

TRADE POLICY REVIEW BODY

Review of the United States

TPRB's Evaluation

The Trade Policy Review Body of the World Trade Organization (WTO) conducted its fourth review of the United States' trade policies on 11 and 12 November 1996. The text of the Chairman's concluding remarks is attached as a summary of the salient points which emerged during the two-day discussion.

The review enables the TPRB to conduct a collective examination of the full range of trade policies and practices of each WTO member country at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.

The review is based on two reports which are prepared respectively by the WTO Secretariat and the government under review and which cover all aspects of the country's trade policies, including: its domestic laws and regulations; the institutional framework; bilateral, regional and other preferential agreements; the wider economic needs and the external environment.

A record of the discussions and the Chairperson's summing-up, together with these two reports, will be published in due course as the complete trade policy review of the United States and will be available from the WTO Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21.

Since December 1989, the following reports have been completed: Argentina (1992), Australia (1989 & 1994), Austria (1992), Bangladesh (1992), Bolivia (1993), Brazil (1992 & 1996), Cameroon (1995), Canada (1990, 1992 & 1994), the Czech Republic (1996), Chile (1991), Colombia (1990 & 1996), Costa Rica (1995), Côte d'Ivoire (1995), the Dominican Republic (1996), Egypt (1992), the European Communities (1991, 1993 & 1995), Finland (1992), Ghana (1992), Hong Kong (1990 & 1994), Hungary (1991), Iceland (1994), India (1993), Indonesia (1991 and 1994), Israel (1994), Japan (1990, 1992 & 1995), Kenya (1993), Korea, Rep. of (1992 & 1996), Macau (1994), Malaysia (1993), Mauritius (1995), Mexico (1993), Morocco (1989 & 1996), New Zealand (1990 & 1996), Nigeria (1991), Norway (1991 & 1996), Pakistan (1995), Peru (1994), the Philippines (1993), Poland (1993), Romania (1992), Senegal (1994), Singapore (1992 & 1996), Slovak Republic (1995), South Africa (1993), Sri Lanka (1995), Sweden (1990 & 1994), Switzerland (1991 & 1996), Thailand (1991 & 1995), Tunisia (1994), Turkey (1994), the United States (1989, 1992, 1994 & 1996), Uganda (1995), Uruguay (1992), Venezuela (1996), Zambia (1996) and Zimbabwe (1994).

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CONCLUDING REMARKS BY THE CHAIRPERSON

This meeting of the Trade Policy Review Body has now completed the fourth review of the United States' trade policies and practices. These remarks, which are made on my own responsibility, summarize the main points of discussion. They are not intended to substitute for the collective evaluation and appreciation of U.S. trade policies and practices. Details of the discussion will be reflected in the minutes of the meeting.

The discussion developed under four main themes: (i) Economic conditions and regional trading arrangements; (ii) U.S. strategies for conducting trade policies; (iii) trade policy measures; and (iv) sectoral issues.

A very large number of questions has been raised in written form; many of these cover overlapping issues. We look forward to receiving the replies from the United States.

Economic conditions and regional trading arrangements

WTO members complimented the United States on its strong economic performance, characterized by high growth and low inflation. Noting the rising share of trade in U.S. GDP, they emphasized the key rôle played by securely open markets for goods, services and investment in U.S. economic development and resource allocation. Binding of market access conditions by the United States was also regarded as important to the world trading system. The United States was thus urged to exercise leadership in the WTO to bring negotiations on financial services, telecommunications and maritime transport to a successful conclusion.

During the period under review, net imports had increased and the current account had widened somewhat. It was recognized that this net import expansion was taking place during a period of slack demand in other developed markets, thus helping to stabilize world economic conditions. Some fears were expressed that a rising current account deficit might contribute to renewed protectionist pressure in the United States.

Some members commented on the importance of services to the U.S. economy, recognizing that productivity gains in that sector were crucial to improvements in living standards. In that context, they noted the shift in the delivery of service imports from cross-border to establishment and asked if this was related to State investment incentives.

Members remarked that, in the period under review, regionalism had not been a main motor for the expansion of U.S. foreign trade; trade with Canada and Mexico had increased at a similar pace as that with other trading partners.

In response, the representative of the United States emphasized the importance of open markets in helping to assure efficient production structures. The benefit to the United States came from the connection between an open, competitive domestic environment and open borders. He added that many in the United States had endured stress in restructuring the economy; these adjustment pressures had led to the United States, over many years, urging consideration in the WTO of core labour standards.

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In addressing concerns that the U.S. saving-investment imbalance, and associated trade and current account deficits, might erode public support for open trade policies, he noted that the trade deficit as a share of GDP was now less than half the level of its previous peak in 1987. Moreover, there had been considerable progress in reducing the federal budget deficit, which was the Government's most direct link with savings and therefore the trade deficit. A recent rise in the trade deficit reflected U.S. economic expansion, in which investment had played a greater rôle than in the past. In this expansion, the United States had also been a significant pole of attraction for foreign capital.

On services, the representative noted that internal deregulation in a number of sectors had raised, and would continue to raise sectoral productivity. Success in GATS negotiations would also help. He believed that the openness of the U.S. foreign investment régime, and the practical requirement for a local presence to deliver many services, underlay the shift from cross-border transactions to foreign investment, rather than State investment incentives.

On regional trade links, the representative said that the overall benefits of NAFTA might be considerably larger than originally thought. NAFTA was likely to have created more trade than any potential diversionary effect, because of the huge market and its support for wider economic reforms; specifically, the low level of the U.S. m.f.n. tariff meant that the margin of NAFTA preference was slight, and the rapid growth of U.S. imports from most suppliers in recent years was evidence that any diversion was much less than growth.

Strategies for conducting trade

Members noted the strong interaction in U.S. trade policy making between multilateralism, bilateralism and unilateralism. Evidence that WTO commitments were at the centre of U.S. trade policy making was seen in its frequent use of dispute settlement provisions; however, a general dissatisfaction with the continued unilateralism inherent in "Section 301" legislation was expressed. Members inquired when the United States planned to implement the Appellate Body ruling concerning "Standards for reformulated and conventional gasoline" which was adopted by the Dispute Settlement Body.

Questions were raised about the implementation of the WTO Agreements at the State and local level, including the notification of sub-federal subsidies by the United States.

Members noted that the United States was currently without "fast-track" authority for trade negotiations. Participants asked the U.S. delegation to comment on the impact of the absence of such authority.

The large number of bilateral agreements concluded by the United States was a matter of concern. Questions were raised whether such agreements were implemented on a m.f.n. basis and whether all were notified to the WTO. The representative of Japan stated that the bilateral U.S.-Japan measures under the Framework Agreement involved policy changes by both the United States and Japan and were implemented on a m.f.n. basis. The representative of Canada noted that the possibility of U.S. use of its trade remedy law had played a rôle in reaching the bilateral Softwood Lumber Agreement. Participants stressed that reciprocity clauses contained in bilateral agreements could be fundamentally at odds with the m.f.n. provisions of the multilateral trading system.

A number of delegations expressed their objections to the unilateral use of trade policy instruments for non-trade-policy objectives. In this context, the "Helms-Burton Act" and the Iran-Libya Trade Sanctions Act were particularly mentioned and the WTO consistency of these measures was strongly questioned. The extra-territorial use of environmental standards applied to imports of tuna

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and shrimp was also criticized. Some members queried the non-trade conditions for application of GSP preferences.

Concerning trade in services, participants stressed the importance of an open trading environment for the development of an efficient services sector and noted with regret that the United States had introduced a broad m.f.n. exemption to its financial services offer in 1995.

Although members welcomed the liberalization under the new telecommunications legislation, several noted possible deviations from m.f.n. treatment to foreign services providers, as contained in reciprocity clauses, as well as concern with the application of the "public interest" test by the Federal Communications Commission. It was also noted that COMSAT had a monopoly on key satellite links.

Participants expressed disappointment that the United States had not submitted an offer under the Maritime Transport Negotiations. They noted various restrictive measures applied to domestic and international maritime transport services. It was also stated that the United States had taken unilateral measures under domestic legislation, as well as violating its standstill commitment by lifting a ban on exports of Alaskan oil under the condition that it be shipped on U.S. flagged and manned vessels.

Concerning the movement of persons, members noted the restrictive use of immigration and residence provisions applied by the United States.

In reply, the U.S. representative emphasized that good trade agreements should involve an exchange of benefits. "Free ridership" was not helpful, and leadership required clear identification of priorities. Enforcement of trade agreements was important in ensuring adherence.

In this context, he saw Section 301 as a means for communication of exporters' concerns: he emphasized that Section 301 was integrally linked to the multilateral dispute settlement mechanism. Since the entry into force of the WTO, all Section 301 actions concerning WTO members had been pursued under the DSU.

The representative declined to comment on the extra-territorial application of U.S. legislation, as this was under consideration in Dispute Settlement procedures.

The representative noted that the U.S. aim in services negotiations was to achieve substantive commitments to market access and national treatment by a wide range of countries. The United States would thus continue its active rôle in telecommunications and financial services, through putting in good offers early. In turn, meaningful down-payments were required from other Members, providing real access to foreign service providers and reflecting fully the principles of market access, national and most-favoured-nation treatment.

He stated that the renewal of fast-track negotiating authority would require extensive consultations with the new Congress, yet to be formed; the U.S. would keep Members informed of progress in this regard.

Trade measures

While welcoming the low average of U.S. tariffs, Members noted the high tariff peaks in particular sectors. It was noted that zero-for-zero initiatives would contribute to further reduction of tariff averages. Questions were raised about increases in the rate of the customs user fee, and whether the fee substituted for declines in tariff revenue.

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Developments in U.S. anti-dumping and countervailing legislation and their application to specific cases were raised by many participants. While welcoming the reduction in the number of new cases, members questioned the U.S. concept of "fair" trade, the definition of "national industry", the use of de minimis provisions, the timeframe for application of the sunset clause, the use of anti-circumvention measures, and the relationship of AD/CVD measures to competition policy. The high cost of anti-dumping and countervailing measures to the U.S. economy and trading partners was emphasized.

Members also saw a lack of consistency between rules of origin and labelling requirements used to administer preferential treatment under various regional trade agreements. In this context, the U.S. delegation was invited to comment on the status of a U.S. Treasury proposal to unify the rules of origin.

Members commended the United States for its commitment to expanding procurement coverage under the plurilateral Government Procurement Agreement and for seeking greater transparency in this area. However, many questions were raised concerning conditions of access to U.S. government procurement. "Buy-American" and "Buy-State" provisions were criticised as being wide ranging and non transparent. Members considered that set-asides for small and minority-owned businesses were becoming more important over time and sought clarification on these areas.

Standards and technical regulations were raised by many members as an area of concern. Issues raised included the application of environmental process standards to imports of tuna, shrimp and gasoline. The question of the Corporate Average Fuel Economy (CAFE) Act was also critically noted.

In reply, the U.S. representative recalled the contribution made by the United States to overall tariff liberalization; these efforts would continue, inter alia, through the proposed Information Technology Agreement. Binding of tariffs on a broad basis by all Members was very important.

He welcomed the improvements in anti-dumping and countervailing provisions contained in the WTO Agreements. A revision of anti-dumping and countervailing regulations underway would increase the level of clarity of U.S. procedures. Anti-circumvention provisions were, in his view, consistent with the enforcement provisions of the relevant Agreements and Ministerial Decisions. It was not easy to say why the level of new investigations had declined, as this was largely determined by private sector actions.

The representative noted in passing that only a few Members had undertaken WTO disciplines in Government procurement. The United States was committed to liberalization in this area: the transparency negotiation to be proposed at Singapore could be a stepping stone for wider membership of the GPA. U.S. policies were predictable and transparent, even when Buy American preferences applied. Restrictions under these provisions and set-aside procedures applied to a small share of procurement covered by the successive Agreements: their importance had in some cases been exaggerated. National security exceptions were maintained in the same framework as those by other trading partners. 37 States had agreed to GPA commitments.

The United States was participating actively in WTO work on rules of origin; U.S. policies on adoption of uniform rules and application of preferential rules were consistent with WTO obligations. The representative also emphasized the linkages, both domestically and multilaterally, that the United States sought to promote between trade and environmental issues, referring particularly to recent international conventions on protection of sea turtles and dolphins.

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Sectoral issues

The enactment of the Federal Agricultural Improvement and Reform (FAIR) Act was welcomed. However, Members noted the high average level of tariffs applied to products for which quantitative restrictions had been tariffed under the WTO Agreement on Agriculture. Although much lower tariffs were applied to imports under tariff quota, many of these quotas remained underutilized, leading to questions concerning the allocation of quotas to trading partners. Members expressed regret that export subsidies continued to be available under the FAIR Act - and even expanded in some areas - and queried the targeting of certain export subsidy provisions on particular regions. SPS measures and proposed changes to these measures were also critically reviewed.

The U.S. implementation of its commitments under the WTO Agreement on Textiles and Clothing (ATC) was an important issue for many participants. It was noted that tariffs in this sector remained high. Some Members expressed considerable disappointment that no items previously under quota had been included in the first integration phase and that the U.S. integration of textile and clothing products over four phases, as required by the ATC, was heavily backloaded. It was considered that this violated the spirit of a gradual phasing-in of the products covered by the Agreement and could inhibit the adjustment process in the U.S. market. The change in the rules of origin applied to textiles and clothing was also criticized as being disruptive to international trade, while the use of the safeguard provisions of the ATC was considered by some members to be excessive.

In reply, the U.S. representative noted that the FAIR Act would move the U.S. agricultural sector towards a more market-oriented approach, going beyond obligations agreed in the Uruguay Round. The further influence of such measures as loan rates, subsidies and tariff quotas on prices and production was significantly reduced. On loan rates, there was no price floor or government stock accumulation; international market conditions would determine the extent to which the United States applied export subsidies, with world trade liberalization the key to eventual elimination or suspension of export subsidies.

On textiles and clothing, the representative noted that the sectors were among the most sensitive in the U.S. economy; clothing, in particular, employed many economically vulnerable American workers. The U.S. market was the world's largest, with high import penetration. The United States had made great efforts to ensure that both sectors were part of the Uruguay Round package and that the U.S. Congress implemented the Uruguay Round fully, as negotiated, with appropriate phase-in provisions. The United States had scrupulously abided by its commitments and, at a minimum, would continue to do so. Going beyond currently announced plans was not out of the question but any such consideration would depend on the willingness of other countries involved in textiles and clothing to undertake commensurate additional efforts. He added that the United States had notified a comprehensive product integration schedule for the full transition period - beyond what was required in the Agreement - so as to ensure stability in the U.S. market and for its partners.

On rules of origin for textiles and clothing, when the United States codified its rules it had provided 18 months for public comment. The system was completely transparent, and the overwhelming majority of U.S. rules were in line with those used by other major importers. The U.S. use of safeguards was in accord with the ATC and had been reviewed by the Textiles Monitoring Body and dispute settlement panels.

There were significant challenges ahead to the successful transition to an integrated, quota-free textiles and clothing sector, as required by the Agreement. First, the United States would need to be sure that its trading partners' markets were as open to U.S. exports as the U.S. market was to imports. Second, the United States would need to ensure that disciplines in the Agreement on quota circumvention were effective and adequate to remedy the significant problem.

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Overall remarks

Members noted various positive developments in the U.S. economy over the past two years, including a significantly increased volume and share of trade. They particularly welcomed the passage of the Uruguay Round Agreements Act, the entry into force of the plurilateral Government Procurement Agreement, the substantial reform measures in the agricultural and telecommunications sectors, and a decrease in use of anti-dumping measures.

However, continuing concerns were expressed on a number of issues. Contradictory signals were noted. Despite the stated commitment to multilateralism, and frequent invocation of WTO dispute settlement procedures, a resort to unilateral approaches is still in evidence. A continuing emphasis on strict bilateral reciprocity sits uneasily with the stated attachment to multilateralism. Criticisms of legislative provisions with extra-territorial effect were widely shared.

Among the sectoral issues raised, a strong concern about the United States textile régime was registered by textile-exporting countries. In the services sector, it was hoped that the United States would demonstrate a strengthened commitment to completing the unfinished business of the Uruguay Round.

Members are conscious of the weight which the United States carries within the world trading system and the leverage which it consequently exercises. They seek reassurance that the relative restraint in resort to trade remedies which characterizes periods of economic buoyancy will prove durable. Most importantly, they are concerned to ensure that the United States is a consistent and reliable proponent of multilateralism, with a long term commitment which will be strong enough to withstand pressures that may arise.

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