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TRADE POLICY REVIEW

MEXICO

Minutes of Meeting

Addendum

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ANNEX I

ADVANCE WRITTEN QUESTIONS BY MEMBERS

CANADA

Secretariat Report (WT/TPR/S/97)

II(2)(i) para. 7

Paragraph 7 states that sanctions have been established for civil servants who circumvent transparency requirements in developing or changing regulations. What process does Mexico have in place to deal with such a circumstance? Also, please advise if there has been any case(s) to date in which a civil servant has been charged with circumvention and, if so, please provide the disposition of the case(s).

II(4)(ii) para. 54

Paragraph 54 states that Mexico started negotiations with respect to government procurement and financial services with Chile in 2000. Have agreements been reached in these areas? If no, please provide a state of play of the negotiations.

II(4)(ii) para. 55

Paragraph 55 states that the G-3 Agreement came into force in 1995 and that its aim is to consolidate an FTA between Mexico-Colombia-Venezuela, through a three-stage tariff reduction programme.

- (a) Please elaborate on the tariff reduction mechanism of the G-3 Agreement.*
- (b) Please clarify why a negotiation was needed for the second round of tariff reductions with Venezuela, if a schedule was already in place.*
- (c) Please clarify why tariff reductions with Colombia are only at the first stage.*

II(4)(ii) para. 63

Paragraph 63 states that Mexico participates in the Global System of Trade Preferences (GSTP) and Mexico provides tariff preferences under the GSTP, although these are not being requested.

- (a) Please provide your views on why tariff preferences are not requested.*
- (b) Please elaborate on the tariff preferences provided under the GSTP*
- (c) What is the current margin of preference and product-coverage under the GSTP?*

III(2)(ii) para. 19

Paragraph 19 states that a price reference mechanism is in place for 308 tariff items, as a means to combat customs under-invoicing and, consequently, underpayment of customs duties.

- (a) For items that are not subject to this mechanism, please describe the basis for determining whether a given product is priced correctly for the purposes of the payment of customs duties.*

- (b) *Please provide an estimate of lost revenue due to under-invoicing.*
- (c) *Can a decision be made by Customs officials on-site as to whether a product is being under-invoiced? If so, please elaborate on the consequences if they determine that a product is being under-invoiced.*
- (d) *If the customs value is found to have been under-invoiced, what are the next steps that Customs would take to arrive at the correct value?*
- (e) *Is there a mechanism for formally exempting products imported from specific countries once the tariff is eliminated under a Free Trade Agreement?*
- (f) *Please confirm if the sole purpose of the Reference Price System is to deal with the problem of under-invoicing and underpayment of customs duties, or to determine whether a product is being dumped on the Mexican market.*
- (g) *Please provide the formula used to calculate the reference prices.*
- (h) *Could Mexico please provide more timely, advance notification of new reference prices?*
- (i) *Of the 308 tariff items subject to the Reference Price System introduced in 1994, please provide historical statistical data on the following:*
 - *specific tariff items that have been identified for further review;*
 - *value of the goods by tariff item where the price has been found to be under-invoiced;*
 - *value and number of items reviewed that have been correctly invoiced; and*
 - *number of items deleted from the Reference Price System since it has been in effect.*

III(2)(ii) para. 19

Paragraph 19 states that a deposit of guarantee is required when the declared price is inferior to the reference price and that the deposit should be equivalent to the amount of duties that would be collected if the value of the imported goods was equal to the reference price established by the authorities. Please indicate what percentage of the deposits of guarantee is actually collected.

III(2)(ix) para. 72

Paragraph 72 states that a cost-benefit analysis is required for a preliminary draft regulation when regulations may have a broad impact on the economy or a substantial effect on a specific sector. Please provide the criteria used to determine when a regulation may have a "broad impact on the economy" or a "substantial impact on a specific sector". Also, please indicate who establishes these criteria.

III(2)(ix) para. 72

Paragraph 72 states that there is a 60-day period for receiving comments on draft regulations, following publication in the Official Journal, but Mexico has previously notified the WTO that it allowed 90 days (see annotation 1 to paragraph 72).

- (a) *Please provide a rationale for this change. Please indicate whether Mexico intends to restore the 90-day period.*
- (b) *Please indicate whether you accept comments on draft regulations from foreign parties. Also, please describe the process you follow when receiving and considering comments.*
- (c) *Does Mexico simultaneously notify its Inquiry Point at the time of publication of a draft regulation in the Official Journal in order to ensure that foreign parties are given a minimum 60-day period for comments?*

- (d) *Does Mexico have a similar provision for comments on draft legislation that may have trade policy implications? If so, please provide a description of the provision.*

III(2)(ix) para. 73

Paragraph 73 states that regulatory agencies are authorized to issue emergency technical regulations when they conclude that there is imminent risk of damage to a legitimate objective.

- (a) *After adoption of emergency regulations, what is the timeframe for receiving comments from foreign parties?*
(b) *Please advise if regulatory agencies are required to follow a specific process in issuing emergency technical regulations. If so, please elaborate on this process.*
(c) *Please clarify if Mexico has measures in place to inform its trading partners of the application of emergency regulations per WTO TBT Article 2.10.1? If so, does Mexico provide for immediate notification of these measures as required under WTO TBT Article 2.10.1?*

III(2)(ix) para. 73

Paragraph 73 states that only one of fifteen emergency technical regulations, which were in place in August 2001, was based on international standards.

- (a) *Please advise if a relevant international standard(s) existed or was to be completed imminently in any of the fourteen other cases. If so, why was the standard not used either in whole or in part in each case as required under WTO TBT Article 2.4?*
(b) *Also, please clarify if there is a requirement for emergency technical regulations to be based on international standards, where relevant international standards exist or whose completion is imminent, per WTO TBT Article 2.4. If so, where is this requirement found in Mexican law?*
(c) *Is a regulatory agency able to obtain a dispensation from this requirement and if so, from which body?*

III(2)(ix) para. 78

Paragraph 78 states that imports of products subject to verification at the border must be accompanied by a NOM certificate or a copy of the certificate. To obtain an NOM certificate, the importer must send samples to a Mexican-based test laboratory accredited by the Mexican accreditation entity and approved by the concerned government agency. Please provide a list of Mexican-based foreign laboratories that are accredited by Mexico.

III(2)(ix) para. 86

Paragraph 86 states that there are 26 technical regulations and three draft regulations that refer to labelling requirements which includes the two main technical regulations (NOM-050 and NOM-051). Please provide a list of these regulations (including their titles and reference numbers).

III(2)(ix) para. 90

Paragraph 90 states that the entry of specific products is confined to given entry points. For example, from 29 June 2001 the list of entry points for apples from the US has been reduced to five. Please provide a list of the entry points for specific products originating from specific countries.

III(2)(ix) para. 91

Paragraph 91 states that in addition to the provisions contained in different FTAs, Mexico maintains sanitary and phytosanitary cooperation agreements with various countries. Please elaborate on the purpose, scope, and content of these agreements.

III(2)(x) para. 104

Paragraph 97 and 104 state that the UPCI, which has authority to conduct and deal with AD and CV investigations and to determine any duties that might arise, also provides support to Mexican firms subject to AD or CV measures in third markets, through direct advice, and other support to exporters under investigation. Please describe any mechanisms that are in place to address possible conflict-of-interest between UPCI's role in conducting investigations and its role in assisting Mexican companies.

**III(4)(iii) para. 174 and,
IV(4)(iii) para. 98**

Paragraph 174 and 98 state that PROSEC applies to firms that produce finished goods covered in a specific sectoral promotion programme and imported inputs listed under this specific programme. Its benefits consist of reduced import duties on specified inputs. Given that they provide for lower customs duties for inputs for specific export sectors, when does Mexico intend to officially notify the WTO of PROSEC?

IV(2)(i) para. 9

Paragraph 9 notes the establishment in January 2002 of an excise tax of 20% on soft drinks that are not sweetened with sugar cane, in a move to try to discourage substitution of sugar cane by other sweeteners. We welcome President Fox's March 5, 2002 announcement of a seven month suspension of the tax. Can the Government of Mexico provide assurances that this or a similar tax will not be reactivated?

IV(5)(ii), Telecommunications

We understand that there will soon be a new telecommunications law in Mexico. Please provide a broad outline of the changes proposed that are related to Mexico's commitments in the Reference Paper on Regulatory Principles, i.e. regulatory authority, universal service, interconnection.

GUATEMALA

Secretariat Report (WT/TPR/S/97)

II(1) para. 2

Mexico has come to consider the multilateral trading system as the main instrument for the liberalization of world trade.

How does Mexico reconcile this paragraph with its high degree of trade dependence under the numerous FTAs governing its international trade?

II(3)(i) para. 18

In principle, Mexico does not grant direct incentives for foreign investment, although it maintains several programmes that favour national and foreign investors, such as export promotion schemes and special tax incentives; some Mexican States also grant tax incentives for new industries.

How does Mexico consider these incentives to be consistent with the Agreement on Subsidies and Countervailing Measures?

III(2)(vii) para. 58

Mexico does not apply minimum import prices.

Could Mexico explain what are its reference prices and how they work?

III(3)(vii) para. 121

The principal schemes are: the maquila programme and the Programme of Temporary Imports to Produce Export Goods (PITEX); other programmes include the High-Volume Exporting Companies Programme (ALTEX), the Foreign Trading Companies Programme (ECEX) and the duty drawback scheme.

Could Mexico explain when these programmes will end and if so, whether there is a timetable for their dismantlement?

Table III.9

Fiscal incentives to promote economic activities

Could Mexico explain the content of the programmes put in place by the Department of the Treasury and Public Credit (SHCP) regarding exemption from income tax? In particular, we would be grateful for a description of the products that benefit under those programmes, as well as their objectives and time-frames.

IV(2)(i) para. 10

Border protection has helped maintain domestic sugar prices well above their international levels....

What does this border protection consist of?

Para. 10

In September 2001, the Mexican Government expropriated 27 sugar mills in an effort to address their financial problems, and to allow an efficient functioning of the industry.

What were the criteria and mechanisms used to carry out the expropriation?

Para. 10

A State trust was created in December 2001 to run the mills, with a view to reprivatization.

Could you describe in greater detail the Decree published in the Official Journal on 3 September 2001 or provide a copy of it? Will foreign companies also be able to participate in the purchase of these mills?

HONG KONG, CHINA

Secretariat Report (WT/TPR/S/97)

P. 49, paras. 94-95

We note that Mexico's main anti-dumping and countervailing duty provisions are based on its Foreign Trade Act (LCE) of 1993 and its Regulations, the WTO Agreement on the Implementation of Article VI of the GATT 1994 (the AD Agreement), and the WTO Agreement on Subsidies and Countervailing Measures (the SCM Agreement), and that the issue relating to Mexico's AD and CV statutes has been extensively discussed by the Committee on Anti-dumping Practices and the Committee on Subsidies and Countervailing Measures. In response to the concerns raised by WTO Members in the two Committees, Mexico has confirmed that in the event of inconsistencies between the WTO Agreements and the LCE, or omissions in the latter, the provisions of the WTO Agreements would prevail. In view of the above, we would be grateful to know whether it is still Mexico's plan to amend the LCE so as to bring it into complete conformity with the AD Agreements. If yes, what is the progress of the relevant legislative exercise so far?

P. 57, para. 120

It is noted that certain subsidy programs maintained in Mexico, including the maquila programme, the High-volume Exporting Companies programme (ALTEX), The Foreign Trading Companies Programme (ECEX) and the duty drawback scheme, have not been notified to the WTO. Mexico may not meet in full the notification requirements of Article 25 of the Agreement on Subsidies and Countervailing Measures. We would like to know more about these programs (for example the target recipients, eligibility and benefits given to them, etc.) and the difficulties in submitting the appropriate notifications to the WTO.

Pp. 80-81, para. 230

We note that Mexico has adopted a multi-agency arrangement for copyright enforcement through the Mexican Institute of Industrial Property (IMPI) and National Copyright Institute (INDAUTOR). This arrangement has been described as "burdensome" in the Secretariat's report. We would like to know if the Mexican authorities have any plans to streamline the arrangement and entrust the enforcement responsibility to one single agency.

P. 81, para. 231

We note that the right-holder representatives in Mexico considered that Intellectual Property Right (IPR) enforcement action in IPR protection was weak and that piracy rate and financial losses for software and the recording industry, for example, remained high. Piracy has also deprived the fiscal authorities considerable loss in tax revenue. We would like to know what further enforcement action is being contemplated by the Mexican authorities to combat the reported level of IPR piracy.

P. 106, para. 105

It is noted that access to the financial services market provided for in domestic laws is in practice more favourable than Mexico's GATS commitments. Full foreign investment in commercial banks, financial groups, securities brokerage firms, and securities market specialists is allowed. We would like to know whether the Mexican authorities would consider extending such favourable terms in the existing regime to its Schedule of Commitments?

P. 107, paras. 106-107

We note that unrestricted foreign ownership is possible only through the legal figure of subsidiaries of foreign financial institutions based in countries with which Mexico has concluded agreements covering financial services providing for such establishments as well as those from all OECD countries. We are interested to know whether Mexico would consider waiving such limit on foreign ownership of financial institutions on a multilateral basis.

KOREA

P. 29, para. 11

Since July 1998, Mexico has required that the price of certain products imported from Asia and Eastern Europe be reported in advance of custom procedures to the Mexican authorities. The aim of this requirement is explained to be to detect fraudulent activities, illegal trans-shipment and undervaluation of shipments.

This requirement appears to be a violation of GATT 1994 Article I (MFN Treatment). Does Mexico have any plan to eliminate the requirement?

P. 31, para. 24

Mexico also maintains more burdensome origin certification requirements for textiles, clothing and footwear imported from 15 Asian countries including Korea than it does for the same products from other WTO members. It was explained that these requirements were designed to prevent circumvention of products subject to anti-dumping measures.

The Korean Government is of the opinion that those requirements are also a violation of GATT 1994 Article I (MFN treatment) and they have been maintained for an excessive duration (since 1994). Therefore, in our view the requirements should be abolished as soon as possible. What is the Mexican view on this matter?

Pp. 49-54, paras. 94-107

We appreciate that the number of anti-dumping cases initiated by the Mexican Government has dropped significantly since 2001. However, as stated in paragraph 101 of page 51 of the

Secretariat's report, there were still 90 AD duties in force as of March 2001. Especially, high rates of AD duties have been imposed on several Korean products without proper preliminary affirmative determinations according to the Article 7.1 of AD Agreement. Finally it was found that there was no dumping or injury in those cases.

It is our belief that in order to prevent those AD measures from being misused as trade barriers, the Mexican government needs to be more careful when initiating anti-dumping measures. What is the Mexican view on this matter?

Pp. 54-56, paras. 108-114

On 16 March this year, the Mexican government has raised the tariff rates on 38 steel items from 25% to 35%.

It is our deep concern that the recent imposition by some Members of high tariffs on steel products for the purpose of protecting their domestic industries would disrupt the development of the WTO multilateral system.

Bearing this in mind, does Mexico have any intention to cut back the tariff rates of those steel items?

Pp. 71-72, paras. 196-202

According to the "Auto Decree", Korean automobile manufacturers who have no assembly line in Mexico cannot export their assembled vehicles to Mexico.

Although the requirement is to be abolished by the end of 2003, does Mexico have any plan to eliminate the requirement early considering that it is a clear violation of GATT 1994 Article I (MFN treatment)?

Pp. 114-116, paras. 131-141

The Korean Government appreciates the introduction of competition in domestic long-distance and international services in January 1997.

However, it is our understanding that the high interconnection rate of TELMEX effectively acts as a barrier to market access in the value-added telecommunications sectors. What is the Mexican view on this matter?

Pp. 120-121, paras. 160, 163

As paragraph 160 of page 120 of the Secretariat's Report shows, foreign shipping companies and vessels may participate in international maritime transport activities only if their country of origin provides reciprocal treatment to Mexico. Mexico made no specific commitments under the GATS on this sector. Will the Mexican Government continue the current policy related to maritime transport services in the future?

NORWAY

Energy sector

Mexico is a major player in the field of energy and the sixth largest producer of crude oil.

Could you briefly outline the initiatives that Mexican authorities have taken to increase private participation in the energy sector and indicate which parts of the energy sector where you see most benefits from increased private participation?

Public procurement

Mexico has not signed the Plurilateral Agreement on Government Procurement. Is the Mexican Government considering joining this agreement?

Maritime transport - insurance

Maritime vessels flying Mexican flag must be insured in the domestic market (Hull and Machinery insurance). This also applies in practice to Mexican owned vessels flying a foreign flag, if such vessels are to be employed in certain trades, i.e. for Pemex or the Port Authorities. Can you explain why Mexican ships are restricted from being insured abroad?

ARGENTINA

IV(2)

In paragraphs 14 to 16, the Secretariat states that agricultural products benefit, on average, from higher MFN tariff protection than non-agricultural products. Tariff protection for non-MFN originating goods is, however, relatively low (e.g. 4.9 per cent for imports from the United States) and that such protection is being reduced progressively. Moreover, in its WTO Schedule of Concessions Mexico included tariff quotas for several agricultural products and in some cases the Mexican authorities have allowed imports in excess of the quota at the in-quota rate.

Argentina would like to know what is the out-of-quota tariff level applied and whether preferences have been accorded on the following products:

- *Pig fat free of lean meat and poultry fat (not melted out), fresh, chilled, frozen, salted, in brine, dried or smoked (02090001);*
- *animal fats and oils and their fractions (15161001);*
- *poultry, not cut in pieces, fresh or chilled (02071001);*
- *maté (21012001);*
- *beans, other than for sowing (0713302).*

COLOMBIA

Paragraph 18 of document WT/TPR/S/97 mentions that the basis for customs valuation varies according to the origin of imports.

We would like to know what legal bases in the multilateral rules would in Mexico's opinion justify the existence of this differential treatment in customs valuation.

Paragraph 36 of the same document states that Mexico has applied rates above the bound tariff level for several agricultural products. What type of measures will the Government of Mexico apply in order to guarantee strict compliance with WTO bound levels?

Page 66 of the Report by the Secretariat mentions that some of the fiscal advantages accorded in support of domestic industry are contingent on meeting national-content requirements. Apart from vehicles, for what other products is a national-content requirement stipulated?

EUROPEAN UNION

Government Report (WT/TPR/G/97)

IV(h), para, 49

Mexico has concluded eight free trade agreements with 27 countries, of which 22 are members of the agreement on government procurement (GPA). All eight FTA include chapters on government procurement with market access and provisions guaranteeing transparency and fair rules on the tendering process. Considering that the Mexican legal framework sufficiently developed to comply with the GPA requirements and the openness of its procurement to most of the GPA parties, is Mexico considering now to accede the WTO plurilateral agreement on government procurement?

Para. 50

The electronic procurement system COMPRANET represents an important effort in terms of transparency of procurement opportunities. The system is currently limited to the procurement of federal entities. Are there any plans to extend the system to all the other public entities, including the states, municipalities and state-owned enterprises?

Secretariat Report (WT/TPR/S/97)

II(2)(i), General legal and institutional framework

Certain authorities of the Mexican administration seem not to be fully aware of Mexico's international obligations on trade matters. As an example, in October 2001 and again in December of the same year the Mexican Ministry of Finance decided to suspend the distribution to importers of the fiscal stamps that are required to allow commercialization of alcoholic drinks into Mexico, while continuing their distribution to local producers. This measure, that effectively blocked the imports of alcohol for over a month during the pre-Christmas sales season, has caused a considerable damage to EU exporters. Can Mexico ensure that all dependencies act consistently with its international obligations avoiding that additional trade barriers are raised by those means?

(3)(ii), para. 29, Restrictions to foreign investment

Foreigners may hold higher percentages in the capital of Mexican companies in restricted areas through the concept of "neutral investment".

What are the reasons behind such restriction?

Is this restriction applied on a MFN basis? Is this restriction also applied to investments from NAFTA countries?

Which service sectors are included in these "restricted areas"?

In which service sectors "neutral investment" has been authorised in the past?

The decision to authorise "neutral investment" is granted "on a case-by-case basis" What are the elements taken into consideration?

Para. 30

There is a "restricted zone" (100 kilometres wide from the borders and 50 kilometres wide from the coast) in which direct foreign ownership of land is prohibited.

What are the reasons behind such restriction?

Is this restriction applied on a MFN basis? Is this restriction also applied to investments from NAFTA countries?

Notwithstanding the restriction, it is possible to invest in a Mexican company owning real estate within the restricted zone for non-residential purposes. Is there any limitation in the level of foreign investment in this respect? Are there any requirements or restrictions to invest in such companies?

III(1), para. 2

The report states that the procedures to apply Non Preferential rules of origin to products subject to Anti-Dumping and Countervailing duties vary by product and by originating country. Can Mexico explain in greater detail what these procedures are and how they are applied?

III(2)

Customs practices in Mexico have been improved in the recent years. However, importers complain over inconsistent and discretionary interpretation of import formalities and requirements among customs offices, as well differences in the way controls of compliance with Mexican standards and technical regulations, labelling rules and sanitary and phytosanitary standards are carried out. Irregularities and corruption are also mentioned. Could Mexico please further elaborate on these issues; are there any concrete steps foreseen in order to take these complaints into account?

The Resolución Miscelanea de Comercio Exterior para 2000 and its Annex 21, establishes that specific goods may enter into Mexico only through customs offices specified in the said annex. Changes in annex 21 may take place at any time and without previous public notification, substantially affecting the trade patterns for the products concerned. This indeed happened in July 2001, when importation of textile and clothing products was limited to a few ports of entry, and again in November of the same year. Is Mexico aware that these restrictions, understandable in a limited number of cases (i.e. goods whose importation requires special inspections or technical expertise), and even more their sudden and frequent modification, can create considerable disruption to trade in the goods concerned?

(2)(ii), para. 16

The report states that "Mexico has invoked various provisions available to developing countries for the delayed application of, and reservations under the [Customs Valuation] Agreement". Can Mexico confirm this?

Para. 18

Article 18 of Decision No 2/2000 of the EC-Mexico Joint Council of 23 March 2000 provides that from 1 January 2003 the EC will receive NAFTA parity treatment, i.e. f.o.b. value of imports.

Para. 19

Mexico has introduced in 1994 a price reference mechanism (system of estimated prices) with the objective of fighting fraud and under-invoicing of customs value. The system has become more burdensome over the last years: goods subject to the requirement have progressively increased to over 300 items and the guarantee mechanism has become even more onerous, as the previous requirement to post a guarantee bond to cover the difference in customs duties has been substituted by the requirement to make an actual guarantee deposit of the same amount. Is Mexico aware that this system may discriminate exporters and deter them from the Mexican market?

(2)(v), para. 28

Since 1997, Mexico's average MFN tariff has increased considerably, as stated in the report. As an FTA partner, the EU is excluded from the creation of new duties or tariff increases since the entry into force of the agreement in July 2000. However, in October 2001 Mexico decided to increase tariffs on certain dairy preparations with a content of milk solids exceeding 50% by means of dividing the existing tariff code and imposing a duty rate of 109% on the newly created code. This operation has been compensated by the opening of a duty free quota; however, EU firms have been complaining over the allocation rules and administration of this quota. As a result exports of the concerned product from the EU have practically stopped since October 2001. Could Mexico please elaborate further on this issue?

(4)(vi), Government procurement

Domestic price preference and local-content requirements in government procurement are a usual way to promote local industry and set-aside some sectors from foreign competition. Will Mexico re-consider this policy and the cost in terms of budget expenditure (better value for money) as well as the need to introduce healthy competition between Mexican and foreign bidders?

(2)(ix)(a), para. 69, Chart III.2

It is stated that technical regulations aim to establish specifications for goods, services or processes to ensure safety, protection of human life, animals, plants or the environment, or prevent deceptive practices. Can Mexico explain why close to 100% of textiles, footwear and headgear is subject to technical regulations whereas only 16% of machinery and 34,5% of arms and ammunition are subject to technical regulations?

Para. 69

Article 2.8. of the TBT Agreement states that "Whenever appropriate, members shall specify technical regulations based on product requirements in terms of performance rather than design or descriptive characteristics." Can Mexico give us an estimate of how many of the existing technical regulations are based on performance?

Para. 69

It is stated that referential standards (NRs) are used to establish specifications for goods and services subject to government procurement and are as such outside the scope of the TBT Agreement. Can Mexico please elaborate whether these standards are used for other purposes as well?

Para. 71

The Mexican Federal Law on Metrology and Standardization, art. 44, provides that international standards be taken into account in the establishment of technical norms and that the degree of concordance with international norms be indicated. Furthermore, in case there is no concordance, justification is requested (art. 41 of the MFLM) However, as stated report, Mexican Authorities recognize at least 40% of technical regulations and standards have not even partial concordance with international standards. What actions is Mexico undertaking to ensure a more substantial alignment of national regulations to international standards? Could Mexico inform about what are the most common reasons for not using existing international standards?

Para. 73

It is stated that emergency regulations can be used if there is imminent risk of damage to a legitimate objective. Can Mexico elaborate what it defines to be a legitimate objective in such cases? Furthermore, emergency regulations can be made permanent. Can Mexico give us an estimate how many of such emergency have been made permanent.

Para. 78

Article 2.7 of the TBT Agreement states that "Members shall give positive consideration to accepting as equivalent technical regulations of other Members, even if these regulations differ from their own, provided they are satisfied that these regulations adequately fulfil the objectives of their own regulations." Can Mexico elaborate whether it accepts technical regulations of other Members that fulfil the same policy objectives even if through different means? Does Mexico accept conformity assessment results of other countries?

(2)(ix)(b), Marking, labelling and packaging

Labelling and marking requirements are frequently indicated by importers as burdensome and excessive, requiring over-detailed information and strict modalities of compliance. Controls conducted by customs are reported to be excessive and discriminatory compared to controls on domestic products, particularly for sensitive ones. Moreover, penalties charged for mislabeling are very high and small inconsistencies with requirements may trigger penalties. Is Mexico considering simplifying these requirements so to eliminate undue obstacles to trade while still meeting the legitimate purposes pursued by labeling?

Para. 93

The EU is concerned that the adoption by Mexico of Sanitary and Phytosanitary standards creates barriers to trade of agricultural products beyond the legitimate objective of protecting Mexican human and animal health and do not to reflect the recommendations of relevant international bodies. This is the case of foot-and-mouth disease related preventive measures adopted in April 2000 that established a total ban for products considered at risk -including those that had undergone processing considered by the OIE (Organisation Internationale des Epizooties) as sufficient to inactivate the virus. Mexico lifted these measures well after the OIE had recognized FMD free status

for the countries concerned and almost all other countries had lifted the restrictions. Could Mexico please further explain this?

(2)(x), Contingency measures

It appears that Mexico has not submitted the New and Full Notification on Subsidies due in 2001. Could Mexico please indicate when it intends to submit such notification.

Para. 95

Mexico indicated that, in the event of inconsistencies between the WTO Agreement and the Foreign Trade Act (LCE), the WTO Agreement would prevail. Does Mexico intend to amend the LCE to fully incorporate the WTO provisions with a view to ensuring legal certainty and transparency?

Para. 96

Can Mexico please indicate to which countries the new art. 48 of the LCE Regulations concerning Centrally Planned Economies apply?

III(4)(xi), para. 205

What legislative change (if any) does Mexico foresee in order to implement the obligations stemming from its accession to the Stockholm revision of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration? What would the applicable timeframe be?

Para. 206

Since January 2000, the WTO Agreement on Trade-Related aspects of Intellectual Property applies in Mexico and the country has adopted the necessary measures to grant an adequate legal protection of Intellectual Property rights. Nonetheless, the enforcement of this legislation is unsatisfactory. For example, according to information of the International Federation of Phonographic Industries on an estimated 181 million recordings sold in Mexico in 2000, three in every five was a pirate copy. Piracy losses for the Mexican and international recording industry are estimated at \$300 dollars annually, and piracy rates have increased in recent years to 63% in 2000 up from 45% the previous year. Does Mexico intend to undertake specific measures in order to insure an adequate and effective protection of property rights in the country?

Para. 210

The report states that “protection has been broadened since Mexico’s previous Review” and refers to various amendments to the legislation. What amendments, if any, have been made to Mexican IPR legislation since the last TRIPS review?

Trade Facilitation

We would welcome information on any measures taken recently by Mexico to further reduce and simplify its import and export procedures.

What measures does Mexico have in place to consult the trading community – including importers and exporters, shippers, freight forwarders and agents, SMEs – on customs and trade facilitation rules and procedures and ways of improving them?

IV(5)(ii), para. 126

As described in the report, Mexico has engaged since the early 1990s in a major programme to liberalise the telecommunications market. However, the traditional operator TELMEX still maintains a dominant position and is engaged in anti-competitive practices. The telecommunication sector's regulatory agency, COFETEL, appears not to have the necessary degree of independence. Does Mexico intend to take measures to ensure further progress in the regulatory reform of the telecommunication sector and real competition in it?

Para. 127

How are the obligations imposed on TELMEX pursuant to the concession (obligations with respect to infrastructure expansion, in particular in rural areas; improvement of the quality of the services; and infrastructure interconnection) funded?

Para. 130

Is there any restriction on the number of concessions?

Para. 133

Why is a concession imposed in cases other than when there is a scarce resource? Why not simply a license or an authorization?

Para. 134

Why is there a restriction on foreign ownership?

Para. 138

How many entities has the Federal Competition Commission (CFC) identified to have substantial power in a given market?

(5)(iii)(a), para. 146

The report mentions that foreign investment is unrestricted up to 49% for companies opting for concessions in airport services, but that a permit-procedure can allow a higher foreign share. Has this option been used?

Para. 147

Activities in airports have been divided into three groups (airport services, auxiliary services, and commercial services). How do these correspond to the Mexican commitment (on "Airport and helicopter administration services - CPC 746")? What other auxiliary services can be operated and under what conditions (e.g. groundhandling)?

(5)(iii)(b), para. 159

The report recapitulates the privatisation process of the ports sector, and the restrictions of 49% foreign investment for most activities. What rules and restrictions would apply foreign engagement in container terminal activities?

Para. 160

Inland and cabotage transport is reserved to Mexican shipping companies (max 49% foreign investment). If no such operator is available, permit may be given to foreign operators/vessels. The report estimate that 33% of freight is handled under such permit. What is being done to streamline this permit procedure and to facilitate efficient engagement of international providers?

(5)(iv), para. 165

Obligation "to complete a social service" as requirement to obtain a license: Given that this requirement is intended as a mechanism for Mexican students to pay back part of the social cost of their education, why does this requirement also apply to foreigners who complete their studies abroad without social cost for the State?

Mexico has signed GATS, which is not based on the reciprocity principle, and taken commitments for accountancy, architecture, engineering, medical and dental services. Why is it stated that international treaties signed by Mexico are based on this principle?

Exercise of certain professions reserved to nationals in the State of Mexico: Could these professions be listed?

Para. 166

Ship's engineers must be Mexican nationals in all States, but such restriction is not listed in Mexico's GATS commitment. Can Mexico please comment on this issue?

JAPAN

Secretariat Report (WT/TPR/S/97)

III(2)(v), Tariffs

Mexico's bound rates for industrial products are uniformly 35% with the exception of a few products. Japan requests Mexico to reduce these bound rates during the current negotiations. Please provide Mexico's view.

It seems that the applied tariff rate on some steel products, which used to be 25%, has recently been raised to 35% through a Mexican ordinance. This rate is now equal to the bound tariff rates. We note that the applied tariff rates on these products were raised in September 2001, too. In order to improve the predictability of tariffs, Japan requests Mexico to prudentially consider its policies if it raises its tariff rates. Please provide Mexico's comment on this.

P. ix, para. 2

Mexico's liberalization strategy has opened a significant gap between treatment offered to FTA partners and to other countries. According to the page x, paragraph 8, of the Report, Mexico considers the multilateral trading system as the main instrument for the liberalization of world trade. In addition, the Report states in paragraph 9 that Mexico acknowledges that the advantages implicit in FTAs are of a temporary nature. Based on these descriptions, Japan considers that Mexico has the intention to reduce its bound rates and to bring them in line with the rates applied to FTA countries. Is our understanding correct?

P. 28, para. 1; pp. 34-35, para. 36; Table III.2

According to the Report, the current applied rates for certain agricultural products exceed their bound rates. Please explain the reason for this.

III(3), p. 56, para. 116; p. 86, para. 21

According to the Report, the authorities in Mexico noted that although revenue from export taxes was negligible, these are maintained, mainly for domestic market supply reasons. Does Mexico have the intention to raise export taxes in the future? Japan is particularly concerned about the export taxes on agricultural products, not only because the export taxes were not bound in Uruguay Round, but also because no commitments exist concerning their reduction.

III(4), p. 69, para. 184

Mexico has not signed the WTO Plurilateral Agreement on Government Procurement. On the other hand, as Mexico has already concluded FTAs with 25 GPA Member countries, this authorizes the latter to participate in tendering in Mexico. Doesn't Mexico have the intention to accede to the GPA?

P. 76, para. 215

Japan commends Mexico's efforts to improve its IPR protection, and hopes that it will continue such improvement. While the annual number of patent applications almost doubled between 1996 and 2000, the number of patents actually granted increased at a slower rate. Please explain the reason for this difference.

IV(5), pp. 106-107, paras. 105-106

According to the Report, unrestricted foreign investment is only possible through the legal figure of a subsidiary of a foreign financial institution. Furthermore, the total percentage of foreign investment in some financial institutions remains limited to 49% of the paid-up capital. In light of ensuring a smooth provision of financial services, does Mexico have the intention to relax the limitation on foreign capital, as well as the limitation on the form of commercial presence?

According to the Report, limits on the foreign ownership of financial institutions do not apply to the subsidiaries of foreign financial institutions that are based in countries with which Mexico has concluded a free trade agreement covering financial services, namely the NAFTA Members, Colombia, Venezuela, EFTA Members and EU Members. Does Mexico have the intention to extend such treatment to other WTO Members having no such agreement? Under the conditions granted by the agreements to the countries above mentioned, can banks and security companies do business through local branches?

P. 110, para. 115

In Mexico, there are five government-owned development banks and seven public trusts. Does Mexico have any plan to restructure these banks and public trusts? In the area of financing for small and medium-sized companies, as well as financing for infrastructures, how does Mexico demarcate the role between the governmental financial institutions and the privatized financial institutions?

P. 107, para. 106, p. 112, para. 120

The Report states that a foreign insurance company is prohibited to establish a subsidiary of which the parent company owns 100% of the capital. Japan considers that factors which lead to financial instabilities, such as a systemic risk coming from the sudden capital flight, do not appear to have a direct linkage with the opening up of the insurance market. Japan is, therefore, of the view that this foreign capital limitation should be abolished, and is interested to know Mexico's view.

P. 115, para. 134

The Report states that, in mobile telephony services, foreign participation may exceed 49%, provided that permission is obtained from the National Foreign Investments Commission. Please give detailed information on the conditions required for obtaining this permission.

P. 120, para. 159

The Report states that, in the case of companies operating ships solely for high-seas traffic, foreign participation above 49% may be authorized by the Foreign Investment Commission. Please provide detailed information on the conditions required for obtaining this authorization.

P. 120, para. 160

The Report states that inland and cabotage shipping, except for tourist and cruising services, is reserved for Mexican shipping companies that own Mexican vessels. Does the term, "Mexican shipping companies", include a joint-stock company with foreign capitals? Please explain in detail the conditions for owning a Mexican vessel (i.e., the limitations on foreign ownership, nationality requirements for board members, etc.).

P. 120, para. 161

The Report states that the Shipping Law provides for the possibility of reserving specific international transport activities for Mexican companies, wholly or partially, if the national economy is affected by anti-competitive practices by foreign operators. Please provide the detailed conditions for judging "anti-competitive practices". If any cases of such reservation already exist, please explain in detail what kind of practice was judged as "anti-competitive", and what kinds of services were reserved.

P. 121, para. 163

According to the Report, the maritime transport sector has been excluded from Mexico's FTAs, with the exception of those concluded with the EU and the EFTA. How can this exclusion be explained to be consistent with Article 5. 1(a) of the GATS?

During the current negotiations, the inclusion of multi-modal transport, mainly in the maritime transport sector, is being considered. If Mexico has any rules regulating multi-modal transport, please provide a descriptive explanation of them.

MALAYSIA

Mexico attracted US\$70 billion of FDI between 1997 and 2000 (table AI.5). In Mexico's view, what were the main factors that have contributed to such a high rate of FDI? Also please explain what type of investment was made in the public administration sector as this sector has attracted a high rate of investment.

Mexico's trade takes place mainly under preferential rules, particularly under NAFTA. Does such reliance deter Mexico from actively seeking other trade partners and what are the measures taken to achieve this?

In para. 9 (Summary Observations) of the Secretariat's report, Mexico acknowledged that the advantages implicit in FTAs are of a temporary nature and hence no substitute for improving competitiveness of its economy. What measures are being undertaken by Mexico to improve its competitiveness and to take advantage of further liberalisation initiatives being negotiated under the Doha Development Agenda to expand its trade and investment ties with other trading partners?

It is mentioned that since 1997, the simple average applied tariff rates of Mexico has increased by 3 percentage points to 16.5% and with reductions in preferential tariffs, this would widen the gap between imports from MFN and preferential sources. Would this not further limit Mexico's range of trading partners?

It is stated in para 23 (Summary Observations) that the energy sector remains largely under state control but that the Government is seeking to increase private sector participation. We would appreciate more details as to which areas would private sector involvement be encouraged.

UNITED STATES

Trade Policies and Practices by Measure

We are concerned that Mexico is utilizing other measures to combat dumping, which have implications for legitimate trade. We have witnessed a proliferation in the number of products subject to port restrictions; products subject to Mexico's importer registry; products subject to estimating pricing; and, in June of 2001, Mexico published a resolution prohibiting the international transit of goods, such as textiles and electronics from being shipped through Mexico. In many instances, the measures are published in the Official Journal on one day to be implemented the next. Can you explain what measures are being taken to improve transparency in the process?

III(2)(vi), Other charges affecting imports

Automobiles designated "popular consumption" automobiles are exempt from the automobile tax (ISAN). In addition to a maximum value criterion, such automobiles must also have their engines produced domestically. This domestic production basis for a tax exemption qualifies as a local content requirement and is a violation of Article III:5 of the GATT 94. What does Mexico plan to do to eliminate this national treatment violation?

(vii), Minimum import prices

The text clearly states that Mexico does not employ minimum import prices. However, under section (ii) Customs Valuation, the text indicates that Mexico introduced a price reference mechanism in 1994 to combat customs under-invoicing. Under this system, a deposit of guarantee is required when the declared price is inferior to the reference price. The deposit should be equivalent to the amount of duties (including import duties, countervailing and anti-dumping duties) that would be collected if the value of the imported goods was equal to the reference price established by the authorities. How is this system not in fact a minimum import pricing system? If an import brings a product in at a cost below the reference price, a deposit is required for the goods accounting for duties assessed on the higher reference price. This establishes a minimum import price.

(viii), Import prohibitions, restrictions, and licensing

Under Import Prohibitions (b) Import restrictions and licensing, one sees that Mexico maintains import permits and employs an import licensing mechanism. One percent of Mexico's tariff lines are subject to licensing. Paragraph 4 notes that several WTO Members have expressed concerns about this system. The United States also has concerns related to Mexico's import licensing mechanism. Why has Mexico never notified the WTO Committee on Import Licensing of this practice. In fact, Mexico has never notified the Committee according to its obligations as a WTO member. The United States suggests that Mexico make all necessary notifications to the Committee before the next meeting on May 14, 2002.

(ix), Regulations, standards, and sanitary requirements

With the exception of some products subject to labeling requirements, imports of products subject to verification at the border must be accompanied by a NOM certificate or a copy of the certificate. Each importer must obtain a NOM certificate, even when the product has already been tested for another importer. To obtain a NOM certificate, the importer must send samples to a Mexican-based test laboratory accredited by the Mexican accreditation entity and approved by the concerned government agency. When the product is found to be in compliance with the NOM, the DGN or an accredited private certification organization issues the certificate in the name of the importer. Certain imports, notably those covered by special import regimes, are exempted from compliance with technical regulations. It is our understanding that some of the Mexican Ministries will be publishing revised certification procedures. Can you tell us which Ministries and when Mexico expects to publish the revised procedures?

Mexico's network of 65 calibration laboratories is overseen by the DGN with the active participation of the Mexican Accreditation Entity, the National Metrology Center (CENAM) and the Federal Consumer Protection Agency (PROFECO). The laboratories in this network are responsible for ensuring the provision of the equipment used by private testing laboratories. The National System of Testing Laboratories (SINALP) is in charge of providing the test data used by government agencies and accredited certification bodies. Mexico's policy of accrediting certification bodies based on a "needs determination" precludes foreign certification bodies to apply to be recognized as certification bodies in certain sectors – such as the electrical sector – unless Mexico determines there is a need for additional bodies. Does Mexico plan to liberalize its policy to allow for certification bodies to apply without Mexico first determining if there is need for additional bodies?

(3)(ii), p. 56, Export taxes

Other than agricultural products such as sugar, please explain whether there are any other products that are fully exempt from paying export taxes? If so, can you please provide a list of all such products?

(3)(vi), p. 57, Export subsidies

Please explain whether all exporters can benefit from the Program of Temporary Imports to Produce Export Goods (PITEX). If not, please provide further details as to what industries are eligible to benefit from the PITEX program. Please explain what qualification criteria these industries must meet to qualify for these benefits.

Please describe in detail the tax and non-tax incentives that are provided under the PITEX program.

Please explain why the maquila, High-volume Exporting Companies Program (ALTEX), the drawback, and the Foreign Trading Companies Program (ECEX) programs do not meet the notification requirements of Article 25 of the WTO Agreement on Subsidies and Countervailing Measures.

(3)(vii), p 57, Duty and tax concessions

In addition to the maquila, PITEX, ALTEX, ECEX and the duty drawback program, does the Government of Mexico maintain other administrative tax facilitation schemes?

Can you please provide further details as to what exporters or which industries qualify for the administrative tax facilitation schemes for regular exporters?

It appears that the maquila and PITEX programs have been converged into the same program. You have previously notified the PITEX program under Article 25 of the ASCM. Therefore, please explain whether you also plan to notify the maquila program and the benefits provided under this program, in accordance with Article 25 of the WTO Agreement on Subsidies and Countervailing Measures?

It seems that PITEX and similar programs are contingent upon exportation. As such, these programs constitute prohibited export subsidies under Article 3 of the Agreement on Subsidies and Countervailing Measures. As such, please explain whether the Government of Mexico plans to phase out the PITEX program and similar programs that are contingent upon exportation?

(3)(vii)(b), p. 59, Other tax concessions

Please explain what specific industries can qualify for benefits under the sectoral promotion program (PROSEC) program?

Other than the reduced duty rates are there any other incentives that these specific industries receive?

Could you please provide further information with regards to how the duty drawback scheme operates? In particular, please explain whether the scheme complies fully with the provisions of Annex II of the Agreement on Subsidies and Countervailing Measures.

(3)(x), p. 60, Export finance, insurance, and guarantees

Please provide further information as to the loan rates for discounted trade related loans and soft loans. In addition, please explain what steps are being taken to notify this program under Article 25 of the WTO Agreement on Subsidies and Countervailing Measures.

(4)(iii), p. 66, Fiscal incentives

Can you please provide us with more detailed information on what “other tax concessions” or “sector-specific” concessions exist for Mexican industries, in particular what types of incentives are being offered. In addition, please explain what steps have been taken to notify this program under Article 25 of the WTO Agreement on Subsidies and Countervailing Measures.

This program appears to be contingent upon exportation. As such, it may constitute a prohibited export subsidy program under Article 3 of the Agreement on Subsidies and Countervailing Measures. Please explain whether the Government of Mexico plans to phase out the benefits under this program, to the extent that they have export contingencies?

(4)(vi), Government procurement

The widespread use of short delivery dates (often below industry norms) and high penalties for late delivery as a means to eliminate competition in order to sell to a favoured supplier has been an irritant to suppliers in Mexico's procurement market over the years. With respect to delivery dates used as barriers, what recent initiatives has SECODAM or the government undertaken to ensure that procurement takes place under procedures that promote equality and transparency?

(4)(x), p.72, Free-trade zones

Please explain whether there are any plans to extend the phase-out period for the free-trade zones beyond the stated phase-out date of 31 December 2002?

Are there any financial incentives offered to companies operating in free trade zones in the form of providing assistance or tax breaks for special employee benefits (such as a reduction in social security payments, reduction of financing employee training, etc...)?

Does the Government of Mexico have any statistical data showing the value and volume of exports from these free trade zones?

(4)(xi), Intellectual Property Rights and Innovation

IMPI's Role in Mediating Trademark Infringement Suits

We understand that it is common for IMPI ("Instituto Mexicano de la Propiedad Industrial"), Mexico's Industrial Property office, to mediate infringement cases for private parties.

Please provide describe in detail the circumstances under which IMPI may become involved as a mediator in infringement cases, as well as an explanation of this practice and provide a copy of the relevant guidelines explaining these circumstances.

Geographical Indications

Please describe the measures Mexico has in place to implement its obligations under the TRIPs Agreement with respect to geographical indications.

Please describe the steps nationals of other WTO Members must take to obtain protection for geographical indications in Mexico.

Please describe the steps such nationals must take to oppose potentially infringing use or registration of a geographical indication.

Enforcement of Intellectual Property Rights

Please describe the programs used to train judges, prosecutors, police, customs and other law enforcement office regarding measures for civil, criminal and border enforcement of intellectual property rights.

IV(4), Manufacturing

Mexico's industrial policy states that it encourages competitiveness through "efficient import substitution" and "creating conditions for high profitability and export activities". Please explain

what is considered “efficient” import substitution how are conditions created for high profitability and export activities

With respect to these industrial policies, please explain whether the Government of Mexico maintain import substitution programs, and if so, please provide details of the incentives offered under these programs. Is such import substitution programs exist, please also explain why they have not been notified to the Committee on Subsidies and Countervailing Measures.

IV(4), pp. 99-100, Manufacturing

Please explain what types of tax incentives and special assistance are provided to the motor-vehicles industry.

IV(1), Overview

While the United States is pleased with the openness to increased foreign participation in the Mexican economy, and the structural adjustments that have been made, we would like to know whether additional steps are planned to enhance the transparency of procedures and regulation, continuing the progress that has recently been made with bodies like Federal Regulatory Improvement Commission (COFEMER). If so, what kind of enhancements?

Also, could Mexico please provide some additional detail on the measures taken to strengthen the role or the Internet-based Federal Register of Formalities and Services, and tell us what, if any, additional measures are planned?

(3), Energy

Energy appears to be considered something other than a service. In the opening section, the Secretariat’s Report discusses Mexico’s sectoral policies in the energy sector independently from the service sector (see p. xii). This is reinforced in Section IV of the Secretariat Report. Nevertheless, we feel there are some questions to be raised concerning the energy sector as a service. Please clarify the extent to which foreign firms may participate in the following activities in accordance with present and proposed legislation:

- *Services involved in oil and gas exploration and development.*
- *Electric power transmission, distribution, and marketing services. With respect to marketing, which classes of customers are (or will be) eligible to choose their power marketer?*
- *Natural gas pipeline transportation, distribution, and marketing services. With respect to marketing, which classes of customers are (or will be) eligible to choose their gas marketer?*

Para. 41

From the description of state control over the petroleum industry, it seems production, refining, and distribution are all controlled by PEMEX. Please clarify if PEMEX’s control extends also to various oil field services provided to production companies like seismic surveying, drilling, testing and analysis, among others.

Paras. 50-51

Does Mexico accord market access and national treatment for pipeline transportation and local distribution of natural gas, including the authorization to construct as well as the right to own and operate pipelines and pipeline networks? Can Mexico clarify the extent to which consumers of natural gas can presently choose their natural gas supplier and explain how consumer choice is planned to evolve under the current market reform program?

(5)(i), p. 107, Financial Services

How does this paragraph relate to the statement in paragraph 105 that the law was amended to allow foreign investment to participate up to 100 percent in the capital of commercial banks, financial groups, securities brokerage firms, and securities market specialists?

Para. 108

Is SHCP's discretion to deny authorization to form a holding companies [sic] limited to prudential reasons? If not, please describe the extent of the SHCP's discretion.

The Secretariat's Report indicates that Mexico's commitments on market access and national treatment for insurance services were only made for commercial presence, except in the case of re-insurance services, for which national treatment was bound for cross-border supply (Para. 103). In the cross-border arena, what insurance services can be supplied on a cross-border basis in practice (in addition to reinsurance as bound in Mexico's schedule):

- *Marine, aviation, and transport insurance?*
- *Insurance intermediation?*

- *Services auxiliary to insurance as defined in the financial services annex?*

(5)(ii), Telecommunications

International issues

In September 2000, a senior Mexican official informed the United States that Mexico would propose changes to its international long distance services rules no later than November of that year, with a goal of permitting unrestricted competition in international services. More than a year has passed since that statement.

- (a) *Where does that initiative now stand?*
- (b) *Has Mexico drafted proposed rule changes?*
- (c) *What is the thrust of these rule changes?*
- (d) *When do these rule changes take effect?*
- (e) *Are these new rules publicly available?*

On March 25, 2002, a major Mexican carrier [Telmex] filed a request with Mexico's telecommunications regulatory body ("Cofetel") that the Mexican government eliminate rules that restrict competition in international services.

- (a) *Does the Mexican Government support elimination of rules restricting competition?*
- (b) *If so, will the Mexican government act on this request?*
- (c) *When will the Mexican government take such action?*

Interconnection – Local

What has been the experience of the Government of Mexico in resolving interconnection disputes where competing carriers are themselves unable to reach agreement?

- (a) *What domestic procedures does that Government of Mexico has to resolve such disputes?*
- (b) *What timetables does Mexican law place on the resolution of such disputes?*
- (c) *Has the Government of Mexico successfully intervened to resolve such disputes?*

We understand that there is currently an ongoing dispute between Telmex and a local competitor. We also understand that the local competitor requested Cofetel to resolve this dispute over 15-months ago.

- (a) *What is the status of this dispute?*
- (b) *Has the Mexican Government taken action to resolve it?*
- (c) *Doesn't protracted lack of resolution unfairly disadvantage the competing local provider?*

Interconnection – Long Distance

The United States welcomes Mexico's progress in reducing certain long-distance interconnection rates. However, rates to regions where competitors do not have facilities or Telmex does not offer local interconnection ("off-net" cities) still appear to be significantly above cost (up to five times local interconnection rates).

- (a) *How does Mexico plan to ensure that these rates are based in cost, consistent with Mexico's WTO commitments?*
- (b) *Does Mexico have a procedure to ensure that these rates reach this level?*

Resale

Mexico's GATS Schedule of Commitments and its Telecommunications Law permit suppliers to offer telecommunications on a resale basis (commercial agency services) both domestically and on a cross-border basis.

- (a) *Domestically, Mexico's GATS Schedule indicates that Mexico will introduce regulations to permit the supply of commercial agency services on a commercial presence basis (mode 3). However, to our knowledge, Mexico has not yet permitted this service despite the fact that Mexico's GATS commitments entered into force over four years ago. When does Mexico plan to liberalize this part of its market?*

- (b) *Mexico did not take a similar limitations for the supply of cross-border “commercial agency” services.*
 - (i) *Does Mexico permit a foreign service supplier to supply commercial agency services (i.e., telecommunications services over leased capacity) on a cross-border basis?*
 - (ii) *If not, when does Mexico intend to permit the supply of such service, consistent with its GATS commitments.*

Dominant carrier regulation

What is the current status of Mexico’s dominant carrier regulations, issued by Cofetel in September 2000?

- (a) *Are these regulations in force?*
- (b) *If so, has Telmex been complying with their provisions?*
- (c) *If not, when does Cofetel plan to issue new regulations?*

We understand that Cofetel has, in the past, recommended sanctioning Telmex for non-compliance with these regulations.

- (a) *Have these sanctions been imposed?*
- (b) *If not, why not?*

A welcome aspect of Mexico’s dominant carrier regulations is the requirement that Telmex offer to competitors quality of service no less favourable than it offers itself. Section 2.2(a) of the Reference Paper contains a similar requirement. In 2000, we understand that Cofetel issued a report concluding that Telmex was not meeting this requirement, resulting in severe congestion on local calls to competitors networks.

- (a) *What has Mexico done to address this problem?*
- (b) *Based on reports as late as March of this year, competitors still claim degraded service. How does Mexico intend to address this issue?*

Transparency of the Regulatory Process

A transparent regulatory process is helpful in developing good regulations and ensuring equal access to information.

- (a) *What plans does Mexico have for improvements in this area?*
- (b) *Does Mexico plan on making interconnection agreements publicly available?*
- (c) *Does Mexico plan to introduce rulemaking procedures which provide public notice and the opportunity to file comments?*

Investment

New entrants in Mexico's telecom market have advocated that the Government remove its foreign investment limits in the telecom sector, asserting they need better access to foreign capital to effectively compete against Telmex.

- (a) Does Mexico recognize the value of lifting foreign investment limits as a way to promote competition?*
- (b) Does the Mexican government support eliminating such restrictions?*
- (c) What are Mexico's plans in this regard?*

AUSTRALIA

Mexico introduced temporary tariffs varying from 3% to 10% on a range of primary and industrial products in 2000. When does the Mexican Government contemplate removing these tariffs?

Is Mexico aware that the 3% tariff on wool has caused potential distortion and diversion of Australia's wool trade. Given that the inclusion of wool in the PROSEC scheme has not addressed the underlying problem, is Mexico prepared to eliminate this temporary tariff?

Mexico recently introduced MFN tariff increases up to its bound rate of 39% on steel and steel products. How long does Mexico intend to maintain these tariff increases, and why are they applied only to non-FTA countries?

When does the Mexican Government expect to be able to introduce the legislative changes required for the liberalisation of the energy sector, in particular the natural gas and electricity generation sectors?

INDIA

In paragraph 9 of the Overview, the Secretariat Report states that "awaiting the outcome of broader liberalization initiatives, Mexico's main avenue to open its trade and investment regimes has been the negotiation of FTAs. Mexico acknowledges that the advantages implicit in FTAs are of a temporary nature, and hence no substitute for improving the competitiveness of its economy. As is the case for other Members following similar strategies, the large and growing number of Mexico's preferential agreements can raise concerns about complexities resulting from the application of differing regimes, and their effect on trade patterns".

We would request the delegation of Mexico to comment on these observations of the Secretariat.

Paragraph 5 of the Overview shows that the majority of Mexico's trade now takes place under preferential rules, with the NAFTA remaining of paramount economic significance. While the NAFTA partners USA and Canada accounted for more than 90% of Mexico's exports, their share in imports was more than 75% in 2000.

We would like to know if Mexico has any plans to diversify its export markets.

TURKEY

Secretariat Report (WT/TPR/S/97)

III(2)(i), p. 29, para. 11

The report indicates that Mexico maintains a verification system and sector-specific registers for selected products including textiles, clothing, and footwear. Furthermore, Mexico applies another measure concerning textiles and clothing articles, namely the Automatic Notice of Importation mechanism (para. 64). Turkey considers that all these applications, creates a non-tariff barrier on the trade of above-mentioned products. Could the Mexican delegation provide their views on this matter?

THAILAND

Secretariat Report (WT/TPR/S/97)

III(2)(ii), p. 30, para. 18

According to the Report, the differential treatment of Mexican customs valuation in applying two different values of imports, i.e. f.o.b. and c.i.f., to goods originating in the NAFTA region and those from MFN sources respectively, has been a case of concern for some Members. Could Mexico advise if this basis for customs valuation, which accords preferential treatment to NAFTA countries, will be maintained in the future?

(ii), p. 30, para. 19

The reference price mechanism introduced to combat customs under-invoicing is believed to have unreasonably hampered to a certain extent a number of agricultural and processed food exports from Thailand. We would be interested to know about the basis for determining the "reference" price for imports in general, and that for rice and canned pineapple imports in particular. It would also be appreciated if a current copy of the list of products that are subject to this mechanism could be made available to us.

(v)(a), pp. 32, 38, paras. 29, 49

The increase in MFN tariff rates for fiscal reasons made in January 1999, coupled with the granting of tariff preferences through the progressive tariff reduction to imports from 39 countries, has caused concerns about potential trade diversion and created impediments for imports from Members that do not benefit from such preferential schemes. Does Mexico contemplate any policy adjustments to do away with the possible trade diversion and impediments to market access brought about by the measures outlined above?

(v)(b), p. 34, para. 36

According to the Report, applied tariff rates for a few agricultural products subject to ad valorem duties exceed their bound rates. Should Mexico be fully aware of the existing gap between these two rates, we would like to know if any policy adjustment aimed at rectifying the discrepancies are being considered by the Government of Mexico?

(v)(d), p. 36, para. 39

In its Schedule of Concessions, Mexico included tariff quotas for several agricultural products, and most quotas were allocated to selected countries through the incorporation of reserved access rights. Since this practice of quota allocation constitutes restrictions on market entry for products originating in other countries, would Mexico consider to put an end to this measure in the light of a new round of agricultural negotiation?

IV(2)(i), p. 84, para. 10

The Report indicates that substantial support has been made available to the sugar industry in Mexico. Domestic sugar prices are maintained well above international levels by more than 200 per cent as a result of border protection. We would like to know if Mexico will maintain the high protection to the industry, or it has any plan of action to implement with a view to improving the efficiency of the industry.

COSTA RICA

Intellectual Property

Please explain in detail how your legislation implements Article 61 of the TRIPS Agreement.

Please describe the criminal procedures and penalties in your legislation, including imprisonment and/or monetary fines sufficient to provide a deterrent that is consistent with the level of penalties applied for offences of a corresponding gravity.

Please describe in detail the form of protection granted to plant varieties under your legislation and state whether it is in full compliance with the International Union for the Protection of New Varieties of Plants (UPOV) system.

Government Procurement

Government Report (WT/TPR/G/97)

IV(h), para. 50

It is important for us to learn about Mexico's experience of the electronic government procurement system, in particular with regard to the following points. Does the system merely provide information on government demand for goods, services and public works or does it also enable the entire procurement process to be conducted on line? What kinds or methods of government procurement can be conducted on line and in what way is it being made easier for bidders to participate in government procurement processes? At present, the system covers only on-line federal government procurement: are there any plans to include State procurement systems?

Secretariat Report (WT/TPR/S/97)

III(4)(vi), Para. 185

For purposes of reference, what is the relationship between these figures on government procurement and gross domestic product? According to footnote 73, these figures correspond to purchases from the public and private sectors. It is unclear why statistics are included for both the public and private sectors, given that the latter is not supposed to be involved in government procurement. Do

government procurement figures exist for sub-federal entities? What amount or percentage of the total value of government procurement in 1999 corresponds to procurement from foreign suppliers (imports)?

Paras. 187 and 189

Mexico, by giving priority to the countries with which it has signed an FTA, undertakes to ensure that they receive national and most-favoured-nation treatment. Are the measures mentioned in paragraph 189, which differentiate between national and international procurement and give priority to domestic suppliers when they participate with domestic goods, and the measure establishing a price preference margin for domestic goods in international tendering, not inconsistent with these commitments? Are goods and suppliers from countries with which Mexico has signed an FTA exempt from these provisions? It would appear that foreign suppliers and foreign goods will only be able to participate in Mexico's government procurement market when the procurement processes are international, when it has been decided that domestic suppliers are unable to fulfil the tendering requirements or when foreign prices are more appropriate, thereby limiting the real possibilities of suppliers from countries which are contracting parties to an FTA with Mexico competing in its public procurement market.

Para. 192

What other authorities exist for challenging a traditional or on-line procurement process? What kind of challenges can be made and at what stage of the process?

Para. 194

Has Mexico considered extending to its federal states the benefits of the chapters on government procurement included in its free-trade agreements, thereby ensuring the principles of national treatment, most-favoured-nation treatment and transparency and further opening up its procurement market?

Services and Investment

How does Mexico levy the tax on remittances abroad?

What are the applicable percentages and in what circumstances are they applied?

What are the criteria for including a country in the preferential fiscal regime?

What are the procedures for removing a country from this list and for what length of time is this applicable?

SWITZERLAND

Secretariat Report (WT/TPR/S/97)

Paras. 2, 9, 19

The Report by the Secretariat mentions an increased risk for trade distortions due to two contradicting developments – substantial extension of preferential trade agreement in the last few years while increasing most MFN tariff rates. What is the view of the Government of Mexico regarding these concerns?

Para. 18

More than 90% of Mexican exports are undertaken by firms benefiting from various administrative tax facilitation schemes. Are such programs considered essential to permanently maintain export competitiveness, and will subsequently be discontinued once progress has been made regarding competitiveness?

I(5)(ii), paras. 22, 23

Does the Government of Mexico consider the heavy reliance on NAFTA countries as trading partners as a potential problem? Is the recent extension of preferential trading agreements part of a strategy to broaden the export and import base?

III(2)(ix), para. 69

It is mentioned in paragraph 69 that "in general standards are voluntary, except when their application is required in a technical regulation or when producers and retailers state that their goods and services comply with specific standards". Does this mean that a specific voluntary standard becomes mandatory for those producers who apply this standard. Please clarify the relationship between voluntary and mandatory standards.

Para. 71

The report of the WTO Secretariat indicates that no accurate information were available on the proportion of the technical regulations identical or equivalent to international standards. The reports also states that 60% of technical regulations and standards have a least a partial concordance with international standards. Does Mexico intend in the future to collect and provide more information with regard to the equivalence between the Mexican technical regulations and the relevant international harmonized standards? If this is the case, when does Mexico intend to provide such information? Where only partly equivalence does exist between national technical regulations and international standards, does Mexico intend to establish some actions to improve the harmonization of its requirements with the international standards?

Para.73

The report also indicates that in August 2001 there were fifteen "emergency technical regulations" in force. Could the Mexican authorities explain the reasons why only one over these fifteen regulations was based on international standards?

(x) Contingency measures

Para. 98 and following

Mexico is one of the very active users of trade remedy, and in particular, antidumping measures. What is the view of the Government of Mexico regarding the more and more widespread use of such measures across the world? Would a tightening of disciplines eventually be beneficial for all countries?

(4)(xi), Para. 212, Intellectual property rights and innovation

With respect to the issue of exhaustion of intellectual property rights, the Secretariat mentions that Mexico has chosen not to restrict the importation of goods put on the market in another country with

the consent of their legitimate right holder. Does this kind of exhaustion apply without distinction to all the various fields of intellectual property?

Table III.10, p. 75, Overview of IPR protection in Mexico, 2001

Please provide more detailed information on the system developed by Mexico to protect geographical indications. What are the conditions required to obtain such protection? Is this protection available for geographical indication of all products?

Para. 227

The Secretariat's Report notes that Mexico's experience with regard to Tequila is a prime example of the considerable financial benefit that can arise from the exclusive rights granted through geographical indications. Could you please explain how the geographical indication "Tequila" is protected in Mexico? What are the effects of such protection? Does this protection cover geographical indications also for other products than spirits? If not, could you please explain how geographical indications for other products are protected under Mexican Law and what the effects of such protection are?

ANNEX II

WRITTEN RESPONSES BY THE DELEGATION OF MEXICO

I. TRADE POLICY REGIME

Introduction

Transparency and regulatory reform

The process under way in Mexico for the imposition of sanctions on public servants who violate transparency requirements when formulating or amending regulations is covered by Article 70-A of the Federal Administrative Procedures Law (LFPA), which states the following:

"Article 70-A. Failure to comply with this Law gives rise to liability and the sanctions provided in the Federal Law on the Liability of Public Servants shall apply. In such cases, the offender shall be dismissed from his or her post and shall be ineligible for any public service employment, post or mission for a period of at least one year:

...

II. The head of an administrative unit who, on two occasions in the course of the same employment, post or mission, fails to notify the person responsible according to Article 69-D of information to be amended in the Federal Registry of Formalities and Services in respect of formalities to be completed by individual persons for the purpose of complying with an obligation, within five working days following the entry into force of the provision that makes the amendment necessary;

III. The head of an administrative unit who, on two occasions in the course of the same employment, post or mission, fails to transmit to the person responsible according to Article 69-D the preliminary drafts of the acts referred to in Article 4 and the corresponding declarations, for the purposes of the provisions in Article 69-H;

IV. The public servant responsible for the Official Journal of the Federation who, on five occasions, fails to comply with the provisions of Article 69-L.

..."

In other words, a public official who fails to inform the person in charge of regulatory improvements in his decentralized unit or authority of amendments to formalities, regulations or proposals issued by the decentralized unit or authority concerned, is liable to punishment in accordance with the LFPA and the Federal Law on the Liability of Public Servants. Likewise, sanctions apply to officials of a Government Department who publish in the Official Journal of the Federation (DOF) preliminary drafts of regulations issued by decentralized units or authorities in the absence of a final decision by the Commission.

The United States would also like to know whether additional steps are planned to enhance the transparency of procedures and regulations, continuing the progress that has recently been made with bodies like the Federal Regulatory Improvement Commission (COFEMER).

In reply, the following are the principal actions taken by Mexico to improve the transparency of procedures and regulations:

- The establishment of the Federal Registry of Formalities and Services (RFTS), which should be completed by 2003. The Registry at present includes around 1,100 Federal formalities applicable to private individuals and companies. As of May 2003, the only Federal formalities applicable will be those to be found in the RFTS, which can be consulted on the Internet at www.cofemer.gob.mx. During 2001, 19 per cent of the formalities included in the RFTS at December 2000 were abolished. Persons who do not have access to the Internet can telephone the *Primer Contacto* (First Contact) service of the Department of the Economy (01.800.410.2000) to obtain specific information on the formalities in the RFTS. Private individuals may obtain advice on formalities either from the Internet or the First Contact. In order to ensure that all Federal formalities and formats are included in time (May 2003), the COFEMER has drawn up a timetable for the inclusion of formalities for each of the decentralized units and authorities and is working in cooperation with those in charge of regulatory improvements to ensure full compliance.
- The creation of a new on-line system for Regulatory Impact Statements (MIRs), which makes the formulation of regulations more transparent by allowing and facilitating access by any interested person to preliminary drafts of regulations and their respective MIRs. All the regulations proposed (laws, regulations, agreements, Mexican Official Standards (NOMs)) must be sent to the COFEMER with a MIR at least 30 working days before publication. The drafts are available to the public when they are received by the COFEMER. The list of provisions being revised is available on the Internet and is published within the first five working days of each month in the DOF. As of July 2002, the full texts of drafts will be available on line. Some drafts currently being revised can already be found at www.cofemermir.org. It is a legal obligation for the COFEMER to review all the comments received from interested parties when preparing its decisions.
- The implementation of the Rapid Business Creation System (SARE) in order to simplify the number of formalities and the time required to open a business. At the Federal level, only two formalities are now required (RFC and an authorization to establish a company) in order to set up a business and the time for reply is one working day. The COFEMER is working with state and municipal authorities to promote the adoption of the SARE by the three levels of Government. In this connection, agreements with eight states have already been signed (Tamaulipas, State of Mexico, Puebla, Aguascalientes, Guanajuato, Morelos, Querétaro, Yucatán and Durango). The first municipality to implement the SARE in full is Naucalpan and it is also being applied in Puebla.

1. Foreign investment regime

(i) Policy objectives and legal framework

Attracting foreign investment

Malaysia's questions provide us with an opportunity to explain Mexico's foreign investment policy in greater detail. The issue of attracting foreign investment to any country is complex because the factors that influence foreign investors when deciding where to invest are varied and potent depending on the sector concerned.

Nevertheless, the decision to invest in a particular country is to a large extent determined by an analysis of the return/risk ratio carried out by any investor. This means that investment flows increase if a country offers an attractive combination of return and risk over a particular period.

During the period under review, foreign investors, through their investment, showed their confidence in the economic performance mentioned in the Secretariat's Report. This macroeconomic stability, combined with Mexico's political stability, meant that risks for investors were reduced. Likewise, the reduction in the perception of risk was affected by the market access opportunities afforded by Mexico, the legal predictability and security offered by various investment-related international instruments, and strict compliance with the disciplines of the multilateral trading system.

Some of the factors that may have contributed to increasing return on investment are, *inter alia*, Mexico's geographical situation, access to high-quality inputs at competitive prices, the growth in domestic demand over the period under review, and the legal reforms that led to a higher rate of foreign investment in certain sectors of the economy.

Mexico's authorities recognize, nevertheless, that Mexico needs continually to improve the return/risk ratio so that it remains an attractive country for foreign and domestic investment because the ratio, by its very nature, is changeable.

Lastly, Malaysia mentions the high rate of foreign investment in the public sector between 1997 and 2000. The classification shown in the reference table may give rise to confusion. In fact, the high rates of foreign investment shown in the last column entitled "Public administration and others" do not cover investment flows channelled to the public administration but to "other (non-financial) services)". If the 1994 figures for other services are subtracted, it can be seen that US\$697.8 million went to the restaurants and hotels sector, US\$266.3 million to professional, technical, specialized personnel and services, and US\$95.5 million to repair and maintenance services. Likewise, in 2000, professional and technical services attracted US\$979 million, and restaurants and hotels US\$117.1 million.

Neutral investment

The European Union refers to the "neutral investment" scheme in Mexico. It should be pointed out that neutral investment, far from being a restriction on investment, is a highly beneficial mechanism that allows Mexican firms to carry out their expansion or financial rehabilitation projects without Mexican investors losing control of the firms in which they have holdings. It should be emphasized that this participation mechanism is not used to determine the foreign investment percentage in the capital stock of Mexican firms.

The neutral investment scheme is applied on a most-favoured-nation basis because its benefits are available to any foreigner in the United Mexican States, including investors from countries signatories to the NAFTA.

Regarding restricted sectors, these are clearly defined in the Foreign Investment Law (LIE) and mentioned in paragraphs 22 to 27¹ of the Report by the Secretariat.

¹ Paragraph 26 of the Secretariat's Report, however, mentions that there are limits on foreign ownership of more than 49 per cent of the equity of portfolio management companies, shares representing the fixed capital of investment companies and operating companies of investment corporations, although these activities are not subject to any restrictions on foreign investment.

In the past, prior to the LIE (1993), authorization for neutral investment was only given to companies whose shares were traded on the stock market and, through this mechanism, they were able to obtain external resources and financing from investors among the wider public. Neutral investment trusts were set up and their assets included a wide range of shares representative of equity in different Mexican firms covering a broad spectrum of sectors.

Since the LIE has come into effect, the benefit of obtaining resources from abroad through the neutral investment mechanism has also helped Mexican firms whose volume of operations and turnover do not allow them to be listed on the stock exchange. The Law now provides that these firms as well can make use of the various forms of neutral investment. In this way, small and medium industries can utilize this financing mechanism. As already mentioned, neutral investment is a beneficial financial scheme that allows firms to obtain new resources and yet remain under the corporate control of Mexican investment.

Lastly, it should be noted that the factors taken into account by the competent authority are: (i) the percentage of neutral investment sought; and (ii) the corporate rights required by the applicant. Neutral investment is considered to be a financing mechanism for Mexican firms so when authorization under this scheme is sought by firms active in sectors where there is a restriction on foreign investment, the authority takes special care to ensure that control of the firm in question remains with Mexican investors with holdings in the firm.

Restrictions on foreign investment: restricted zone

We have also received comments from the European Union on the so-called "restricted zone". In this connection, Article 27, section I, of the Political Constitution of the United Mexican States clearly establishes that "Under no circumstances may foreigners acquire direct ownership of lands or waters within a zone of one hundred kilometres along the frontiers and of fifty kilometres along the shores of the country." The historical background to this constitutional restriction is the conservation of the Mexican State's territorial integrity. Nevertheless, secondary legislation, more specifically the LIE, includes a mechanism whereby foreigners, through trusts, can acquire the right to use and develop property in the restricted zone.

This restriction and the possibility of acquiring rights of use and development through trusts apply to all foreigners in the United Mexican States.

It should be pointed out that the existing restrictions on foreign investment are those laid down in the LIE by sector and mentioned in paragraphs 22 to 27 of the Secretariat's Report. These sectoral restrictions apply in the restricted zone and there are no other special sectoral restrictions in this zone. Although no restriction is provided in the LIE, the general rules to be found in Article 4 thereof provide that foreign investment may account for any percentage of the equity of Mexican firms, except as otherwise provided in the LIE.

2. International relations

As progress in tariff liberalization has been much slower in the multilateral trading system than in regional agreements, Mexico, like many other countries, has promoted greater reciprocal liberalization of markets within the framework of regional agreements.

The establishment of a permanent legal framework governing trade relations between Mexico and its preferential trade partners has led to the further development of negotiated disciplines and tariff liberalization that goes further than that achieved in the Uruguay Round.

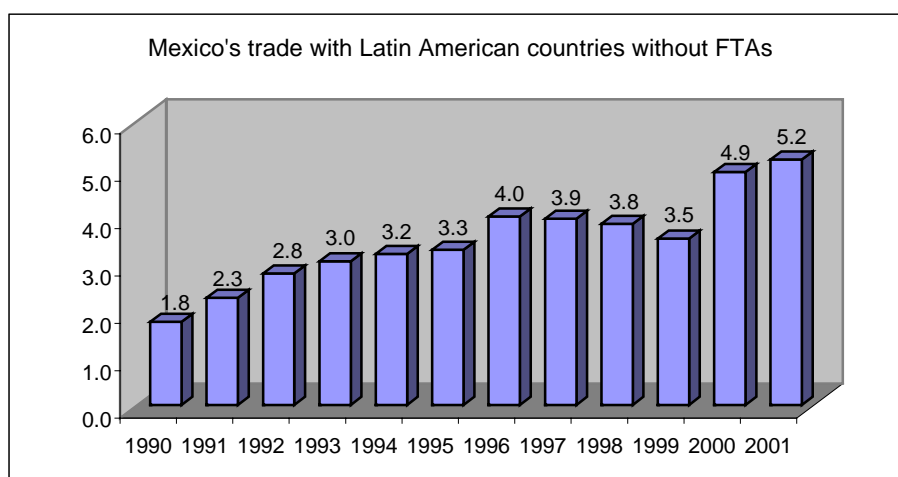
To date, Mexico has negotiated Free Trade Agreements (FTAs) with 32 countries, representing 860 million consumers. We are one of the only two countries with preferential access to the two major economic groupings in the world: North America (United States and Canada) and the European Union. We have become a global trade power and the foremost in Latin America.

This policy of trade opening, together with our privileged geographical situation, have made Mexico a production centre unique in the world and a strategic centre for attracting foreign direct investment (FDI). Mexico's export sector has become the major source of employment in the country and pays wages that are higher than in the rest of the economy.

In response to the concern that Mexico's preferential trade agreements have had a negative impact on trade with other countries, mentioned by some Members (Guatemala, India, Malaysia), Mexico's trade policy at the bilateral level has not only strengthened Mexico's overall trade with its partners but has also fostered trade in goods with other regions and countries with which Mexico does not have any FTAs.

In Mexico's case, bilateral treaties have helped to increase total trade flows and have not distorted trade with third countries. In particular, trade with countries with which Mexico does not have any FTAs has increased dramatically over the past decade.

Mexico's trade with Latin American countries with which it does not have any FTAs grew by 189 per cent from 1990 to 2001. Although trade with these countries² decreased in some years due to economic crises, the trend has been positive over the period as a whole.

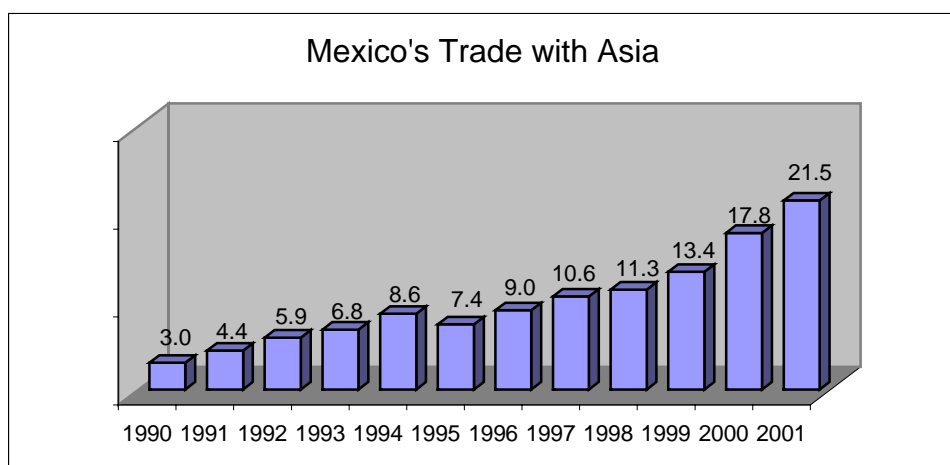


US\$ millions. Source: Department of the Economy with BANXICO data.

Asia is a very dynamic region with which Mexico has not yet signed an FTA and even though Mexico's economic relations with the region have not yet developed their full potential, trade with these countries³ has grown at an average annual rate of 19.6 per cent since 1990 (see also Table AI.3 of the Secretariat's Report).

² Argentina, Brazil, Cuba, Dominican Republic, Ecuador, Panama, Paraguay, Peru, and Puerto Rico.

³ China, India, Indonesia, Japan, Malaysia, Pakistan, Philippines, Republic of Korea, Sri Lanka and Thailand.



US\$ millions. Source: Department of the Economy with BANXICO data.

In 2001, which was characterized by a global economic slowdown caused by the decrease in economic activity in the United States, Mexico's total volume of trade with countries with which it has signed FTAs fell by 6.4 per cent, whereas trade in goods with countries with which it has no FTAs rose by 16.6 per cent.

MEXICO'S TRADE BALANCE (US\$ millions)

Heading	January-December		Variation %
	2000	2001	
Countries with FTAs			
Total trade	306,921.6	287, 251.3	-6.4
- Exports	158,487.9	150,829.5	-4.8
- Imports	148,433.7	136,421.8	-8.1
Trade balance	10,054.2	14,407.7	43.3
Countries with FTAs			
Total trade	33,975.3	39,614.4	16.6
- Exports	7,936.1	7,695.2	-3.0
- Imports	26,039.2	31,919.2	22.6
Trade balance	-18,103.1	-24,224.0	n.a.

Source: Department of the Economy.

Contrary to what has happened in other integration schemes, Mexico has not increased tariffs applicable to third countries as a result of having negotiated a free trade or preferential agreement. As their numbers increase, the implementation of such agreements has led to the elimination of tariff barriers and increased liberalization of trade flows, while at the same time providing incentives for greater regional and multilateral liberalization and growth of trade in general.

In order to continue diversifying its trade, as observed by some Members (Guatemala, India and Malaysia), Mexico is holding talks with Panama, Singapore and Japan, *inter alia*. Moreover, Mexico takes an active part in forums such as the Free Trade Area of the Americas (FTAA) and the Asia-Pacific Economic Cooperation Forum (APEC).

Mexico has participated actively in the WTO and has a marked interest in moving towards a multilateral free trade system in all the areas covered by the Doha Declaration, as can be seen from our recent participation in the Doha Ministerial Conference and our offer to host the Fifth Ministerial Conference in 2003.

Responding to a question by one Member (Japan), it is in Mexico's interests to reduce bound tariffs in all sectors through equitable multilateral negotiations in the context of the Doha Development Agenda; the speed, terms and scope of liberalization must be the result of these multilateral negotiations.

In conclusion, Mexico is committed to promoting the expansion of free trade and we are convinced that our intensive bilateral activities help to strengthen multilateralism. The success of our FTAs shows the benefits of trade openness and acts as a catalyst for moving ahead with the multilateral agenda.

We are certain that Mexico's active participation in bilateral and multilateral forums boosts trade and investment in all regions of the world.

Tariff reductions within the framework of the G-3 FTA

Some clarification is required regarding paragraph 55 of the Secretariat's Report.

The G-3 Agreement provides, as a general rule, a timetable for tariff reduction in order to reach zero at the latest by 1 July 2004. In order to achieve this, a number of tariff reduction procedures have been defined, of which the following are the most important:

- Freeing of tariffs upon entry into force of the Agreement;
- four equal tariff cuts to reach a zero tariff on 1 July 1999;
- ten equal tariff cuts to reach a zero tariff on 1 July 2004;
- goods in the automobile sector: zero tariff as of 1 January 2007.

These tariff reduction procedures apply to trade between Mexico and Colombia and Mexico and Venezuela. There is no provision in the Agreement indicating that the tariff reduction period will only apply to Colombia in the first stage or that at any particular time a second round of tariff reductions will have to be negotiated with Venezuela.

There is one provision in the Agreement, however, (Article 3-04.6) that allows the Parties to hold consultations to examine the possibility of speeding up tariff reductions for certain products laid down in each Party's timetable. Mexico and Venezuela, for example, have decided to accelerate the procedure for certain products and in March 2002 Mexico and Colombia also accelerated tariff reduction for some products.

Lastly, as mentioned in paragraph 55, this Agreement builds on the preferences previously agreed among the Parties under the LAIA and some of the tariff procedures include provisions to this effect.

Generalized System of Trade Preferences (GSTP)

One of the reasons why the tariff preferences granted by Mexico under the Generalized System of Trade Preference (GSTP) are not used for imports is that Mexico already grants tariff preferences under broader-scope agreements with countries belonging to this system that are geographically closer to Mexico, especially Latin American countries, so there is an incentive to apply the broader preferential agreement.

It might also be the case that an importer ignores the existence of a GSTP preference for certain goods.

In addition, some products covered by the GSTP already benefit from the application of a very low tariff.

The concessions granted by Mexico under the GSTP were published in the Official Journal of the Federation on 21 July 1989.

II. TRADE POLICIES BY MEASURE

1. Measures directly affecting imports

(i) Customs

Every day, over US\$ 930 million worth of goods go through the Mexican customs. This means that, today, the volume of goods crossing Mexico's borders has increased fivefold compared with ten years ago. Each year, around 8 million import and export declarations are processed, equivalent to a 600 per cent increase in declarations over the past decade.

In order to absorb this vast increase, in recent years Mexico has undertaken an ambitious customs modernization programme that includes the following components:

- Almost all (90 per cent) of customs operations have been computerized. Banks, customs agents and the main foreign trade actors in general are linked electronically;
- around 85 per cent of operations are covered by a single document;
- as regards equipment, sophisticated technology has been installed (X-rays and gamma rays), which makes physical inspection unnecessary;
- as regards integrity, the measures include training, technical examinations, rotation of staff, and assessment of integrity;
- a special unit has been set up to verify that operations respect the rules and another unit deals with complaints about any irregularities.

These efforts have yielded fruit as far as respect for the rules, better harmonized interpretation, and a reduction in the time taken for review are concerned.

Nevertheless, there are still problems of piracy, smuggling and under-valuation, for which measures consistent with Mexico's international commitments have been taken, for example, estimated prices, specific customs offices and the importers' register.

Customs valuation

In response to the European Union, Mexico confirms that it has invoked the clauses and reservations available to developing countries under the Customs Valuation Agreement. These

reservations concern a request to reverse the order of implementation of Articles 5 and 6, and implementation of the provisions under Article 5.2 on whether or not the importer makes a request.

Estimated prices

Estimated prices were introduced in 1994 to detect and rectify problems of under-valuation in the import of goods because this practice is used to avoid the payment of taxes and is seriously prejudicial to the domestic economy and Federal public revenue. Products that have traditionally presented problems in this respect are subject to the mechanism, mainly foodstuffs and beverages, clothing, footwear, tools. Products subject to estimated prices account for barely 5 per cent of Mexico's imports.

In order to determine the estimated price of a good, the Department of the Treasury and Public Credit examines international prices, the value and volume of import and export transactions registered by the General Customs Administration, and elements that show the price of marketing such goods under free market conditions. Other elements such as the country's share of Mexico's imports are also taken into account. After this information has been examined, the Department of the Treasury and Public Credit determines the estimated price of the good.

When a good is subject to the estimated price mechanism and the customs value declared by the importer in the course of customs clearance is lower than the estimated price, the importer must provide security to cover the difference between the duty paid⁴ and the duty payable if the value of the imported goods is found to be equivalent to the estimated price fixed. The importer may provide security to cover imports over a period of six months rather than separate security for each import transaction.

The security referred to in the previous paragraph must be deposited with a financial system institution in cash. As an alternative to a cash deposit, the importer may also use contingent lines of credit, an earmarked or established trust account, collateral or mortgage, shares or a credit card; these are different forms of security because they allow the importer not to pay out at the time of import provided that he undertakes to pay the authority the duties it determines if it is shown that the price declared was not properly calculated according to the Valuation Code.

While the security remains in effect, the authority examines the possibility of initiating an investigation into the declared value. The security is usually released after six months or less, unless the customs authority has not completed its investigation. If the deposit has been made in cash, the amount deposited is returned with the interest it earned during the period concerned.

Estimated prices are regularly monitored by the Department of the Treasury to ensure that they are adapted to the economic changes affecting the price of imported goods or their price on international markets. This monitoring may also result in the exclusion of certain goods from application of the measure.

Importers may request that the estimated price be modified or that certain goods be excluded from application of the measure. In order to do this, they must make an application in writing to the Department of the Treasury stating their intention, attaching the documentation justifying the request and substantiating the grounds for the change requested. The Department of the Treasury then examines the request and fixes a new estimated price, provided that it is duly justified and substantiated. If it is not, the request is refused.

⁴ Depending on the goods concerned, the duty includes payment of import taxes, VAT, the Special Tax on Products and Services (IEPS), countervailing and anti-dumping duties.

The trade agreements to which Mexico is party do not give the possibility of excluding products because of their origin as this is a generally applied mechanism. It must be borne in mind that the value declared on the invoice is the basis for paying domestic taxes (for example, VAT and IEPS) as well as the tariff.

As mentioned above, we can affirm that the estimated price mechanism is generally applied, is not discriminatory nor burdensome, and is consistent with the WTO Agreement on Customs Valuation and the international agreements to which Mexico is party, inasmuch as the value declared by the importer is not rejected and he is allowed to withdraw his goods from the customs upon deposit of security to cover payment of taxes to which the goods may finally be subject.

It is important to note that estimated prices are solely used as a reference and cannot under any circumstances be used to determine the taxable base of the General Import Tax. The estimated price mechanism does not therefore constitute a minimum import price but only represents a parameter that helps to detect and combat under-valuation. Lastly, the possibility of publishing changes to the mechanism at an earlier stage will be examined.

A list of products to which the measure no longer applies is attached (Annex I).

Ci.f. vs. f.o.b. (Colombia and the EU)

The application of c.i.f. and f.o.b. bases has been covered in the WTO's Committees on Customs Valuation and on Regional Trade Agreements. According to the Agreement on Customs Valuation, both the c.i.f. and f.o.b. systems are equally valid.

Application of the c.i.f. basis for the customs valuation of goods imported into Mexico is the same for products from all the contracting parties to the WTO, including non-originating goods from the United States and Canada.

Other valuation issues

As explained in paragraphs 16 to 18 of this section of the Secretariat's Report, the valuation method used by Mexico is the transaction value in conformity with Article VII of the GATT 1994, and this is also the case for products subject to an estimated price.

Customs officials cannot decide whether a good does or does not comply with the Customs Valuation Code at the time of import. If a good is quite obviously under-valued, the customs officials allow it to be imported, note the general details of the transaction and take a photocopy of the documents for transmission to the auditing centre.

If the audit of the transaction shows that the imported good is under-valued, based on Decision 6.1 of the WTO Committee on Customs Valuation approved at its meeting of 12 May 1995, the customs authority requests the importer to provide a full explanation, together with the documents or proof that the value declared represents the amount actually paid or payable adjusted in conformity with Article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994. If the information is not substantiated, the importer is asked to rectify the declaration. If he does not agree to this and the customs authority still has reason to doubt the veracity or exactitude of the data or documents provided, it exercises its verification powers in order to establish the correct customs valuation.

Specific customs offices

The purpose of designating specific customs offices for the clearance of certain products is to improve the control of products where possible sanitary problems have been detected or there is a high level of smuggling or piracy by utilizing the infrastructure that allows technical inspections of such products to be conducted. This measure applies mainly to the import of apples, compact discs, cigars, bicycles, pig fat, poultry in brine, used tyres, footwear, textiles, and potatoes for sowing, irrespective of the country of origin. For exports, the measure applies to tequila.

In cases where specific customs offices have been designated for the import of certain products, these offices usually deal with around 95 per cent of imports of such goods so the measure does not have any serious effect on trade.

If there is a change to the specific customs offices, a period is allowed between the date of publication and application of the measure. The situation referred to with regard to textiles was not typical because the original publication only designated six customs offices. In order not to affect trade, however, textiles were imported through all the customs offices until the situation was remedied and 18 customs offices were finally designated for imports, and they deal with the majority of textiles imports.

For the aforementioned reasons, the specific customs offices do not constitute a barrier to trade and application of this measure is in conformity with Mexico's commitments in the WTO.

Importers' register

With regard to the importers' register, it should be noted that Article 59, section IV, of the Customs Law makes it mandatory to be listed in the importers' register. Articles 71 to 79 of the Law's Regulations indicate the documents to be submitted by persons wishing to import goods into Mexico.

For small-scale imports or potential imports, certain procedures are defined for the entry of the goods, namely:

- It is not necessary to be listed in the importers' register for the goods indicated in Rule 3.6.3 of the Miscellaneous Foreign Trade Resolution (RMCE) for 2000 and in Article 76 of the aforementioned Regulations;
- registration in the importers' register is not required for goods that are not to be marketed and have been authorized by the customs authorities, according to Article 1, last paragraph, and Rule 3.6.7 of the RMCE of 2000;
- if the goods to be imported are explosive, inflammable, contaminating, radioactive, corrosive, persistent or easily decompose or are live animals, they may be imported without completing the registration formality in accordance with Rule 3.6.8. of the RMCE of 2000.

In conclusion, and responding to the question by the United States, the measures referred to such as estimated prices, specific customs offices and the importers' register are not imposed in order to combat dumping, but to prevent smuggling, under-invoicing, piracy, *inter alia*. As they are published in the Official Journal, these measures are transparent. Although sometimes it has been necessary for the measures to enter into force the following day, these have been exceptional cases.

Fiscal stamps

Regarding fiscal stamps, we wish to state that this situation was not a typical one. In October 2001, large-scale counterfeiting of fiscal stamps was discovered so their distribution was suspended both for domestic and imported products. Despite this unfortunate and isolated case, at no time did Mexico act in a way inconsistent with its international obligations.

Samples

Chile requests information on customs regulations concerning the entry of samples of products for fairs and other trade promotion events or activities in Mexico. We can provide the following information in this respect:

In order to bring samples of products into Mexico lawfully, a person has the choice of temporary import or use of an ATA carnet for the temporary entry of samples. Both possibilities have certain elements in common such as the period of entry (six months) and exemption from the need to be listed in the importers' register.

For temporary entry, the customs declaration must state the purpose for which the goods are to be imported and, where appropriate, the place where this purpose is to be fulfilled and the goods are to be kept. For the purposes of the Customs Law, samples to be used to present the goods available are those whose quantity, weight, volume or other forms of presentation indicate without any doubt that they are only to be used as samples and that they have no commercial value because they have physically been made unusable by marking, perforation, or breaking, or have been dealt with in a way that makes their marketing impossible but does not prevent them being used as samples, or goods whose value per unit does not exceed the national currency equivalent of US\$ 1 or its equivalent in other foreign currency. In such cases, simply putting stamps or wording on the goods is not considered to be physically making them unusable.

If an ATA carnet is used, its term may not exceed one year as of the date of its issue. Goods imported temporarily using a carnet must be presented to the customs authority, together with the ATA carnet, for physical and documentary examination. In such cases, the automatic selection mechanism does not have to be applied.

If no irregularities are detected, the customs authority shall clear the goods immediately and certify the page in the ATA carnet corresponding to the customs operation concerned, placing the stamp, name and signature of the official responsible for clearance on the cover and relevant page of the carnet.

(ii) Certificates of origin

The certified country of origin (CPO) scheme was introduced in 1994 in response to re-shipment by third countries in order to avoid paying duty on products for which there had already been a final determination of dumping or subsidies. It was shown that this type of evasion was taking place on a massive scale.

The scheme essentially consists of defining requirements of origin and certifying them for certain products such as textiles, clothing and footwear. The requirements of origin apply to all countries, but the certification requirements differ for countries that are not members of the WTO and preshipment inspection and formalization of the certificate of origin are required.

In addition, the scheme requires the certificate to be issued by the exporting country and handed over to the importer. It cannot be issued by a third country in which the product has been marketed. If it cannot be proved that the goods originate in a third country, they are considered to originate in the country on which the measure has been imposed and the corresponding duties are payable.

The CPO is an administrative requirement needed to ensure compliance with trade protection provisions that are not inconsistent with the WTO. It is neither an unjustified nor a burdensome requirement because each foreign government can designate the certifying authority, which has to be registered once only with the Government of Mexico. The confirmation of the CPO by a Mexican Embassy is only required for countries that are not Members of the WTO.

In the Secretariat's Report it is also stated that the rules differ depending on the origin of the goods, which is not correct because the scheme uses the same rules to determine the country of origin of goods.

(iii) *Tariffs*

Increases in most-favoured-nation tariffs

Regarding the comments by several delegations on the increases in Mexico's MFN tariffs, it should be pointed out that these were imposed without the need to seek exemptions from the WTO provisions because the tariffs were lower or the same as the levels bound by Mexico.

When economic conditions so permit, the feasibility of lowering MFN tariffs to their previous levels will be reviewed. In any event, it is in Mexico's interest to make progress towards a more open multilateral trading system in all the areas covered by the Doha Declaration. With a view to the negotiations, Mexico considers that it is up to the Members of the WTO to decide at what pace and how far they wish to move in opening up trade.

We do not consider that the gap between MFN and preferential tariffs restricts the growth of trade flows with countries with which Mexico does not have a free trade or preferential agreement. In fact, the average annual rate of increase in imports from countries with which Mexico has no such agreement was 15 per cent for the period 1993-2001.

For example, imports from Malaysia rose from US\$ 245.4 million in 1993 to US\$ 2 billion in 2001, which increased Malaysia's share of Mexico's imports from 0.38 per cent to 1.119 per cent over the same period. In the case of the Republic of Korea as well, Mexico imported US\$ 837.5 million in 1993 and in 2001 this figure had climbed to US\$ 3,531.7, bringing the Republic of Korea's share of Mexico's imports up from 1.28 per cent to 2.1 per cent over the period. Another example is Thailand, from which Mexico imported US\$ 138.6 million 1993 and US\$ 615.3 million in 2001.

Steel

Mexico increased MFN tariffs on steel to the bound level of 35 per cent. The Decree will expire in September 2002, but may be renewed.

This measure was looked at carefully at the domestic level. By increasing its tariffs on certain products, Mexico is simply making use of its right in the WTO and is not exceeding its bound tariffs. As it does not exceed its bound tariffs, Mexico does not consider that the measure distorts the development of the WTO's multilateral trading system.

(iv) *Licensing*

Mexico is currently working at the national level in order to be able to notify the Committee on Import Licensing in accordance with the Agreement.

(v) *Standards*

Transparency in the formulation of technical regulations (NOMs)

As regards the formulation of Mexico's technical regulations, questions were received from the European Union, Switzerland and Canada. First of all, we should like to point out that Mexico respects the relevant provisions of the World Trade Organization. In Mexico, technical standards and regulations are formulated pursuant to the Law on Metrology and Standardization (LFMN), which contains the provisions laid down in the WTO's Agreement on Technical Barriers to Trade (TBT Agreement).

All draft Mexican official standards (NOMs or technical regulations) are published in the Federation's Official Journal (DOF, the official national publication) for comments from the public within a period of 60 days (this period was recommended by the Committee on Technical Barriers to Trade) and on the day of their publication the Mexican Permanent Mission to the WTO in Geneva is informed so that it can make the relevant notification to all the Members of the WTO. During this period, Members may send in their comments and the National Consultative Committee examines them and, where applicable, incorporates them in the final text of the technical regulation. The comments and the corresponding replies are published in the DOF.

Mexico's standardization procedure allows any interested person from any country to make comments on draft technical regulations within the period allowed for public consultation and these are taken into account by the competent body during the process of formulating the regulation. This must be underlined because our LFMN goes beyond the obligation to be found in the TBT Agreement by allowing any "interested party" - and not only WTO Members - to make comments on draft technical regulations.

The LFMN also determines that the NOMs shall be reviewed every five years. As a result, this year more than 350 NOMs were revised. All WTO Members can take part in this review by sending in their comments and observations.

One delegation expressed an interest in knowing what criteria were used to determine whether a draft technical regulation was considered to have a substantial impact. The COFEMER established this criterion, which is based on the following:

- Where the annual costs of compliance exceed Mex\$ 800 million for producers of goods, suppliers of services or consumers; or
- where there are substantial costs for a specific sector or branch of the economy, a group of consumers or a particular geographical zone. The determination of whether or not costs are substantial depends on the proportion of agents affected and the amount of the annual costs expected.

The European Union and India commented on the number of technical regulations in the footwear, textiles, etc. sectors. It should be noted that the TBT Agreement allows Members to adopt the measures it deems necessary to fulfil a legitimate objective. Around 100 per cent of the tariff headings for textiles, footwear and head gear have been identified because they must respect a technical regulation on labelling. This figure does not imply a parameter that allows the degree of

regulation applicable to a particular industry to be defined but is the Department's assessment of compliance with technical regulations by product and by sector at the time of import into Mexico.

Regarding the use of the "performance" criterion when drawing up technical regulations, Mexico does not at present have any estimate of which Mexican official standards were drawn up on the basis of this criterion. Nevertheless, this year will see the five-yearly review of over 500 Mexican official standards and the use of this criterion will be promoted during this review.

As regards the "referential standards" mentioned by the European Union and Switzerland, it should be noted that these are issued by units of the Federal public administration and they can only be drawn up by the unit that intends to acquire, lease or contract particular goods or services if the existing Mexican or international standards do not cover their requirements or if the specifications contained in these standards are deemed to be inapplicable or obsolete. These standards are not used for any other purpose.

Use of international standards when elaborating NOMs

Regarding the comments by the European Union, Switzerland and Canada concerning the use of international standards, it should be noted that there is no provision in the TBT Agreement determining that technical regulations must be in full and strict compliance with international standards. Nevertheless, under the LFMN, Mexico uses international standards as a basis for elaborating NOMs, except where they are ineffective or inappropriate for the fulfilment of the legitimate objective. The practice followed by Mexico includes the establishment of Emergency NOMs in conformity with the WTO provisions, international trade agreements signed by Mexico, Articles 41 and 44 of the LFMN, and Rule 28 of its Regulations.

Consequently, there is no possibility of any standard-setting body obtaining an exemption allowing it not to base itself on international standards, but pursuant to Article 2.4 of the TBT Agreement these bodies may decide not to use international standards if they are ineffective or inappropriate for fulfilment of the legitimate objective fixed.

Regarding the reason why existing international standards have sometimes not been used when elaborating certain Mexican official standards, four essential points should be made:

- The first and most important reason is that no international standard for the item to be regulated exists;
- the second is that international standards are deemed inapplicable to the items to be regulated;
- the third concerns climatic, geographical, technological infrastructure, phytosanitary or animal health reasons or scientifically proven reasons; and
- the last reason is where the standards provide an insufficient level of protection, the foregoing in conformity with Rule 30, section I, of the Regulations of the LFMN and the provisions in Article 2.4 of the TBT Agreement.

In accordance with the LFMN, during the five-yearly review of the NOMs, the competent units must take into consideration existing international standards.

According to the Regulations of the LFMN, all technical regulations must mention their degree of concordance with international standards, whether the regulation is identical, equivalent, or not equivalent to the international standard used as basis for its formulation. At present, it is not planned to create a database to determine the degree of concordance of technical regulations with international standards.

Transparency in legal texts other than the NOMs

With regard to the comments by the European Union and Canada on the question of transparency, we should like to emphasize that Mexico also has provisions on transparency in the elaboration of other legal texts. As mentioned in other sections, the Federal Regulatory Improvement Commission (COFEMER) is the decentralized administrative body of the Department of the Economy responsible for ensuring that the regulations which the Federal Government wishes to apply do not constitute unnecessary formalities or obstacles for individual persons.

According to the Federal Administrative Procedures Law, when drawing up preliminary draft laws, legislative decrees or administrative acts of a general nature for the purpose of laying down specific obligations, the decentralized units or authorities of the public administration must submit them to the COFEMER for examination and subsequent decision, attaching a regulatory impact statement (MIR).

The COFEMER publishes these preliminary drafts and MIRs for comments (except where publication might compromise the desired effect of the provision, i.e. collection of taxes). The preliminary drafts are made available through the COFEMER's web page or in a list published monthly in the DOF; comments are received and examined by the COFEMER and sent to the competent units so that, where applicable, they can be incorporated in the proposed preliminary drafts.

Emergency regulations

Concerning the questions from Canada and the European Union on emergency regulations, in Mexico these are only issued when an unexpected event occurs that affects or poses an imminent threat to the security of persons or harms human, animal, or plant health, the environment as a whole or the working environment, or the conservation of natural resources, as provided in Article 2.10 of the TBT Agreement.

Furthermore, in conformity with Article 2.10.3 of the TBT Agreement, units may receive comments on the emergency regulations issued so that, where appropriate, they can hold the necessary discussions. In the meantime, the emergency technical regulation remains in force in order to safeguard legitimate objectives without delay and also due to the nature of such regulations.

Concerning the procedure for establishing Mexican official emergency regulations, the competent unit may draw the regulation up directly without any preliminary draft or draft and, where appropriate, with the participation of other competent units, and it is published in the Federation's Official Journal with a maximum term of six months. In no case may such a regulation be issued more than twice consecutively. Prior to being issued for a second time, a regulatory impact statement must be submitted to the COFEMER and if the unit that drew up the regulation decides to extend its term or make it permanent, it must be submitted in the form of a preliminary draft regulation and follow the whole process for the formulation of Mexican official standards.

It is essential to note that, in order to be able to draw up a Mexican official standard of an emergency character, the competent unit must prove that it has tried to prevent the unexpected event that affects or poses an imminent threat to the security of persons or harms human, animal, or plant health, the environment as a whole or the working environment, or the conservation of natural resources.

When drawing up the standard, the corresponding international standards are taken into account, where they exist but, in accordance with Article 2.4 of the TBT Agreement, the units may

decide not to use such standards when they are ineffective or inappropriate for the fulfilment of the legitimate objective fixed.

Mexico notifies the WTO of the application of Mexican emergency official standards through its mission to the WTO in Geneva.

Conformity assessment procedures

In response to the questions by the United States, the European Union and Canada, it should be pointed out that, pursuant to the LFMN, conformity assessment procedures may be carried out by the competent units or through third parties, namely, laboratories, certification bodies or inspection units, accredited by the Mexican Accreditation Entity (EMA) and approved by the unit that issued the NOM.

Conformity assessment procedures may be found in the text of the NOM itself or are published by the unit in the DOF. The conformity assessment may be undertaken by type, line, lot or heading of products, or by system.

When a unit utilizes third parties, the conformity assessment procedure commonly used is certification. The manufacturer or importer must obtain the corresponding certification because he is liable to the competent authorities for compliance with the regulations established or to the sanctions imposed for non-compliance.

The Department of Agriculture and Rural Development published its draft procedures for conformity assessment in the area of animal health on 19 February 1999. A number of comments were received and examined and those that were applicable were incorporated in the final version, which was published on 19 January 2000. On 8 March 1999, the Department published its draft procedures for conformity assessment in the phytosanitary area.

The Department of the Economy is presently revising its conformity assessment policies and procedures (published on 24 October 1997 and amended on 29 February 2000). When the corresponding examination has been completed, the draft will be published in the DOF for comments from the public. No date has yet been set for publication, but when the text is published Mexico will notify Members of the WTO, as required by the TBT Agreement.

The National Commission for Water Resources, the Department of Energy and the Department of Communications and Transportation are developing their own draft conformity assessment procedures, which will also be notified to the Members of the WTO once they are published in the DOF for comments.

Recognition of conformity assessment procedures

Regarding the comments of the European Union, Switzerland, and the United States, we should mention that Mexico accepts the result of other countries' conformity assessments through Mutual Recognition Agreements (ARMs), which are signed by the Department of the Economy, at the request of any competent unit, by accreditation entities and accredited persons with their counterparts in other countries. There are a number of ARMs concluded by the Department of the Economy and private organizations.

The LFMN also provides that, when a NOM makes it mandatory to use certain materials, equipment, processes, testing methods, mechanisms, special technical procedures or technology, the persons concerned may request authorization to use or apply alternative materials, equipment,

processes, testing methods, mechanisms, procedures or technology, which in practice means that it is possible to use the conformity assessment procedures of other countries. To date, no request to this effect has been received.

In addition, for technical regulations, conformity assessment may be undertaken by the competent unit or by accredited conformity assessment bodies and, where applicable, approved by the unit.

Accreditation

Accreditation is the responsibility of the Mexican Accreditation Entity (EMA) and any conformity assessment body may submit a request for accreditation. In carrying out its activities, the EMA uses the applicable international guidelines and recommendations, in particular ISO/IEC Guides 61, 62, 65 and 66 in the case of certification bodies.

The competent units may approve the persons accredited and required for conformity assessment. It publishes a notice in the DOF for this purpose calling on conformity assessment bodies to obtain accreditation and/or approval for the assessment of the Mexican official standards concerned. For example, on 7 May 2001, the Department of Energy published in the DOF a notice inviting interested bodies to obtain accreditation and/or approval as a certification body for the product in NOM-017-ENER-1997, Energy efficiency of compact fluorescent lamps. Limits and testing methods.

On 14 March 2000, the Department of the Economy published in the DOF a notice inviting interested bodies to obtain accreditation and/or approval as a certification body for each of the groups or subgroups indicated in order to assess the conformity of 25 NOMs (see Annex II).

Labelling

Regarding the questions and comments by Canada and the European Union, we should like to emphasize once again that the labelling system in Mexico operates in accordance with the principles in the TBT Agreement. The relevant technical regulations specify the minimum commercial information that must be given on a product so that the consumer can decide whether or not to purchase it. Mexico's provisions on labelling are therefore simple and less strict when compared with those in force in other countries. For example, in some countries, the requirements vary from the State to the sub-federal levels, they may require the use of more than one language, or the use of special colours or sizes for certain labels, and under some circumstances these constitute genuine trade barriers.

The two main NOMs on labelling are NOM-050-SCFI-1994 and NOM-051-SCFI-1994, which are based on international standards: NOM-050 on ISO 14, 37, and 41; and NOM-051 on CODEX STAN 1-1985, 107-1981, CAC/GL 1-1979, CAC/GL 2-1985 *inter alia*.

Consequently, there are no plans to simplify the labelling requirements. During this year, however, a large number of NOMs on labelling will be subject to the five-yearly review and so any Member of the WTO may make comments in this respect. It should be mentioned that, once the process has begun, comments may be received from any interested party, including other countries.

Lastly, taking into account the observations of Canada and the European Union, the list of Mexican official standards on labelling can be found in the list of NOMs on the Department of the Economy's web page (www.economia-noms.gob.mx).

(vi) *Sanitary and phytosanitary measures*

When applying measures, Mexico strictly observes the WTO Agreement on Sanitary and Phytosanitary Measures.

The purpose of Mexico's cooperation agreements with various countries on sanitary and phytosanitary measures is to facilitate trade by establishing common criteria, recognition, equivalence or harmonization, *inter alia*, on a product basis or by disease or procedure.

Regarding the concerns expressed by India and Hungary relating to Mexico's application of certain sanitary and phytosanitary measures, an investigation is being carried out in collaboration with the competent sectors in order to be able to reply satisfactorily.

Concerning Thailand's concern, as stated in the Committee on Sanitary and Phytosanitary Measures, imports of rice from Thailand do not face sanitary restrictions, but Thailand's concern has been noted.

(vii) *Anti-dumping measures and countervailing duties*

Mexico's obligations relating to anti-dumping and countervailing duties are contained in the Foreign Trade Law and its Regulations, and in the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures. According to Article 133 of the Constitution, as soon as the Senate approved the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures, these automatically became law applicable to anti-dumping investigations and countervailing duties and no further legislative amendments are required for their implementation. The WTO Agreements also prevail over the law if there are any inconsistencies. Consequently, it is not necessary to amend the Law.

The European Union refers to the new Article 48 of the Regulations of the Foreign Trade Law and, in this connection, we should indicate that there is no list of countries to which it applies. Nevertheless, this Article covers in general all countries with centrally planned economies or economies in transition, and the aim is to allow them to show that even producers of products subject to investigation operate under market economy conditions.

The International Trade Practices Unit (UPCI) is the authority responsible for carrying out anti-dumping and countervailing duty investigations and is also empowered to support exporters under investigation. This does not mean, as one Member (Canada) suggests, that there is a conflict of interest and in practice this has certainly not been the case. The role of the UPCI in support of Mexican exporters under investigation is limited to notifying them that they may be subject to investigation in another country and, in some cases, if they agree, to providing them with basic guidance on legal matters, the domestic legislation in the importing countries, or the WTO Agreements.

The Republic of Korea refers to the high duties imposed on a number of its products without proper preliminary affirmative determinations. We should point out that, over the past ten years, there have only been three investigations (out of nine) in which provisional anti-dumping duties have been imposed. Secondly, when initiating and carrying out these investigations, Mexico complied with its obligations under the Anti-Dumping Agreement, including the provisions of Article 5. In addition, the level of proof for dumping and injury is not the same at the initiation, provisional determination and definitive determination stages. This is a critical point that makes it perfectly possible and valid under the Anti-Dumping Agreement to impose a provisional duty and subsequently to conclude the investigation without imposing duties. Mexico shares the concern of the Republic of Korea regarding

the importance of preventing anti-dumping measures from being used as trade barriers, and this is why our investigating authority has been extremely careful in its procedures, which in many cases have resulted in negative definitive determinations.

Regarding our new notification on subsidies for 2001, we have serious budgetary problems and these have affected our ability to meet this commitment (as explained in document G/SMC/489). The notification will be made as soon as Mexico has overcome this lack of resources.

2. Measures directly affecting exports

(i) Export promotion programmes: PITEX and Maquila

Export promotion programmes such as *Maquila* and PITEX are mechanisms to administer the provisions on "temporary import" in the Mexican Customs Law and they are established, modified and operated by the Executive, without going beyond the benefits contained in the relevant section of the Customs Law.

These programmes contained a subsidy component, which consisted of tariff exemption on imports of machinery and equipment depending on export performance.

The PITEX Programme was therefore notified under Article 25 of the SCM Agreement. The relevant part of the notification is the provision on "temporary import" in the Mexican Customs Law, which is the only concession in these programmes. (As stated in document G/SCM/N/3/MEX of the Committee on Subsidies and Countervailing Measures, 21 November 1996.)

On 1 January 2001, however, Mexico abolished the tariff exemption for machinery and equipment used to manufacture goods and for services under the "temporary import" section of the Customs Law and consequently also in all the programmes thereunder. This was the only subsidies element in the legal provisions on temporary import in programmes such as PITEX and *Maquila*, and there are no restrictions on sales in the domestic market. The abolition of this subsidies component occurred several years in advance of the time allowed under the SCM Agreement (Article 27.2(b)). Since then, Mexico has not granted any fiscal or tariff concessions dependent upon an export requirement; these are solely of an administrative nature. As they do not contain any subsidies component, these programmes are fully compatible with the WTO provisions. There is thus no need to notify these provisions again and there is no date fixed or programme for their dismantling.

Unlike the drawback scheme in which taxes are paid on the import of inputs incorporated in goods subsequently exported and, once they have been exported, a request is made for the refund of tariffs paid on the inputs, the concessions granted under the *Maquila* and PITEX schemes are of an administrative nature. The taxes on the import of inputs incorporated in goods that are subsequently exported are not paid at the time of import, so there is no refund of tariffs upon export. In other words, instead of refunding tariffs transaction by transaction (drawback) to PITEX and *Maquiladora* (assembly) enterprises, the latter are subject to control through a procedure that consists of registration in a register kept by the Department of the Economy and an audit by the Department of the Treasury so as to monitor their operations (restrictions on export to NAFTA countries apply). The final outcome, however, is the same.

For obvious reasons, the administrative facility described in the previous paragraph only applies when exporters export on a regular basis and not on an *ad hoc* basis. It is administratively easier for the Government to control firms that export on a regular basis under the *Maquila* or PITEX schemes than those that export on an *ad hoc* basis.

This administrative benefit does not distinguish among firms and any exporter may request the concession provided that it meets the PITEX and *Maquila* condition of being a regular exporter with annual sales of at least US\$ 500,000 or less if it exports 10 per cent of its annual sales.

This provision facilitates administration, auditing and control by Mexico's financial authorities because a high percentage of Mexico's exports come under this mechanism.

Drawback

The Decree establishing the drawback mechanism was amended (29 December 2000) in order to adapt it to the changes envisaged under the NAFTA. This scheme allows an exporter to request the Government to refund the tariffs (drawback) paid on inputs incorporated in a final product subsequently exported (under Article 303, restrictions on export to NAFTA countries apply).

This mechanism complies with the provisions in Annex II to the Agreement on Subsidies and Countervailing Measures inasmuch as the Decree requires that the inputs in question be incorporated in the good exported and under no circumstances may the refund exceed the amount of the tariffs paid on inputs at the time of their import. There is no refund either for inputs not incorporated in the final product, for example, machinery or equipment.

Notification of other programmes (ALTEX, ECEX)

As Mexico explained at the meetings of the Committee on Subsidies and Countervailing Measures on 20 June 1997 and 11 February 2000, both programmes also grant measures of an administrative nature, but in no case can any of the concessions be considered a subsidy subject to notification. For further details, see documents G/SCM/Q2/MEX/11 and G/SCM/Q2/MEX/15.

Functioning of the PROSEC programmes and beneficiaries

The PROSEC programmes consist of tariff reductions on a most-favoured-nation (MFN) basis with end-use provisions, a practice commonly used in international agreements such as the recent Information Technology Agreement (ITA) and prior to that in the Civil Aviation Agreement, as well as in the tariffs of the United States, Canada and the European Union, *inter alia*. Under these end-use provisions, the same product may be subject to a particular MFN tariff for one use, but another MFN tariff for other uses.

Several countries put their end-use provisions in their customs tariff and then leave the implementation regulations up to the customs authorities, which in turn may require registration, audits, reports and other formalities. Mexico does not place its end-use provisions in its customs tariff, but establishes them through the PROSEC decrees, which indicate precisely and transparently the implementation regulations in force. Irrespective of the format used, the end result is the same: there is an MFN import tariff that applies when a product has a particular end use, and no utilization requirements are imposed on the user.

Any sector may be considered a PROSEC user. At present, there are around 3,600 tariff headings under these programmes and the following sectors may enjoy the benefits of PROSEC: electrical and electronic goods, furniture, toys, footwear, mining and metallurgy, capital goods, photographic goods, agricultural machinery, medical appliances, chemicals, plastics and rubber, iron and steel, pharmaceuticals, transport equipment, paper and paperboard, wood, skins, automobiles and parts thereof, confectionery and chocolate, coffee and textiles.

(ii) *Export tariffs*

At present, Mexico does not apply export tariffs, with the exception of certain subproducts of species in danger of extinction (especially turtles).

(iii) *Export finance, insurance and guarantees*

Mexico does not grant financing at rates lower than the international rates (US Prime and LIBOR).

3. Measures affecting production and trade

(i) *Fiscal incentives*

Guatemala enquires about the programmes of the Department of the Treasury and Public Credit on exemption from income tax (ISR). In reply, exemptions from income tax only apply to agricultural, livestock, forestry and fishing activities provided that the income does not exceed 20 times the minimum salary in the region. For enterprises, there are fiscal incentives in the form of abatement for investment in fixed assets, science and technology. In some cases, the Department negotiates with a particular enterprise an abatement of the tax base for a certain time. Lastly, we should note that the reference to Table III.9 is incorrect because this table refers to intellectual property agreements.

(ii) *Government procurement*

Mexico has a transparent government procurement system. To date, no country has been denied access to the government procurement market because it has or has not concluded an FTA.

In fact, with regard to the question from some Members (the European Union, Japan and Norway) on Mexico's accession to the Plurilateral Agreement on Government Procurement (GPA), 85 per cent of the countries belonging to the GPA presently have a government procurement agreement with Mexico through the various free trade agreements concluded. Consequently suppliers from these countries are already assured of the principles of transparency and national treatment in Mexico's government procurement market, in the same way as Mexican suppliers benefit from these principles in the markets of the other countries. Mexico does not therefore plan to accede to the GPA.

One of the most effective instruments available to the Mexican Government in ensuring transparency in government procurement is the COMPRANET government procurement system. Federal Government units and agencies are obliged to put on the COMPRANET invitations to tender, the bidding criteria, explanatory notes, the records of the boards, the decisions, and relevant data concerning contracts.

In response to a question by one Member (European Union), COMPRANET is open to states and municipalities that wish to use it, but they must express a desire to do so. At present, some states and municipalities are using the system.

One Member (European Union) enquires about preferences given to domestic suppliers in government procurement. Like those of many other countries, Mexico's international commitments include transitional procedures and measures to promote the participation of Mexican micro and small enterprises in its government procurement market. Preferences for Mexican rather than foreign products will continue to be applied in a manner consistent with Mexico's international commitments.

Another Member (United States) asks about the impact on competition of the delivery dates set by various units and agencies for the goods they purchase. The question of time limits for delivery of goods has not been perceived by the supervisory authority for government procurement in Mexico (SECODAM) as an element that limits competition in the bidding process.

Purchasing bodies set time limits for delivery according to their own needs. If the time limit is not sufficient, the purchasing entity will run the risk of not receiving the goods to be procured.

Furthermore, it should be noted that during the bidding process, suppliers taking part may request further information on the requirements laid down by the purchasing entity, including the time limit for delivery of the goods.

(iii) *Trade-related investment measures*

Regarding Mexico's trade-related investment measures, questions were received from the Republic of Korea, Colombia, Brazil and Guatemala. In response to the question from the Republic of Korea, the Auto Decree determines that only assembly enterprises established in Mexico may import automobiles. The Decree does not, however, limit the countries from which they may be imported. In this connection, one assembly enterprise in Mexico has imported over 40,863 automobiles from the Republic of Korea over the past year and a half.

In response to the other questions, it is important to note that, in accordance with the extension of the transitional period for the phase-out of trade-related investment measures (TRIMs) requested by Mexico and approved by the Council for Trade in Goods (Decision G/L/463), there is a plan for the gradual phase-out of the remaining measures by 1 January 2004.

This plan envisages the dismantling of the measures on national value added and the trade balance as follows:

National value added

The percentage of national value added that must be included each year by a final assembly plant manufacturing automobiles and spare parts in Mexico will be lowered as follows over the next few years:

- 31 per cent from 1 January to 31 December 2001;
- 30 per cent from 1 January to 31 December 2002;
- 29 per cent from 1 January to 31 December 2003.

Trade balance

The factor used (a) to calculate the trade balance of a final assembly plant manufacturing automobiles, and (b) to divide the surplus in the trade balance of a final assembly plant in order to determine the total value of new automobiles that may be imported each year will be lowered as follows over the next few years:

- 0.605 from 1 January to 31 December 2001;
- 0.577 from 1 January to 31 December 2002;
- 0.550 from 1 January to 31 December 2003.

Consequently, bearing in mind that (i) firms producing automobiles and spare parts play an important role in Mexico's economy in terms of investment and jobs; and (ii) that the situation that

gave rise to the Decree still exists, it is considered that the abolition or modification of this gradual phase-out plan would cause serious problems in the sector, therefore, it will not be possible to speed up this elimination.

The delegation of Colombia refers to pages 66 and 67 of the Secretariat's Report, which deals with fiscal incentives. Apart from the Auto Decree, no other product has to meet the national content requirements.

Lastly, in response to the delegation of Guatemala, Mexico's incentive programmes do not violate the provisions of any of the WTO Agreements, more particularly the Agreement on Subsidies and Countervailing Measures and the Agreement on Trade-Related Investment Measures. In fact, Mexico has shown that the trade-related fiscal incentives do not constitute an "optimum" policy because they are not based on economic criteria of equity or efficiency. In Mexico's communication of November 1998 (WT/WGTI/W/64) to the Working Group on the Relationship between Trade and Investment (GTIC), it is indicated that the costs associated with harmful tax competition, greater lobbying and inefficient resource allocation can more than offset the benefits derived from granting incentives and the need for the Working Group on the Relationship between Trade and Investment to examine this issue further and explore options to eliminate its distorting effects is underlined.

(iv) *Free-trade zones*

Regarding free-trade zones, consideration is being given to dismantling them by 31 December 2002, even though they apply to consumer products and not to machinery or inputs for processing.

Unlike other countries, Mexico does not grant financial incentives to companies operating in free zones in the form of assistance or fiscal concessions for special benefits for employees as Mexico unfortunately does not have the financial resources needed to implement such programmes.

There are no statistics on exports from free-trade zones as these zones are used to produce goods for domestic consumption not export. For indicators on exports, see under PITEX, *Maquiladora*, and other products.

(v) *Intellectual property rights and innovation*

(a) Legal and institutional framework

Since the last review of Mexico's trade policy, its industrial property legislation has not been amended. As Mexican legislation is automatically applicable, international agreements such as the TRIPS Agreement and the Stockholm revision of the Lisbon Agreement are supreme law in Mexico and consequently mandatory.

Mexico received a number of questions concerning the issue of geographical indications. In this connection, we should point out that, under the Industrial Property Law and the various agreements to which Mexico is party, other countries' geographical indications are protected in Mexico.

In Mexico, there are two alternatives for the protection of geographical indications: one is through appellations of origin; and the other is through collective marks.

Protection through an appellation of origin is stricter regarding the characteristics of the geographical indication. Collective marks are a system for protecting geographical indications that affords greater trade flexibility.

The protection granted under the agreements applies both to the rights of Mexican citizens and those of foreigners. Foreign appellations of origin protected in Mexico under international agreements enjoy the same benefits as national appellations of origin and the enforcement procedures indicated in the Industrial Property Law (LPI) in cases of unlawful use of the appellation (Articles 157 and 213 of the LPI) apply.

Article 157 of the LPI states the following:

"The protection that this Law affords to appellations of origin begins with a declaration issued to that effect by the Institute. Illegal use of the same appellation shall be punished, including that in which it is accompanied by indications such as 'kind', 'type', 'style', 'imitation' or other similar terms that create confusion in the mind of the consumer or imply unfair competition."

Likewise, Article 213 of the LPI determines what constitutes an administrative infringement:

"...

IX. Performing, in the course of industrial activities or trade, acts that confuse, mislead or deceive the public by causing it wrongly to believe or assume:

- (a) that a relation or association exists between a given establishment and that of a third party;
- (b) that products are manufactured according to specifications, licences or authorizations from a third party;
- (c) that services are rendered or products sold according to authorizations, licences or specifications from a third party;
- (d) that the product concerned comes from a territory, region or locality different from the true place of origin, in such a way as to mislead the public as to the geographical origin of the product;

...

XXII. Using an appellation of origin without the appropriate authorization or licence."

Regarding collective marks, Article 96 of the LPI determines that associations or groups of producers, manufacturers, traders or providers of services may apply for registration of a collective mark to distinguish the products or services of their members on the market from those of third parties. This provision should be interpreted in the same way as Article 7 bis of the Paris Convention for the Protection of Industrial Property, namely, collective marks are signs used to distinguish the geographical origin or other common characteristics of products or services of different enterprises that use the collective mark under the supervision of its owner.

The United States asked a question concerning the authority of the Mexican Industrial Property Institute (IMPI) as a mediator. In this connection, Article 199bis.8 of the LPI states that, in the procedure for the administrative declaration of infringement, the Institute shall at all times seek to reconcile the interests of those involved. In other words, when one of the parties lodges a complaint, the Institute proposes its services as mediator in order to seek a possible solution with the other party and, if both parties are willing to negotiate, the IMPI allows them to meet as often as necessary in

order to settle the dispute in a way that is acceptable to both parties, although this is not always possible.

In accordance with the provision in Article 199bis.8 of the LPI, the Institute is empowered to act as an arbitrator in cases of administrative declaration of infringement, although it should be noted that the parties concerned must request the Institute's involvement.

(b) Intellectual property rights and innovation

Japan asked about the number of patent applications and the number of patents granted. We agree that there was a larger number of patent applications, but the number of substantive examiners is not sufficient to deal with any more. New examiners are currently completing their training, however, so during this year and over the next two years there will be a notable increase in productivity.

As in other international forums, there has been discussion as to whether a regular increase in the number of examiners really constitutes a solution to the problem of excess demand or whether other options should be considered.

(c) Enforcement

Hong Kong, China referred to coordination between the IMPI and the National Copyright Institute (INDAUTOR) on protection of copyright. The powers of the two authorities are clearly defined. The IMPI is a decentralized public body under the Department of the Economy. Its main responsibilities include protecting industrial property by regulating and granting patents, registering utility models and industrial designs, trademarks and advertising slogans, publishing trade names, declaring the protection of appellations of origin and preventing acts that infringe industrial property or constitute industrial-property-related unfair competition.

Independently of the above, as of the entry into force of the Federal Copyright Law and based on Article 232 thereof, the Mexican Industrial Property Institute has been responsible for dealing with trade-related infringements.

The Industrial Property Law and the Copyright Law define the procedures required to prevent and punish any action that fails to respect intellectual property. It should be noted that the IMPI is empowered to adopt the following provisional measures:

- I. Order the withdrawal from circulation or prevent circulation of goods that infringe rights protected by the Law;
- II. Order the withdrawal from circulation of:
 - (a) Objects manufactured or used illegally;
 - (b) objects, wrappers, containers, packaging, paperwork, advertising material and similar articles that infringe any of the rights protected by the Law;
 - (c) signs, labels, tags, paperwork and similar articles that infringe any of the rights protected by the Law; and
 - (d) implements or instruments intended or used for the manufacture, or production of any of the articles specified in items (a), (b) and (c) above;

- III. prohibit, with immediate effect, the marketing or use of the goods by which one of the rights protected by this Law is violated;
- IV. order the seizure of goods, which shall take place in accordance with the provisions of Articles 211 to 212*bis*.2;
- V. order the alleged infringer or third parties to suspend or discontinue acts constituting a violation of the provisions of this Law; and
- VI. order the suspension of the rendering of the service or the closing of the establishment where the measures provided for in the foregoing subparagraphs are not sufficient to prevent or avoid the violation of the rights protected by this Law.

If the product or service is on the market, the traders or the providers of the service shall be under the obligation to abstain from disposing of the product or rendering the service as from the date on which the ruling is notified to them.

Producers, manufacturers and importers shall be under the same obligation, as shall their distributors, who shall be responsible for immediately recovering any goods that are already on the market.

INDAUTOR, on the other hand, is a body belonging to the Department of Public Education. It is the administrative authority responsible, *inter alia*, for the Public Copyright Register and it promotes the creation of literary and artistic works.

Mexico's legislation also gives powers to the Federal judicial authorities for industrial-property related matters as the authorities responsible for reviewing the legality of the decisions taken by the IMPI. The judicial authorities concerned are the following:

- District courts;
- bench of circuit judges.

The United States asked a question about the training programmes for officials responsible for protecting intellectual property rights. In order to deal with procedures relating to the invalidity, lapse or annulment of industrial property rights, to take decisions and issue the corresponding administrative declarations, the IMPI, through various international cooperation mechanisms, is constantly striving to raise the level of efficiency of its staff. In this connection, the results of the annual work programmes with intellectual property offices in more developed countries and with international organizations, which include training both in Mexico and abroad, have for a number of years enabled us to play a dual role in international cooperation, both as a recipient and a provider.

Regarding the training of staff outside the IMPI, as part of the work programmes under international cooperation programmes with institutions and organizations responsible for registering and protecting industrial property some courses and seminars have been held abroad for members of the Judiciary Council.

In response to the comment by Hong Kong, China that enforcement action is weak, it should be noted that the IMPI has taken action against piracy, together with the Department of the Treasury and Public Credit and the Federal Prevention Police.

In Mexico's anti-piracy campaigns, the IMPI maintains close contact with the Government authorities and representatives of various business associations.

Mexico has conducted a National Campaign against Counterfeiting so as to improve and take more coordinated action against the import, production, distribution, storage and marketing of counterfeit goods, and unfair competition. This Campaign involves the Government authorities and the industrial sectors concerned. It includes the following measures: dissemination of notices in the media against counterfeiting, joint inspection visits (coordinated with the judicial authorities), seizure of counterfeit goods, and collaboration between the industrial sectors and authorities concerned.

The Mexican authorities launched a campaign against piracy of intellectual property with the following three major components:

1. Amendments to intellectual property legislation (Industrial Property Law, Criminal Code, Code of Criminal Procedure), which have been in force since 18 May 1999;

The main aims of the amendments are:

- To classify intellectual property offences as serious offences, which results in more flexible procedures for obtaining arrest warrants and does not allow bail;
 - to increase the economic sanctions and the terms of imprisonment.
2. To augment the number of closures and allocate more resources to the implementing authorities.
 3. To conduct educational programmes on intellectual property matters for judges, prosecutors and the public in general.

Lastly, we are pleased to state that we are completing the preparation of a national campaign to be entitled "Zero Tolerance", to combat piracy of copyright and industrial property, principally computer programmes for businesses and training, films (VHS and DVD), music (tapes and CDs), clothing and footwear, *inter alia*.

III. TRADE POLICIES BY SECTOR

1. Agriculture

Sugar

In response to Guatemala's questions on sugar, first of all we should like to clarify that the "border protection" mentioned in the document is the tariff applied at the border.

Mexico is attaching a copy of the Decree published in the Federation's Official Journal on 3 September 2001 expropriating sugar mills (Annex III). Below are the considerations taken into account by the Mexican Government when it expropriated 27 sugar mills:

- The sugar agro-industry is an activity that has a marked social impact because of its production and the jobs it creates in the Mexican countryside; sugar is the product of this industry and is a necessary consumer product. It is a basic component of the diet of low-income sectors of the population because of its high energy content. The activities involved, such as sowing, cultivation, harvesting, and industrial processing of sugar cane are of public interest;
- the Government of Mexico seeks to ensure that good and fair administration is the common denominator in the Mexican sugar industry, abolishing irregular practices by

a group of persons involved in this industry that have had a significant impact on the sector;

- the owners of 27 sugar mills have caused their firms to lose their financial vitality, contracting large debts with various credit companies and Government of Mexico authorities, thereby endangering not only the assets of the workers in the field, but also of all Mexicans;
- prior to the 2001-2002 harvest next autumn, there is a strong probability that a certain number of sugar mills accounting for a high percentage of Mexico's production will not have the resources needed to repair the mills which guarantee efficient and proper processing of over 20 million tonnes of sugar cane in the Mexican countryside that are now growing and maturing for harvesting that is the culmination of the efforts of almost 50 per cent of producers;
- sugar cane producers that supply the 27 sugar mills have, by various means, made known their decision not to deliver their harvest to these mills as long as they are managed by the current owners;
- the proper processing of the sugar cane owned by tens of thousands of sugar cane growers in Mexico and contracted to 27 sugar cane mills whose lack of financial viability makes them incapable of operating efficiently and of meeting their commitments and endangers the jobs of workers in these mills, suppliers of related services, and economic activity in extensive areas in the states where they are situated.

Question by Argentina

Argentina requests information on the tariff rate applied outside the quota and whether preferences on some agricultural products have been granted. The following table explains the situation:

Product	Tariff bound in the WTO	Tariff bound under WTO quota	Best unilateral tariff treatment determined on MFN basis	Best tariff treatment resulting from preferential agreements
Pig fat	254%	50%	Does not exist	Exists
Pig and poultry fats and oils	254%	50%		Exists
Poultry not cut in pieces, fresh or chilled	234%	50%	Exists: quota 66,000 tonnes for northern border fringe, with tariff	Exists
Maté	30%	No quota	MFN tariff of 23% without restriction	Exists
Beans, other than for sowing	128%	50%	Exists: additional quotas opened in certain years for supply reasons	Exists

Tariff ceiling

Unlike many other Members of the WTO, since 1 January 1995 Mexico has as far as possible implemented the tariffs scheduled for the end of the transition period, i.e. January 2004. Seven years have gone by and some minor adjustments are perhaps required. Mexico is working to remedy the situation as soon as possible.

2. Energy

The United States and Malaysia ask Mexico for information on the extent to which foreign firms may participate in prospecting and developing petroleum and gas; the transmission, distribution and marketing of electric power; and the transport, distribution and marketing of natural gas services.

Services related to the prospecting and exploitation of hydrocarbons. According to Articles 25, 27 and 28 of Mexico's Constitution, the State has direct ownership of petroleum and solid, liquid or gaseous hydrocarbons. These Articles determine that the transport, foreign trade, storage, distribution, and first sale of crude petroleum and products obtained from refining or processing crude petroleum, as well as basic petrochemicals, are the prerogative of the Mexican State.

Transmission, distribution and marketing of electric power. In 1992, reforms were introduced into the Law for the Electric Energy Public Service (LSPEE) so as to open up new opportunities for private investors to participate in generating electric power that does not constitute a public service, through a system of permits granted by the Energy Regulatory Commission (CRE). As a result of these reforms, the self-sufficiency and joint generation components were re-structured and new components such as small-scale production, independent production (PIE), import and export not exceeding 30Mw were introduced. Permit holders are not authorized to market or resell capacity or energy generated. The 2001 amendments to the Law determine that holders of permits for self-sufficiency and joint generation may sell their surpluses to the Federal Electricity Commission (CFE) and the Central Light and Power (LFC). In such cases, there is no limit on the percentage of foreign investment in companies that hold a permit provided that the company is established in Mexico.

Transmission, distribution and marketing of natural gas. Since 1995, the transport, storage and distribution of gas has been carried out by social and private sectors, which may build, operate and own gas pipelines, plants and equipment. The Natural Gas Regulations, published in 1995, lay down clear bases for the development of this industry.

Further details on the requirements for permits can be obtained www.cre.gob.mx.

In addition, soil mechanics surveys, drilling, testing and analysis are under the responsibility and the exclusive control of Mexican Petroleum (PEMEX).

Regarding market access and national treatment for transport through gas pipelines and local distribution of natural gas, including the authorization to build and the right to own and operate gas pipeline networks in Mexico, to the extent that consumers of natural gas can at present choose their supplier, it should be noted that there are no additional regulations or requirements for obtaining licences or permits for investors from countries that do not have a trade agreement with Mexico. The current reforms are designed to introduce competition into areas that are potentially competitive while at the same time regulating areas deemed to be strategic.

Norway, Australia and Malaysia ask about the initiatives taken by the Mexican authorities to increase private participation in the energy sector and request information on the areas where a higher level of private participation yields greater benefits.

The structure of the national energy sector corresponds to the provisions in Articles 25, 27 and 28 of Mexico's Constitution, which establishes the State's direct ownership of petroleum and all solid, liquid and gaseous hydrocarbons. The Constitution also draws distinctions between strategic areas, those exclusive functions of the State that do not constitute a monopoly, and priority areas for development, where the State may participate on its own or together with private or social sectors, maintaining overall supervision and granting concessions and permits.

Natural gas subsector

The Federal Government has been promoting far-reaching structural reform of this industry. Before this reform, the only entity authorized to build, operate, and lay gas pipelines, import, export and market natural gas in Mexico was PEMEX.

In 1995, the reform of the Law Regulating Article 27 of the Constitution in the Petroleum Sector opened up the opportunity for the private sector to build, operate and own systems for the transport, distribution and storage of natural gas, all activities that had previously been restricted to the PEMEX. The reform draws a distinction between the areas that are still restricted to the State and those that allow private operators at different stages. As a result, the State remains the owner, regulator and operator of the public sector, ensuring that the institutions involved have clear objectives and that their action is consistent and coordinated. The reform authorized the Department of Energy to implement Mexico's energy policy and to supervise, coordinate and direct operations by firms in the sector. PEMEX, on the other hand, remains an operator.

In addition, regulation responsibilities accrue to the CRE. The Law that created the CRE in October 1995 determines that the Commission is the regulatory authority responsible for guiding the process of reforming the natural gas industry. It is responsible for applying the regulations on the natural gas market and has the requisite authority and autonomy.

During the period 1995-2000, the regulatory framework was amended to allow the CRE to grant a total of 99 permits to various firms interested in investing in projects for the transport and distribution of natural gas. The current regulations allow vertical integration of natural gas transport and marketing activities.

As a result of the growing private participation in the development of the natural gas infrastructure, the 99 permits granted by the CRE represent investment commitments amounting to over US\$2.3 billion from leading companies in Belgium, Canada, France, Mexico, Spain and the United States for the development of the energy infrastructure and around 39,000 km. of gas pipelines in 24 states in Mexico.

Electricity subsector

Since it was nationalized in 1960, the electricity industry has been administered exclusively by the State through the Federal Electricity Commission (CFE) and Central Light and Power (LFC).

In the early 1980s, the State adopted measures for the financial rehabilitation of the electricity sector in order to meet demand. The generation of electricity for regular private and emergency use was opened up to private investment. In such cases, use of the energy generated must be for emergency situations or when the supply entities are unable to provide the service because it is not possible or is inappropriate. In December 1992, reforms were introduced into the Law designed to open up new opportunities for private investors to participate in generating electric power that does not constitute a public service through a system of permits granted by the CRE. For this purpose, the

self-sufficiency and joint generation components were re-structured and new components such as small-scale production, independent production (PIE), import and export were introduced.

In December 1993, the Regulations of the Law for the Electric Energy Public Service (RLSPEE) were published in order to regulate the Law as far as the supply of the public electric power service and activities in the Law not deemed to be a public service are concerned. In 1994, the responsibilities of the Department of Energy were modified in order to promote the participation of private persons in generating and developing energy.

As a result of the 1992 and 1993 regulatory reforms, persons holding permits and having surplus energy capacity of 20 MW or less were allowed to sign an agreement with the CFE or LFC for its purchase. Subsequently, as a result of further reforms of 24 May 2001, persons holding self-sufficiency and joint generation permits have been allowed to sell their surpluses to the CFE or LFC without an agreement and for any volume.

To summarize, private participation has led to 580.5 MW of electricity under joint generation projects and 399 MW in self-sufficiency projects in the form of new investment. As of 1996, 27 generating projects accounting for capacity of 11,427 MW have been implemented, together with 38 transmission and processing projects totalling 20,272 MVA and 6,732 Km-c, all with private participation and at different stages of the bidding, construction and operating phases.

Future objectives

In order to open up the overall energy sector still further, the 2001-2006 Sectoral Energy Programme sets the following objectives:

- To ensure sufficient supplies of energy, at international quality standards and competitive prices, using public and private world-class energy companies for this purpose;
- to make the legal framework an instrument for the development of the energy sector, giving legal security and predictability to economic agents and ensuring the energy sovereignty and supervision of the State.

3. Manufacturing

The United States posed two questions concerning Mexico's industrial policy. In this connection, we should like to explain that the import substitution programmes are to be seen as programmes to develop suppliers of inputs for the production of final goods.

The Government of Mexico has implemented the Supplier Development Programme through which it seeks, at the national level, to integrate SMEs in the industrial, trade and services systems of large enterprises established in Mexico by:

- Facilitating initial contacts between micro, small and medium enterprises and large enterprises established in Mexico;
- disseminating among micro, small and medium enterprises lists of products needed by large enterprises, with technical specifications, and the criteria and policies they follow when choosing suppliers;
- fostering business between large enterprises and potential suppliers.

Micro, small and medium enterprises benefit from this programme and are given (i) appointments with large enterprises; (ii) a personalized timetable during the programme; (iii) an

opportunity to acquaint large enterprises with their products and/or services; (iv) information about the selection and/or qualification criteria for suppliers of large enterprises; and (v) an opportunity to participate in an orientation and training seminar.

The advantages for the large enterprises are (i) integration of their production and/or services chain and lower production and marketing costs; (ii) diversification of the sources of supply of inputs, parts, components, financing and/or services; (iii) promotion of efficient and competitive suppliers in Mexico thus avoiding exchange rate fluctuations that have a negative impact on operating costs; (iv) establishment of closer relations with suppliers so as to cover the needs of local markets and export; and (v) development of a work philosophy that provides an identical product, at a satisfactory price, within the period fixed and in the right place.

The programme is not a subsidy within the meaning of Article 1 of the WTO Agreement on Subsidies and Countervailing Measures, therefore, it does not need to be notified.

The most important action taken to promote exports and competitiveness has been the negotiation of a network of free trade agreements through which markets for Mexican exports have been opened up, inputs have been obtained on competitive terms, and Mexico has become a strategic place for new investment aimed at supplying international markets with preferential access.

4. Services

(i) Financial services

Mexico is taking part in the current multilateral negotiations in a positive frame of mind in order to negotiate further opening up of various sectors, provided that in return the Mexican economy benefits from equivalent commitments. Mexico has liberalized investment in some intermediaries and lowered the limits for foreign participation in others. Mexico may reduce the limits in its reservations at the WTO depending on the agreements reached during the negotiations.

With regard to whether or not banks and securities companies can conduct business through local branches, Mexico's current legislation does not allow branches in this sector.

Regarding development banks and public trusts and the different roles of government and private financial institutions, Mexico does not only have a plan but is also working on a regulatory framework to restructure development banks and public trusts.

Concerning the distinction between government and private financial institutions, the role of development banks is to complement the private economic credit cycle.

Japan would like to know Mexico's point of view on insurance. Mexico already allows foreign investment in up to 49 per cent of the equity of insurance companies, but through subsidiaries, two companies of Japanese origin have been allowed to operate as insurance institutions, namely, Tokyo Marine Insurance Company S.A. de C.V., in which Tokyo Marine Delaware Corporation of the United States of America holds 99.99 per cent of the shares; and Yasuda Kasai México, Compañía de Seguros S.A. de C.V., in which the Yasuda Fire and Marine Insurance Company of America and the Yasuda Claim Services Inc. of the United States of America hold 100 per cent.

(ii) Telecommunications

Canada asks about Mexico's new Telecommunications Law and its relationship to Mexico's commitments in the Reference Paper. The aim of the draft Federal Telecommunications Law is to

adapt the regulatory framework to new technological and regulatory trends and to promote telecommunications density and connections, facilitate technological convergence, and boost the development of remote health and learning services, as well as promoting technological research and development.

As regards Mexico's commitments in the Reference Paper, the proposed reform of the Federal Telecommunications Law provides for the following:

- Strengthening of the management capacity of the regulatory authority, giving it a solid legal basis, defining its functions, and entrusting it with new powers in certain areas;
- introduction of a section on the social cover of telecommunications to ensure that the population will have access to minimum defined services of quality at competitive prices, irrespective of their geographical location, and that the services are transparent, non-discriminatory and competitively impartial;
- incorporation of more precise and specific bases concerning the obligation on concessionaires of public telecommunications networks to interconnect their networks with those of other concessionaires when so requested, on non-discriminatory and transparent terms based on objective criteria, as well as specific obligations regarding interconnection applicable to concessionaires of public telecommunications networks in a dominant position.

In addition, in response to the specific question by the Republic of Korea concerning the rate of interconnection for value-added services, Mexico informs it that during the period from 1997 to 2002, the interconnection rate fell sharply from Mex\$ 0.763 to Mex\$ 0.09 per minute at constant prices. In other words, the rate fell by 88 per cent over the period, becoming one of the most competitive rates at the international level. The interconnection rate does not, therefore, in any way constitute a barrier to market access for operators of public telecommunications networks or suppliers of value-added services.

The criteria for obtaining an authorization from the National Foreign Investment Commission to allow foreign participation in Mexican companies providing mobile telephone services to exceed 49 per cent can be found in Articles 28 and 29 of the Foreign Investment Law, which states that the Commission must take a decision on requests for authorization within a maximum of 45 working days as of the date of submission of the request (with tacit acceptance at the expiry of this period). In examining the requests, the Commission applies the following criteria:

- The impact on employment and training of workers;
- the technological contribution;
- compliance with environmental provisions; and
- in general, the contribution made to enhancing the competitiveness of the production plant.

Lastly, Article 30 of the Law determines that the Commission may prevent foreign investment holdings for reasons of national security.

In addition, in response to the European Union, we confirm that in Mexico there is no restriction on the number of concessions granted in the telecommunications sector.

Replying to the question of why a concession is imposed in cases when there is a scarce resource and a licence or an authorization is not simply granted instead, it is important to note that,

according to Mexico's legislation, telecommunications are a State matter and it is the responsibility of the State to supervise them and to protect national security and sovereignty. Article 28 of Mexico's Constitution also provides that, if it is in the general interest, the State may grant a concession for the supply of public services.

In this sense, telecommunications services are public services. Accordingly, as telecommunications services can be supplied not only through frequency bands on the radio spectrum but also through public telecommunications networks, a concession is required.

There is a restriction on foreign ownership for the following reasons: Article 7, section III, paragraph x) of the Foreign Investment Law (LIE) provides that, as a general rule, foreign investment in firms holding telecommunications concessions governed by Articles 11 and 12 of the Federal Telecommunications Law may account for up to 49 per cent of the equity.

The only exception to this is in the case of mobile telephony, where a larger percentage of foreign participation is allowed provided that a favourable decision is obtained beforehand from the National Foreign Investment Commission, in accordance with Article 8, section (ix) of the LIE.

The Federal Competition Commission has only identified Telmex as having substantial power in the market.

Dominant carrier regulations

As the dominant carrier regulations are in force, if Telmex fails to comply with them, COFETEL has proposed the application of sanctions by the Department of Communications and Transportation (SCT) and the latter has applied sanctions.

COFETEL considers that the dominant carrier regulations suffice to ensure that there are no anti-competitive practices by this operator in the Mexican telecommunications market.

Mexico's dominant carrier regulations include a requirement that Telmex must provide its competitors with a service that is no less favourable than that Telmex provides for itself. In 2000, COFETEL published a report in which it recognized that, for competitors, there had been congestion in local calls.

Last year, after COFETEL had received complaints from some operators and had obtained the necessary evidence, which showed that there was a problem, it gave Telmex a time limit in which to remedy the problem and this was done.

This year, COFETEL has not received any official complaint from local operators stating that there is a problem.

Transparency of the regulatory process

The United States wishes to know Mexico's plans for the regulatory process and its transparency in the telecommunications sector.

In Mexico, the Federal Administrative Procedures Law provides that, if an authority wishes to enact general provisions, there must be a review by the Federal Regulatory Improvement Commission. During this review stage, any private individual may make his views known. Consequently, it can be stated that Mexico already has a transparent regulatory process of an international standard similar to that in the United States.

COFETEL has already proposed that interconnection agreements among operators of public telecommunications networks should be made public provided that they do not contain information that is strategic or of commercial value.

(iii) *Air transport*

Referring to the Report, the European Union would like to know what procedure allows a share of foreign investment that is higher than 49 per cent for companies opting for airport service concessions. The procedure is laid down in Articles 28 and 29 of the Foreign Investment Law already mentioned in connection with mobile telephony, and the application must also show that regional and technological development is being promoted and the sovereign integrity of the nation safeguarded, in accordance with Article 19 of the Airports Law.

The scope of airport administration covers the supply of airport services such as the use of runways, taxi ways, aprons, visual aids, lighting, passenger and freight terminals, air bridges, airport security services, fire fighting and rescue services. In addition, according to Article 48 of the Airports Law, complementary services can be the subject of concessions, for example, apron and traffic services, the supply of fuel to aircraft, catering, freight storage and security, maintenance and repair of aircraft, or commercial services consisting of the sale of products or supply of services to users of airports that are not essential to their operation, for example, the sale of goods and restaurant services, car hire, advertising, postal services, foreign exchange bureaux, banks, hotels, etc.

(iv) *Maritime transport*

Norway requests information on the restrictions on insuring Mexican vessels abroad.

Pursuant to Mexican legislation, vessels flying the Mexican flag or owned by persons domiciled in Mexico must be insured with Mexican firms, without prejudice to observance of foreign legislation when the vessel is in waters under the jurisdiction of another country and taking into account Mexico's commitments under international agreements.

Foreign shipping companies and vessels may take part in international maritime transport in Mexico without restriction. As indicated in the first paragraph of Article 33 of the Shipping Law, the operation or exploitation of ocean-going vessels is open to ships and vessels from all countries.

The last part of this Article states: "... where there is reciprocity under international agreements". It would only apply in cases where a country does not allow ships flying the Mexican flag to provide high-seas shipping services beginning and ending in its ports.

In response to Japan's request for information on the criteria required for obtaining authorization for foreign participation exceeding 49 per cent in Mexican shipping companies solely operating high-seas traffic, we can state that as regards percentages exceeding 49 per cent, Articles 28 and 29 of the Foreign Investment Law determine that the Commission must take a decision on requests for authorization within a period not exceeding 45 working days as of the date of submission of the request (with tacit acceptance at the expiry of this period). In examining the requests, the Commission applies the following criteria:

- The impact on employment and training of workers;
- the technological contribution;
- compliance with environmental provisions; and
- in general, the contribution made to enhancing the competitiveness of the production plant.

Lastly, Article 30 of the Law determines that the Commission may prevent foreign investment holdings for reasons of national security.

In Mexico's legislation, the expression "Mexican shipping companies" includes companies with foreign capital. Paragraph v) of Section III of Article 7 of the Foreign Investment Law states that foreign investment may account for up to 49 per cent of the capital of shipping companies involved in the commercial operation of vessels for inland navigation and cabotage.

The penultimate paragraph of Article 34 of the Shipping Law states that the operation and exploitation of inland navigation and cabotage for tourist cruises may be carried out by Mexican or foreign shipping companies using Mexican or foreign vessels.

There is no provision allowing the possibility of reserving all or some specific international transport activities for Mexican companies if the national economy is affected by anti-competitive practices by foreign operators. This was repealed by the new Article 34 of the Shipping Law.

The Report by the Secretariat gives the impression that the maritime transport sector has been excluded from the free trade agreements concluded by Mexico. In this connection, it should be noted that maritime transport has not been excluded by Mexico in any of the free trade agreements, so there is full compliance with Article V of the GATS, and services related to navigation on the high seas are open in Mexico, irrespective of whether or not a free trade agreement exists.

Mexico's multimodal transport legislation can be found in a regulation published in the Official Journal of 7 July 1989 showing the scope of multimodal transport defined as the movement of goods using this form of transport. In addition, the regulations cover the activities of operators, establishing their rights and responsibilities towards the authority and to users. The regulation also sets out the requirements to be met by suppliers of services in order to obtain an authorization from the Department of Communications and Transportation.

Inland navigation and cabotage in Mexican waters are restricted to Mexican shipping companies using Mexican vessels and only in cases where no Mexican vessel is available does Article 34 of the Shipping Law allow temporary permits to be granted for navigation using vessels flying a foreign flag. The procedure for obtaining such a permit has been simplified to the maximum and it is now obtainable within 10 working days.

(v) *Professional services*

The European Union asks about the social service obligation on foreigners who study abroad without social cost to the State.

According to the legislation in effect, complying with the social service obligation is mandatory for all professionals and social service is a requirement for obtaining a professional licence. As this obligation is imposed under a law that is generally applicable, there is no indication as to whether the social service obligation applies to Mexican or foreign professionals. In practice, the obligation has to be met by all professionals who wish to register their professional credentials and obtain the corresponding licence that allows them to practice in Mexico, irrespective of the nationality of the professional concerned.

The purpose of social service is not solely to pay back society but also to contribute to the academic and professional training of social service providers, as established in the legislation.

Nevertheless, several different regulatory alternatives are being explored in order to examine other types of treatment for social service by foreigners.

Mexico's specific commitments on accounting, architecture, engineering, medicine and dentistry services are limited to modes 1 to 3 and those in mode 4 are horizontal commitments. When a foreigner who has studied abroad requests a professional licence, he will be subject to the provisions in international agreements to which Mexico is a party or the principle of reciprocity in the exercise of a profession in the country to which he belongs.

In Mexico, a limited number of professions at the Federal level are reserved for Mexican nationals. These professions are listed in paragraph 166 of the Secretariat's Report. Some professions are also listed in the legislation of certain states, but their number is very limited and this only occurs in very few states.

In addition, Mexican nationality is a requirement for the exercise of certain professions or activities not included in Mexico's schedule because Mexico has not undertaken any commitment on these professions or activities.

ANNEX I

Goods Eliminated from the Estimated Price Mechanism (1999-2002)

Tariff heading	IV. Description
2204.21.02	Red, rosé, claret or white wine with an alcohol content not exceeding 14° Gay-Lussac at the temperature of 15°C, in earthenware, china or glass containers
2204.21.03	Grape wines, called fine, of the claret type, with an alcohol content not exceeding 14° Gay-Lussac at the temperature of 15°C. Minimum alcohol content of 11.5° to 12° respectively, for red and white wines; maximum volatile acidity of 1.30° per litre. For "Rhine" type wines, the alcohol content may be a minimum of 11°. Quality certificate issued by a State authority in the exporting country. Bottles of a capacity not exceeding 0.750 litre labelled with an indication of the year of the vintage and the registered trademark of the wine or cellar of origin.
2204.21.04	Champagne and other sparkling wines
2208.20.01	Cognac
2208.30.03	Whisky or whiskey of an alcohol content of 40° or more Gay-Lussac, distilled to an alcoholic strength of less than 94.8% volume in such a way that the product of the distillation has an aroma and taste derived from the raw materials used, matured for at least three years in wooden barrels containing at least 700 litres, in earthenware, china or glass containers
2915.33.01	n-Butyl acetate
2917.11.99	Oxalic acid
3102.10.01	Urea, whether or not in aqueous solution
6402.12.01	Ski boots and snowboard boots
6912.00.99	Other
8201.50.01	Secateurs and similar one-handed pruners and shears (including poultry shears)
9017.80.02	Measuring rods or callipers
9503.30.01	Therapeutic or pedagogic articles recognized as being exclusively for clinical use, in order to correct psychomotor dysfunction or slow learning difficulties, in special educational establishments or similar
9503.49.02	Therapeutic or pedagogic articles recognized as being exclusively for clinical use, in order to correct psychomotor dysfunction or slow learning difficulties, in special educational establishments or similar
9503.60.01	Therapeutic or pedagogic articles recognized as being exclusively for clinical use, in order to correct psychomotor dysfunction or slow learning difficulties, in special educational establishments or similar
9503.70.01	Therapeutic or pedagogic articles recognized as being exclusively for clinical use, in order to correct psychomotor dysfunction or slow learning difficulties, in special educational establishments or similar
95.03.80.01	Therapeutic or pedagogic articles recognized as being exclusively for clinical use, in order to correct psychomotor dysfunction or slow learning difficulties, in special educational establishments or similar
9802.00.52	Bond or ledger paper of 40g/m ² or more by weight but not exceeding 150g/m ² for use in the production of continuous rolls

ANNEX II

On 14 May 2000, the Department of the Economy published in the Federation's Official Journal an invitation to interested bodies calling on them to obtain accreditation and/or approval as a certification entity for the products, groups or subgroups of products listed below in order to assess the conformity of 25 NOMs.

Group A

Subgroup A.1

- NOM-005-SCFI-1994 (Measuring instruments – Systems for measuring and dispensing petrol and other liquid fuels)
- NOM-012-SCFI-1994 (Measurement of water in closed circuit hydraulic systems – Meters for cold drinking water – Specifications)
- NOM-014-SCFI-1997 (Orifice-type positive displacement meters for natural gas or L.P.G., with a maximum capacity of 16m³/h and a maximum pressure drop of 200 Pa (20.40 mm water column))

Subgroup A.2

- NOM-040-SCFI-1994 (Measuring instruments – Rigid instruments – Graduated rules for the measurement of length – For commercial use)
- NOM-046-SCFI-1999 (Measuring instruments, steel metric tape measures and flexometers)

Subgroup A.3

- NOM-044-SCFI-1999 (Measuring instruments – Electromechanical Watt-hour meters - Definitions, characteristics and testing methods)
- NOM-127-SCFI-1999 (Measuring instruments – Multipurpose meters for electricity systems – Specifications and testing methods)

Subgroup A.4

- NOM-010-SCFI-1994 (Measuring instruments – Non-automatic weighing machines – Technical and metrological requirements)
- NOM-041-SCFI-1997 (Measuring instruments – Metallic volumetric measures, cylindrical, for liquids with a capacity of from 25 ml. to 10 l.)
- NOM-042-SCFI-1997 (Measuring instruments - Metallic volumetric measures with a graduated neck for liquids with a capacity of 5 l., 10 l., and 20 l.)

Subgroup A.5

- NOM-009-SCFI-1993 (Measuring instruments – Mercury-column sphygmomanometers, with an elastic sensor, for measuring human blood pressure)
- NOM-011-SCFI-1993 (Measuring instruments – Liquid thermometers of glass for general use)
- NOM-013-SCFI-1993 (Measuring instruments – Manometers with an elastic element – Specifications)

- NOM-093-SCFI-1994 (Spring-operated pressure relief valves (safety, safety-relief and relief), made of steel or brass)

Subgroup A.6

- NOM-007-SCFI-1998 (Measuring instruments – Electronic taxi meters)
- NOM-048-SCFI-1997 (Measuring instruments – Time recorders/registers – Using different energy sources)

Group B

- NOM-090-SCFI-1994 (Portable lighters, disposable or refillable – Safety requirements)
- NOM-118-SCFI-1995 (Match industry – Matches – Safety requirements)

Group C

- NOM-113-SCFI-1995 (Liquid for hydraulic brakes used in automobiles – Safety specifications and testing methods)
- NOM-119-SCFI-1996 (Automobile industry – Automobiles – Safety belts – Safety specifications and testing methods)

Group D

- NOM-114-SCFI-1995 (Bottle jacks – Safety specifications and testing methods)

Group E

- NOM-133/1-SCFI-1999 (Infant products – Operation of walkers for infant safety – Specifications and testing methods)
- NOM-133/2-SCFI-1999 (Infant products – Operation of baby carriages for infant safety – Specifications and testing methods)
- NOM-133/3-SCFI-1999 (Infant products – Operation of playpens and enclosures – Specifications and testing methods)

Group F

- NOM-134-SCFI-1999 (Valves for inner tubes and valves for rims used for tubeless tyres – Safety specifications and testing methods)

ANNEX III

Department of Agriculture, Rural Development, Fisheries and Food

V. DECREE expropriating for public purposes in favour of the Nation the shares, dividends and/or stock certificates representing the capital or holdings in the companies listed

At the margin, a stamp showing the national shield stating "United Mexican States – Presidency of the Republic"

VICENTE FOX QUESADA President of the United Mexican States, in exercise of his powers conferred by Article 89, section I, of the Political Constitution of the United Mexican States and based on paragraphs two and three and the second paragraph of section VI of Article 27 of the said Constitution, as well as Articles 1, sections V, VII, IX and X, 2, 3, 4, 8, 10, 19 and 20 of the Expropriation Law; 14 and 63, section II, of the General Law on National Assets; 31, 34, 35 and 37 of the Basic Federal Public Administration Law,

WHEREAS

The sugar agro-industry is an activity that has a marked social impact because of its production and the jobs it creates in the Mexican countryside; sugar is the product of this industry, is a necessary consumer product and constitutes a basic component of the diet of low-income sectors of the population because of its high energy content; the activities involved such as sowing, cultivation, harvesting and industrial processing of sugar cane are of public interest,

The Federal Government seeks to ensure that good and fair administration is the common denominator in the nation's sugar industry, abolishing irregular practices by a group of persons involved in this agro-industry that have had a significant impact on the sector,

The owners of the companies listed in Article 1 of this Decree have caused their enterprises to lose their financial vitality, contracting large debts with various credit companies and Federal Government authorities, thereby endangering the assets not only of the workers in the field, but also of all Mexicans,

Prior to the 2001-2002 harvest next autumn, there is a strong probability that a number of sugar mills accounting for a high percentage of Mexico's production will not have the resources needed to repair the mills which guarantee efficient and proper processing of over 20 million tonnes of sugar cane in the Mexican countryside that are now growing and maturing for harvesting that is the culmination of the efforts of almost 50 per cent of producers,

Sugar cane producers that supply the sugar enterprises referred to in this Decree have, by various means, made known their decision not to deliver their harvest to these enterprises as long as they are managed by the current owners,

The proper processing of the sugar cane owned by tens of thousands of sugar cane growers in Mexico and contracted to the enterprises mentioned in this Decree, whose lack of financial viability makes them incapable of operating efficiently and of meeting their commitments and endangers the jobs of workers in the sugar mills, suppliers of related services and economic activity in extensive areas in the states where they are situated,

The Federal Government, with the expropriation that is the subject of this Decree, assumes control of the enterprises listed in Article 1 of this Decree and in so doing acquires the assets that

could be used to promote and conserve sugar production so as to contribute to effective functioning of the market and guarantee the continuation of these enterprises, the jobs they create and, in general, compliance with their other obligations towards the community,

The Department of Agriculture, Rural Development, Fisheries and Food prepared the administrative dossier containing the technical data attesting to the suitability of the goods to be expropriated referred to in this Decree in order to meet the public purposes that justify this instrument, and

It is indispensable to act energetically and immediately in order to take measures to remedy the inappropriate effects of such operations and ensure that investment is no longer used for private profit but becomes an economic source of social well-being, has decided as follows:

DECREE

Article 1. – The shares, dividends and/or stock certificates representing the capital or shares in the companies listed below are hereby expropriated for public purposes in favour of the Nation. The expropriation includes, *inter alia*, the industrial units called sugar mills, together with all their machinery and equipment, land, buildings and structures, rights, patents, trademarks, trade names, storage tanks, cellars, workshops, laboratories and their apparatus, electrical plants, water supply services and their related infrastructure, transport equipment, property used as housing by the administrators, as well as sugar warehouses, the sugar contained therein, and all other tangible and intangible property belonging to the following companies:

Ingenio de Atencingo, S.A. de C.V.;
Ingenio de Casasano La Abeja, S.A. de C.V.;
Ingenio El Modelo, S.A.;
Ingenio El Potrero S.A.;
Ingenio Emiliano Zapata, S.A. de C.V.;
Ingenio La Providencia, S.A. de C.V.;
Ingenio Plan de San Luis, S.A. de C.V.;
Impulsora de la Cuenca del Papaloapan, S.A. de C.V.;
Ingenio San Miguelito, S.A. de C.V.;
Ingenio Presidente Benito Juárez, S.A. de C.V.;
Ingenio José María Martínez, S.A. de C.V.;
Ingenio Lázaro Cárdenas, S.A. de C.V.;
Ingenio San Francisco El Naranjal, S.A. de C.V.;
Compañía Industrial Azucarera San Pedro, S.A. de C.V.;
Ingenio Eldorado, S.A. de C.V.;
Central Progreso, S.A. de C.V.;
Ingenio José María Morelos, S.A. de C.V.;
Ingenio La Margarita, S.A. de C.V.;
Fomento Azucarero del Golfo, S.A. de C.V.;
Ingenios Alianza Popular, S.A. de C.V.;
Ingenio Plan de Ayala, S.A. de C.V.;
Compañía Azucarera del Ingenio Bella Vista, S.A. de C.V.;
Ingenio Pedernales, S.A. de C.V.;
Azucarera de la Chontalpa, S.A.;
Ingenio La Joya, S.A. de C.V.;
Compañía Industrial Azucarera, S.A. de C.V.; and
Ingenio San Gabriel Ver, S.A. de C.V..

The administrative dossier prepared for this expropriation referred to in the penultimate preambular paragraph of this Decree is available to interested parties in the offices of the General Legal Coordination Office of the Department of Agriculture, Rural Development, Fisheries and Food.

Article 2. – The Federal Government, through the Department of Agriculture, Rural Development, Fisheries and Food, in coordination with the Department of the Comptroller General and Administrative Development, shall immediately take possession of the assets affected by the expropriation.

The Department of Agriculture, Rural Development, Fisheries and Food shall appoint persons to administer the assets expropriated in each industrial unit. The persons so appointed shall draw up an inventory of the assets referred to in Article 1 of this Decree and shall be empowered to take the necessary measures to ensure the proper functioning of these units and to implement any measures determined by the Department for this purpose.

Article 3. – The Federal Government, through the Commission for the Valuation of National Assets, shall fix the amount of compensation that must legally be paid to any person who proves his legal right thereto.

The corresponding compensation for the assets expropriated shall be paid subject to the handing over of the shares, dividends and/or stock certificates representing the capital or shares and shall be taken from the budget of the Department of Agriculture, Rural Development, Fisheries and Food in conformity with Article 27 of the Constitution, the Expropriation Law and other relevant legal texts.

Article 4. – The Departments of the Treasury and Public Credit and of the Comptroller General and Administrative Development, each within its respective competence and with the participation of the Department of the Economy and of Agriculture, Rural Development, Fisheries and Food shall monitor strict compliance with this Decree.

Article 5. – To be notified personally to the interested parties at their domiciles listed in the expropriation dossier. If these domiciles are incorrect, to be published once again in the Official Journal of the Federation, which shall have the effect of personal notification.

TRANSITIONAL CLAUSE

FIRST. – This Decree shall enter into force upon the date of its first publication in the Official Journal of the Federation.

SECOND. - The rights of workers in the enterprises expropriated shall be respected in all respects in conformity with labour legislation.

THIRD. – The Departments of the Treasury and Public Credit and of Agriculture, Rural Development, Fisheries and Food shall take the necessary action to establish the parastatal body or bodies they determine for the purpose of administering the assets expropriated under this Decree within ninety days following its publication.

Done at the residence of the Federal Executive Power in Mexico City, Federal District, on the second day of September in the year two thousand and one. – **Vicente Fox Quesada**. – Signed. – The Secretary for the Economy, **Luis Ernesto Derbez Bautista**. – Signed. – The Secretary for Agriculture, Rural Development, Fisheries and Food, **Javier Bernardo Usabiaga Arroyo**. – signed. – The Secretary for the Treasury and Public Credit, **José Francisco Gil Díaz**. – Signed. – The Comptroller General and Secretary for Administrative Development, **Francisco Javier Barrio Terrazas**. – Signed.
