial meeting in Denver, on 30 June, that adopted a work program to lay the basis for negotiations on the FTAA. The United States is actively engaged in the efforts to implement this work program. The ministers responsible for trade from the United States, Canada and Mexico, announced 7 June that negotiations will begin on Chile's accession to the NAFTA. The United States is currently negotiating new

bilateral investment treaties with several countries. Measures to make the US economy more effective through unilateral deregulation and more vigorous domestic competition continue to be considered both in the US Congress and the Executive Branch. In sum, US markets are now among the most open in the world and will become even more accessible to foreign suppliers and investors, especially those whose economies offer reciprocal opportunities.

## **VII. KEY CONTACTS FOR ADDITIONAL INFORMATION**

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# APEC SECRETARIAT

## Memorandum

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Date : 13/12/95

To : Ambassador Madamba

Cc : Ambassador Imanishi  
Cheung Siu Hing

From : Doug Ryan, Director (Public Affairs)

Subject : Award of Bid for APEC Publication - Deregulation and Liberalization Initiatives of the APEC Member Economies (CTI 05/95)

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You are requested to approve the award of a bid to publish the Committee of Trade and Investment forthcoming publication, *Deregulation and Liberalization Initiatives of the APEC Member Economies* (CTI 05/95)

We tendered to six printers, four of whom responded with bids (attached).

Hansa Lithographers had the lowest bid at S\$7,078 (US\$5,055) for 500 copies. Other bidders were higher :

Viva Lithographers	-	S\$ 8,200 (US\$ 5,857)
Ngai Heng	-	S\$ 8,446 (US\$ 6,033)
Craft Print	-	S\$ 12,617 (US\$ 9,013)

The Committee on Trade and Investment has been authorized US\$10,000 for the printing and distribution of this publication. The recommended bid falls comfortably within this range.

However, I recommend that we award the bid to the second lowest bidder, Viva, because Hansa now has three ongoing jobs, and has presented us with some production delays.

If you approve the bid award to Viva, I will proceed with production in coordination with Mr Nam.