

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/COMTD/W/35**

9 February 1998

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## **Committee on Trade and Development**

### IMPLEMENTATION OF WTO PROVISIONS IN FAVOUR OF DEVELOPING COUNTRY MEMBERS

#### Note by the Secretariat

1. This Note has been prepared by the Secretariat in response to requests from a number of delegations at the meeting of the Committee on 17 November 1997 that document WT/COMTD/W/33 be updated and supplemented so as to provide comprehensive information on actions taken pursuant to WTO provisions in favour of developing country Members.
2. In the case of a number of these provisions, the Secretariat has not found it possible to insert meaningful information on the implementation of the provisions: that is the case most particularly for provisions of a preambular nature, and for provisions that call on Members autonomously to take account of the trade interests of developing country Members in the course of implementing the WTO Agreements.
3. The WTO Secretariat is undertaking extensive technical cooperation activities to assist developing country Members in implementing the WTO Agreements. In some instances this is in response to specific WTO provisions, but in others it goes well beyond what is called for in those provisions, both in terms of Secretariat contacts with delegations and capital-based officials and in terms of technical assistance missions. Not all of this is reflected fully in the following tables.

Provision	Implementation
<b>I.</b>	
<b>1. AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION</b>	
<i>Preamble:</i>	
<i>Recognizing</i> further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development.	
<i>Structure of the WTO: Article IV:7</i>	
The Ministerial Conference shall establish a Committee on Trade and Development, which shall carry out the functions assigned by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to it by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in this Committee shall be open to representatives of all Members.	At its meeting on 31 January 1995 the General Council established the WTO Committee on Trade and Development. At its meeting on 5 July 1995, the Committee on Trade and Development established the WTO Sub-Committee on Least-Developed Countries.
<i>Original Membership: Article XI:2</i>	
The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.	For information on original membership, see section 7.1 below

Provision	Implementation
<b>II.</b>	
<b>2. MULTILATERAL AGREEMENT ON TRADE IN GOODS</b>	
<b>2.1 Agreement on Agriculture</b>	
<i>Preamble</i>	
<p><i>Having agreed</i> that in implementing their commitments on market access, developed country Members would take fully into account the particular needs and conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products as agreed at the Mid-Term Review, and for products of particular importance to the diversification of production from the growing of illicit narcotic crops;</p>	<p>Schedules of developed country Members show commitments of greater-than-average reductions in tariffs on products of interest to developing countries (e.g. average reduction in tropical agricultural products tariffs of 43 per cent) and often their accelerated implementation.</p>
<p>Commitments under the reform programme should be made in an equitable way among all Members, having regard to non-trade concerns, including food security and the need to protect the environment, having regard to the agreement that special and differential treatment for developing countries is an integral element of the negotiations, and taking into account the possible negative effects of the implementation of the reform programme on least-developed and net food-importing developing countries.</p>	<p>For implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries see Section 7.4 below.</p>
<p><i>Domestic Support Commitments: Article 6:2</i> In accordance with the Mid-Term Review Agreement that government measures of assistance, whether direct or indirect, to encourage agricultural and rural development are an integral part of the development programmes of developing countries, investment subsidies which are generally available to agriculture in developing country Members and agricultural input subsidies generally available to low-income or resource-poor producers in developing country Members shall be exempt from domestic</p>	<p>Developing countries took account of the provision in the establishment of their Schedules. Of the 42 domestic support notifications received from developing countries relating to the 1995 and 1996 implementation years, 29 notifications show recourse to the provision.</p>

Provision	Implementation
<p>support reduction commitments that would otherwise be applicable to such measures, as shall domestic support to producers in developing country Members to encourage diversification from growing illicit narcotic crops. Domestic support meeting the criteria of this paragraph shall not be required to be included in a Member's calculation of its Current Total AMS.</p> <p><i>Domestic Support Commitments:</i> <i>Article 6:4(b)</i> For developing country Members, the <i>de minimis</i> percentage under this paragraph shall be 10 per cent.<sup>1</sup></p> <p><i>Export Subsidy Commitments:</i> <i>Article 9:2(b) (iv)</i> The Member's budgetary outlays for export subsidies and the quantities benefiting from such subsidies, at the conclusion of the implementation period, are no greater than 64 per cent and 79 per cent of the 1986-1990 base period levels, respectively. For developing country Members these percentages shall be 76 and 86 per cent, respectively.</p> <p><i>Export Subsidy Commitments: Article 9:4</i> During the implementation period, developing country Members shall not be required to undertake commitments in respect of the export subsidies listed below, provided that these are not applied in a manner that would circumvent reduction commitments.</p>	<p>Developing countries took account of the provision in the establishment of their Schedules. Of the 42 domestic support notifications received from developing countries relating to the 1995 and 1996 implementation years, 12 notifications show recourse to the provision.</p> <p>Developing countries took account of the provision in the establishment of their Schedules. All 11 developing country Members which have export subsidy reduction commitments used the flexibility to apply a lower rate of cut.</p> <p>Developing countries took account of the provision in the establishment of their Schedules. Of the 57 export subsidy notifications received from developing countries relating to the 1995 and 1996 implementation years, 8 notifications show recourse to the provision.</p>

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<sup>1</sup>The requirement for other Member's is 5 per cent as outlined in Article 6.4 (a).

Provision	Implementation
<ul style="list-style-type: none"> <li>- subsidies to reduce the costs of marketing exports of agricultural products, including handling, upgrading and other processing costs, and the costs of international transport and freight; and</li> <li>- providing internal transport charges on export shipments terms more favourable than those for domestic shipment.</li> </ul>	
<p><i>Disciplines on Export Prohibition and Restriction: Article 12.2</i></p> <p>The provisions of this Article<sup>2</sup> shall not apply to any developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.</p>	<p>No developing country has notified the introduction of such a measure.</p>
<p><i>Special and Differential Treatment: Article 15</i></p> <p>In keeping with the recognition that differential and more favourable treatment for developing country Members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this Agreement and embodied in the Schedules of concessions and commitments. (Article 15:1)</p>	<p>The Schedules of developing countries and least-developed countries reflect the flexibility on ceiling bindings, longer implementation period and lower reduction commitments in tariffs, domestic support and export subsidies. Moreover, under the notification requirements adopted by the Committee on Agriculture (G/AG/2), least-developed countries are to make notification on domestic support only every two years; developing countries are to notify annually but the Committee on Agriculture may, upon request, set aside parts on the notification requirements. There has been no such request.</p>
<p>Developing country Members shall have the flexibility to implement reduction commitments over a period of up to 10 years. Least-developed country Members shall not be required to undertake reduction commitments. (Article 15:2)</p>	<p>The provision was used by all least-developed countries in the establishment of Schedules.</p>

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<sup>2</sup>As outlined in Article 12:1.

Provision	Implementation
<p><i>Least-Developed and Net Food-Importing Developing Countries : Article 16</i></p> <p>Developed country Members shall take such action as is provided for within the framework of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. (Article 16:1)</p>	<p>See Section 7.4 below.</p>
<p>The Committee on Agriculture shall monitor, as appropriate, the follow-up to this Decision. (Article 16:2)</p>	<p>See introductory comment to Section 7.4 below.</p>
<p><i>Continuation of the Reform Process: Article 20(c)</i></p> <p>Negotiations for continuing the process will be initiated one year before the end of the implementation period, taking into account: non-trade concerns, special and differential treatment to developing country Members, and the objective to establish a fair and market-oriented agricultural trading system, and the other objectives and concerns mentioned in the preamble to this Agreement.</p>	<p>Following the Singapore Ministerial Conference (SMC), a process of analysis and information exchange has been established as provided for in paragraph 12 of G/L/131 and as agreed by Ministers.<sup>3</sup> The process is being conducted in the form of open-ended informal meetings of the Committee on Agriculture, usually scheduled back-to-back with the formal meetings so as to minimize travel time and costs for capital-based representatives. It has involved all developing countries and many have participated actively in discussions. In September 1997, three developing countries (jointly) have introduced an informal paper into the process providing for detailed discussions on issues of interest to developing countries, and in December 1997 another developing country submitted a paper on the same issue.</p>

<sup>3</sup>WT/MIN(96)/DEC, paragraph 19.

Provision	Implementation
<p><i>Public stockholding for food security purposes: Annex II, para 3 footnote 5</i></p> <p>For the purposes of paragraph 3 of Annex II, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the AMS.</p>	<p>Developing countries took account of the provision in the establishment of the Schedules. Eight notifications of domestic support measures reflect the use of the provision.</p>
<p><i>Domestic food aid: Annex II, para 4, footnote 5&amp;6</i></p> <p>For the purposes of paragraphs 3 and 4 of Annex II, the provision of foodstuffs at subsidized prices with the objective of meeting food requirement of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.</p>	<p>Developing countries took account of the provision in the establishment of the Schedules. Six notifications of domestic support measures reflect the use of the provision.</p>
<p><i>Annex 5, Section B</i></p> <p>The provisions of Article 4:2 shall also not apply with effect from the entry into force of the WTO Agreement to a primary agricultural product that is the predominant staple in the traditional diet of a developing country Member and in respect of which the following conditions, in addition to those specified in paragraph 1(a) through 1(d), as they apply to the products concerned, are complied with:</p> <p>(a) minimum access opportunities in respect of the products concerned, as specified in Section I-B of Part I of the Schedule of the developing country Member concerned, correspond to 1 per cent of base period domestic consumption of the products concerned from the beginning of the first year</p>	<p>Two Schedules from developing countries reflect recourse to this provision.</p>

Provision	Implementation
<p>of the implementation period and are increased in equal annual instalments to 2 per cent of corresponding domestic consumption in the base period at the beginning of the fifth year of the implementation period. From the beginning of the sixth year of the implementation period, minimum access opportunities in respect of the products concerned correspond to 2 per cent of corresponding domestic consumption in the base period and are increased in equal annual instalments to 4 per cent of corresponding domestic consumption in the base period until the beginning of the 10th year. Thereafter, the level of minimum access opportunities resulting from this formula in the 10th year shall be maintained in the Schedule of the developing country Member concerned;</p> <p>(b) appropriate market access opportunities have been provided for in other products under this Agreement.</p>	
<p><b>2.2 Agreement on Sanitary and Phytosanitary Measures (SPS)</b></p>	
<p><i>Preamble</i></p>	
<p><i>Recognizing</i> that developing country Members may encounter special difficulties in complying with the sanitary or phytosanitary measures of importing Members, and as a consequence in access to markets, and also in the formulation and application of sanitary or phytosanitary measures in their own territories, and desiring to assist them in their endeavours in this regard.</p>	
<p><i>Equivalence: Article 4.1</i></p>	
<p>Members shall accept the sanitary or phytosanitary measures of other Members as equivalent, even if these measures differ from their own or from those used by other Members trading in the same product, if the exporting Member objectively demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection.</p>	<p>Several developing countries have reported to the SPS Committee that they have entered into consultations with other Members and achieved bilateral recognition of the equivalence of specific SPS measures. Explanation of the equivalency provision is featured in the technical assistance provided by the Secretariat.</p>

Provision	Implementation
<p>For this purpose, reasonable access shall be given, upon request, to the importing Member for inspection, testing and other relevant procedures.</p> <p><i>Technical Assistance: Article 9</i> Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations. Such assistance may be, <i>inter alia</i>, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with, sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary or phytosanitary protection in their export markets. (Article 9.1)</p>	<p>At each meeting of the SPS Committee, Members are invited to identify specific needs for technical assistance, or assistance which they can provide. The Secretariat reports on its recent and scheduled technical assistance, and the observer international organizations provide detailed information of their programmes. The FAO has numerous programmes focusing on meeting multilateral trade requirements, in particular regarding food safety and Codex standards.</p> <p>Considerable technical assistance has been provided by the Secretariat, both at and from headquarters and in the form of missions to capitals. The Secretariat has organized various regional seminars in cooperation with other international organizations. The Secretariat has also contributed substantially to a number of seminars organized by Members or by other international organizations.</p>
<p>Where substantial investments are required in order for an exporting developing country Member to fulfil the sanitary or phytosanitary requirements of an importing Member, the latter shall consider providing such technical assistance as will permit the developing country Member to maintain and expand its market access opportunities for the product involved. (Article 9.2)</p>	<p>In the areas of animal and plant health, the relevant standard-setting organizations have also engaged in such technical assistance activities, though on a more limited scale.</p>
<p><i>Special &amp; Differential Treatment: Article 10</i> In the preparation and application of sanitary or phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members. (Article 10:1)</p>	<p>The notification procedures for proposed SPS measures, as established by the SPS Committee (G/SPS/7), allow developing country Members to identify where they may have potential problems meeting new requirements in advance of these adversely affecting their exports, and provide them the opportunity to request a phased introduction where this is possible.</p>

Provision	Implementation
<p>Where the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Members so as to maintain opportunities for their exports. (Article 10:2)</p>	
<p>With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs (Article 10:3).</p>	<p>No developing country has as yet requested any exceptions from the obligations of the Agreement.</p>
<p>Members should encourage and facilitate the active participation of developing country Members in the relevant international organizations. (Article 10:4)</p>	<p>Efforts have been made to schedule SPS Committee meetings back-to-back with meetings of the relevant international organizations, to facilitate the participation of developing countries in both. The FAO (both Codex and IPPC) and the OIE regularly hold meetings in developing countries. Furthermore, FAO has sponsored the participation of developing countries in special workshops which are held in conjunction with Codex meetings.</p>
<p><i>Final Provisions: Article 14</i> The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement with respect to their sanitary or phytosanitary measures affecting importation or imported products. Other developing country Members may delay application of the provisions of this Agreement, other than Article 5:8 and Article 7, for two years following the date of entry into force of the WTO Agreement with respect to their existing sanitary or phytosanitary measures affecting importation or imported products, where such application is prevented by a lack of technical expertise, technical infrastructure or resources.</p>	<p>Least-developed countries have taken account of this provision. Developing countries had, during the first two years, only transparency obligations pursuant to Articles 5.8 and 7 of the Agreement. The Secretariat has provided detailed information regarding the transparency provisions as part of its technical assistance, including on the proper completion of notification formats. Developing countries could have asked for delays with respect to any obligation beyond the two-year period under Article 10.3 above; however, although the transition period for developing countries elapsed at the end of 1996, no specific requests for such treatment have been made.</p>

Provision	Implementation
<p><i>Annex B paragraph 2:</i> Except in urgent circumstances, Members shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products and methods of production to the requirements of the importing Member.</p> <p><i>Annex B paragraph 9:</i> The Secretariat shall promptly circulate copies of the notification to all Members and interested international organizations and draw the attention of developing country Members to any notifications relating to products of particular interest to them.</p>	<p>The notification procedures, as established by the SPS Committee (G/SPS/7), recommend a lead-time of at least 60 days for comments to be made; developing country Members can request a longer period before implementation to allow them to adapt to the requirements.</p> <p>Notifications are immediately circulated to all Members in the language received, to allow follow-up actions while awaiting translation. The Secretariat has offered to send, upon request, notifications directly to capitals, to facilitate their consideration by the relevant authorities.</p>
<p><b>2.3 Agreement on Textiles and Clothing</b></p>	
<p><i>Preamble:</i> Recalling further that it was agreed that special treatment should be accorded to the least-developed country Members;</p>	
<p><i>Article 1.2 and footnote 1:</i> Members agree to use the provisions of Article 2:18 and Article 6:6 (b) in such a way as to permit meaningful increases in access possibilities for small suppliers and the development of commercially significant trading opportunities for new entrants in the field of textiles and clothing trade.</p> <p><i>footnote 1:</i> To the extent possible, exports from a least-developed country Member may also benefit from this provision.</p>	<p>Please refer to the comments under Articles 2.18, 6.6(a) and 6.6(b) below.</p>
<p><i>Article 2.18:</i> As regards those Members whose exports are subject to restrictions on the day before the entry into force of the WTO Agreement and whose restrictions represent 1.2 per cent or less of the total volume of the restrictions applied by an importing Member as of 31 December 1991 and notified under this Article, meaningful improvement in access for</p>	<p>Under Article 2.18, the annual quota growth rates in the quotas carried over from the former MFA are to be advanced by one stage for all exporters falling within the criteria set out in that Article. According to notifications made, for Canada this provision currently applies to the quotas with eight developing countries and two least-developed countries (Lesotho and Myanmar).</p>

Provision	Implementation
<p>their exports shall be provided, at the entry into force of the WTO Agreement and for the duration of this Agreement, through advancement by one stage of the growth rates set out in Article 2:13 and 2:14, or through at least equivalent changes as may be mutually agreed with respect to a different mix of base levels, growth and flexibility provisions. Such improvements shall be notified to the TMB.</p> <p><i>Article 1.4:</i> Members agree that the particular interests of the cotton-producing exporting Members should, in consultation with them, be reflected in the implementation of the provisions of this Agreement.</p> <p><i>In the application of the transitional safeguard mechanism in Article 6:</i> <i>Article 6.6 (a):</i> Least-developed country Members shall be accorded treatment significantly more favourable than that provided to the other groups of Members, preferably in all its elements but, at least, on overall terms.</p> <p><i>Article 6.6 (b):</i> Members whose total volume of textile and clothing exports is small in comparison with the total volume of exports of other Members and who account for only a small percentage of total imports of that product into the importing Member shall be accorded differential and more favourable treatment in the fixing of the economic terms provided in Article 6: 8, 6:13 and 6:14. For those suppliers, due account will be taken, pursuant to Article 1:2<sup>4</sup> and 1:3, of the future possibilities for the development of their trade and the need to allow commercial quantities of imports from them.</p>	<p>In the EC, this provision is being applied to its quotas with two developing countries, and in the US to its quotas with 16 developing countries and one least-developed country (Haiti).</p> <p>No specific measure bearing reference to this provision has been notified, although some Members have provided notifications with comments on their approach to this provision.</p> <p>No safeguard action involving exports of least-developed countries has been notified.</p> <p>No information has been provided in notifications of safeguard actions on the extent to which recourse was made to this provision in setting the parameters of such actions.</p>

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<sup>4</sup>Pursuant to Article 1:2, small suppliers, new entrants and possibly least-developed countries benefit from this provision.

Provision	Implementation
<p><i>Article 6.6 (c):</i> With respect to wool products from wool-producing developing country Members whose economy and textiles and clothing trade are dependent on the wool sector, whose total textile and clothing exports consist almost exclusively of wool products, and whose volume of textiles and clothing trade is comparatively small in the markets of the importing Members, special consideration shall be given to the export needs of such Members when considering quota levels, growth rates and flexibility.</p>	<p>No safeguard action involving exports of this category of Member has been notified.</p>
<p><i>Article 6.6 (d):</i> More favourable treatment shall be accorded to re-imports by a Member of textile and clothing products which that Member has exported to another Member for processing and subsequent reimportation, as defined by the laws and practices of the importing Member, and subject to satisfactory control and certification procedures, when these products are imported from a Member for which this type of trade represents a significant proportion of its total exports of textiles and clothing.</p>	<p>The US has provided more favourable treatment to these products exported by 6 developing country Members.</p>
<p><i>Annex, paragraph 3 (a):</i> Actions under the safeguard provisions in Article 6 of this Agreement, shall not apply to developing country Members' exports of handloom fabrics of the cottage industry, or hand-made cottage industry products made of such handloom fabrics, or traditional folklore handicraft textile and clothing products, provided that such products are properly certified under arrangements established between the Members concerned. For such products, the provisions of Article XIX of GATT 1994, as interpreted by the Agreement on Safeguards, shall be applicable.</p>	<p>No safeguard action involving exports of these categories of products has been notified.</p>

Provision	Implementation
<p><b>2.4 Agreement on Technical Barriers to Trade</b></p>	
<p><i>Preamble</i></p>	
<p><i>Recognizing</i> that developing countries may encounter special difficulties in the formulation and application of technical regulations and standards and procedures for assessment of conformity with technical regulations and standards, and desiring to assist them in their endeavours in this regard.</p>	
<p><i>Preparation, Adoption and Application of Technical Regulations: Article 2:12:</i></p>	
<p>Except in those urgent circumstances referred to in Article 2:10, Members shall allow a reasonable interval between the publication of technical regulations and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.</p>	<p>The Committee has recommended a normal time limit of 60 days for comments on notified technical regulations and procedures for assessment of conformity. In the case of notifications of technical regulations, an average interval of 46 days was provided for comments in 1997.</p>
<p><i>Procedures for Assessment of Conformity: Article 5.9</i></p>	
<p>Except in those urgent circumstances referred to in Article 5:7, Members shall allow a reasonable interval between the publication of requirements concerning conformity assessment procedures and their entry into force in order to allow time for producers in exporting Members, and particularly in developing country Members, to adapt their products or methods of production to the requirements of the importing Member.</p>	<p>In the case of notifications of procedures for assessment of conformity, an average interval of 56 days was provided in 1997.</p>

Provision	Implementation
<p><i>Information: Article 10.6</i> The Secretariat shall, when it receives notifications in accordance with the provisions of this Agreement, circulate copies of the notifications to all Members and interested international standardizing and conformity assessment bodies, and draw the attention of developing country Members to any notifications relating to products of particular interest to them.</p>	<p>Under Article 10.6, the Secretariat circulates to all Members copies of notifications indicating product coverage.</p>
<p><i>Technical Assistance: Article 11</i> Members shall, if requested, advise other Members, especially the developing country Members, on the preparation of technical regulations. (Article 11:1).</p> <p>Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of national standardizing bodies, and participation in the international standardizing bodies, and shall encourage their national standardizing bodies to do likewise. (Article 11:2).</p>	<p>At the First Triennial Review, in December 1997, the Committee agreed that technical assistance should be provided to requesting Members, particularly least developed country Members, on the preparation of technical regulations, the establishment of national standardizing bodies, regulatory bodies, or bodies for the assessment of conformity, the methods by which technical regulations of other Members could best be met, the participation in the international standardizing bodies, and the access to systems for conformity assessment, with a view to increasing the effectiveness of the Agreement.</p>
<p>Members shall, if requested, take such reasonable measures as may be available to them to arrange for the regulatory bodies within their territories to advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding:</p> <ul style="list-style-type: none"> <li>(i) the establishment of regulatory bodies, or bodies for the assessment of conformity with technical regulations; and</li> <li>(ii) the methods by which their technical regulations can best be met.</li> </ul> <p>(Article 11:3)</p>	<p>The European Communities has communicated to Members (G/TBT/W/36) information on its technical assistance programmes. Technical assistance is a regular item on the agenda of the TBT Committee.</p>

Provision	Implementation
<p>Members shall, if requested, take such reasonable measures as may be available to them to arrange for advice to be given to other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of bodies for the assessment of conformity with standards adopted within the territory of the requesting Member. (Article 11:4)</p>	<p>In order to enhance the implementation of Article 11, the Committee has decided that: (a) Members are invited, on a voluntary basis, to exchange information regarding the implementation of Article 11, including to communicate to the Committee annually any information concerning their national and regional technical assistance programmes; and (b) Members that require technical assistance are invited to inform the Committee of any difficulties they encounter in the implementation and operation of the Agreement, and the kind of technical assistance they may need. Other Members are invited to contribute to the technical assistance process by sharing their experience in the implementation and operation of the Agreement.</p>
<p>Members shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the steps that should be taken by their producers if they wish to have access to systems for conformity assessment operated by governmental or non-governmental bodies within the territory of the Member receiving the request. (Article 11:5)</p>	<p>The Committee has agreed to review the role of regional and international systems for conformity assessment as covered by Article 9 and how these systems could contribute to solving the problems of multiple testing and certification/registration for traders and industries, including in particular small and medium size enterprises. This exercise will also address the extent to which international guides and recommendations contribute to the establishment of these systems, and the possible technical assistance needed for developing countries to develop operational conformity assessment procedures within the context of Articles 11.6, 11.7 and 12.5.</p>
<p>Members which are members or participants of international or regional systems for conformity assessment shall, if requested, advise other Members, especially the developing country Members, and shall grant them technical assistance on mutually agreed terms and conditions regarding the establishment of the institutions and legal framework which would enable them to fulfil the obligations of membership or participation in such systems. (Article 11:6)</p>	

Provision	Implementation
<p>Members shall, if so requested, encourage bodies within their territories which are members or participants of international or regional systems for conformity assessment to advise other Members, especially the developing country Members, and should consider requests for technical assistance from them regarding the establishment of the institutions which would enable the relevant bodies within their territories to fulfil the obligations of membership or participation. (Article 11:7)</p>	
<p>In providing advice and technical assistance to other Members in terms of Article 11:1 to 11:7, Members shall give priority to the needs of the least-developed country Members. (Article 11:8)</p>	
<p><i>Special &amp; Differential Treatment: Article 12</i> Members shall provide differential and more favourable treatment to developing country Members, through the provisions of this Article, as well as through the relevant provisions of other Articles of this Agreement. (Article 12.1)</p>	
<p>Members shall give particular attention to the provisions of this Agreement concerning developing country Members' rights and obligations and shall take into account the special development, financial and trade needs of developing country Members in the implementation of this Agreement, both nationally and in the operation of this Agreement's institutional arrangements. (Article 12.2)</p>	<p>The Committee has agreed that: (a) Members are invited, on a voluntary basis, to exchange information on the implementation of Article 12, including information related to Articles 12.2, 12.3, 12.5, 12.6, 12.7 and 12.9. Members are invited, on a voluntary basis, to exchange information on any specific problems they face in relation to the operation of Article 12; and (b) the Committee will consider including the following matters in its future programme of work, which could be taken up during the next three years and reviewed during the Second Triennial Review of the Agreement:</p>

Provision	Implementation
<p>Members shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Members, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing country Members. (Article 12.3)</p>	<p>(i) The use of measures to engender capacity building in developing country Members, including the consideration of measures relevant to transfer of technology to these countries, for the purpose of preparation and adoption of technical regulations, standards and conformity assessment procedures, taking into account their special development, financial and trade needs;</p> <p>(ii) the preparation of a study of the Secretariat to establish the state of knowledge concerning the technical barriers to the market access of developing country suppliers, especially small and medium sized enterprises (SMEs), as a result of standards, technical regulations and conformity assessment procedures;</p> <p>(iii) inviting representatives of relevant international standardizing bodies and international systems for conformity assessment procedures to make written and oral presentations to the Committee with a view to assessing whether and how account is taken of the special problems of developing countries in such bodies and systems. The Secretariat will circulate a compendium of the written contributions by the relevant organizations; and</p> <p>(iv) the encouragement of the organization of international meetings relevant to the provisions of the Agreement in the territories of developing country Members to give greater representative participation by such Members to the deliberations and recommendations of such international meetings, and the electronic dissemination of information.</p>

<b>Provision</b>	<b>Implementation</b>
<p>Members recognize that, although international standards, guides or recommendations may exist, in their particular technological and socio-economic conditions, developing country Members adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs.</p> <p>Members therefore recognize that developing country Members should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs. (Article 12.4)</p>	<p>The Committee has agreed to invite Members, on a voluntary basis, to submit specific examples to the Committee addressing the difficulties and problems they encounter in relation to international standards, taking into account Article 12.4.</p>
<p>Members shall take such reasonable measures as may be available to them to ensure that international standardizing bodies and international systems for conformity assessment are organized and operated in a way which facilitates active and representative participation of relevant bodies in all Members, taking into account the special problems of developing country Members. (Article 12.5)</p>	<p>The Committee has agreed to explore ways and means of improving the implementation of Article 12.5 with a view to enhancing Members' awareness of, and participation in, the work of international standardizing bodies.</p>
<p>Members shall, in accordance with the provisions of Article 11 (see above), provide technical assistance to developing country Members to ensure that the preparation and application of technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to the expansion and diversification of exports from developing country Members. In determining the terms and conditions of the technical assistance, account shall be taken of the stage of development of the requesting Members and in particular of the least-developed country Members. (Article 12.7)</p>	

Provision	Implementation
<p>It is recognized that developing country Members may face special problems, including institutional and infrastructural problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures. It is further recognized that the special development and trade needs of developing country Members, as well as their stage of technological development, may hinder their ability to discharge fully their obligations under this Agreement. Members, therefore, shall take this fact fully into account. Accordingly, with a view to ensuring that developing country Members are able to comply with this Agreement, the Committee on Technical Barriers to Trade provided for in Article 13 is enabled to grant, upon request, specified, time-limited exceptions in whole or in part from obligations under this Agreement. When considering such requests the Committee shall take into account the special problems, in the field of preparation and application of technical regulations, standards and conformity assessment procedures, and the special development and trade needs of the developing country Member, as well as its stage of technological development, which may hinder its ability to discharge fully its obligations under this Agreement. The Committee shall, in particular, take into account the special problems of the least-developed country Members.</p> <p>(Article 12:8)</p>	<p>No request for time-limited exceptions under Article 12.8 has been received by the Committee from any developing country Member.</p>
<p>During consultations, developed country Members shall bear in mind the special difficulties experienced by developing country Members in formulating and implementing standards and technical regulations and conformity assessment procedures, and in their desire to assist developing country Members with their efforts in this direction, developed country Members shall take account of the special needs of the former in regard to financing, trade and development.</p> <p>(Article 12:9)</p>	

Provision	Implementation
<p>The Committee shall examine periodically the special and differential treatment, as laid down in this Agreement, granted to developing country Members on national and international levels. (Article 12:10)</p>	<p>The TBT Committee conducted this periodic examination at its meeting of 16 October 1996. (Document G/TBT/M/6)</p>
<b>2.5 Agreement on Trade Related Investment Measures (TRIMs)</b>	
<i>Preamble</i>	
<p><i>Taking into account</i> the particular trade, development and financial needs of developing country Members, particularly those of the least-developed country Members</p>	
<i>Developing Country Members: Article 4</i>	
<p>A developing country Member shall be free to deviate temporarily from the provisions of Article 2 to the extent and in such a manner as Article XVIII of GATT 1994, the Understanding on the Balance-of-Payments Provisions of GATT 1994, and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209) permit the Member to deviate from the provisions of Articles III and XI of GATT 1994.</p>	<p>See Section 8.2 below.</p>
<i>Notification and Transitional Arrangements:</i>	
<i>Article 5</i>	
<p>Each Member shall eliminate all TRIMs which are notified under Article 5.1, within two years of the date of entry into force of the WTO Agreement in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least-developed country Member. (Article 5.2).</p>	<p>Notifications under Article 5.1 have been submitted by 25 Members, of whom 21 are developing countries, 2 transition countries and one a least-developed country.</p>

Provision	Implementation
<p>On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under Article 5.1 for a developing country Member, including a least-developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question. (Article 5.3).</p>	<p>The initial period of transition for the developing and the least-developed countries has not yet lapsed.</p>
<p><b>2.6 Agreement on Implementation of Article VI (Anti-Dumping) of the GATT 1994</b></p>	
<p><i>Developing Country Members: Article 15</i> It is recognized that special regard must be given by developed country Members to the special situation of developing country Members when considering the application of anti-dumping measures under this Agreement.</p>	<p>One Member's anti-dumping legislative notification reviewed by the Committee reflects this provision. Additionally, twenty-seven Members have notified the Committee that the full text of the Agreement on Anti-Dumping Practices has been fully incorporated into their domestic legal system. The lack of a specific provision in domestic anti-dumping legislation would in actual practice not prevent a Member from implementing the Agreement's requirements in this regard. Information regarding the implementation of this provision in Members' anti-dumping practice is not available.</p>
<p>Possibilities of constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members.</p>	<p>None of the anti-dumping legislation notification reviewed by the Committee explicitly reflects this provision. However, twenty-seven Members have notified the Committee that the full text of the Agreement on Anti-Dumping Practices has been incorporated into their domestic legal systems. The lack of a specific provision in domestic anti-dumping legislation would in actual practice not prevent a Member from implementing the Agreement's requirements in this regard. Information regarding the implementation of this provision in Member's anti-dumping practice is not available.</p>

Provision	Implementation
<b>2.7 Agreement on Implementation of Article VII (Customs Valuation) of the GATT 1994</b>	
<i>Preamble</i>	
<i>Desiring</i> to further the objectives of GATT 1994 and to secure additional benefits for the international trade of developing countries.	
<i>Special and Differential Treatment: Article 20</i> Developing country Members not party to the Agreement on Implementation of Article VII of the GATT (Tokyo Round), may delay application of the provisions of this Agreement for a period not exceeding five years from the date of entry into force of the WTO Agreement for such Members. Developing country Members who choose to delay application of this Agreement shall notify the Director-General of the WTO accordingly. (Article 20:1)	This provision has been invoked by 51 developing countries (of which 12 least-developed countries).
Developing country Members not party to the Agreement on Implementation of Article VII of the GATT (Tokyo Round), may delay application of paragraph 2(b)(iii) of Article 1 and Article 6 for a period not exceeding three years following their application of all other provisions of this Agreement. Developing country Members that choose to delay application of the provisions specified in this paragraph shall notify the Director-General of the WTO accordingly. (Article 20:2)	This provision has been invoked by 49 developing countries (of which 11 least-developed countries).
Developed country Members shall furnish, on mutually agreed terms, technical assistance to developing country Members that so request. On this basis developed country Members shall draw up programmes of technical assistance which may include, <i>inter alia</i> , training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement. (Article 20:3)	The World Customs Organization (WCO) is conducting an extensive programme of technical assistance. The Committee on Customs Valuation agreed in October 1997 to increase its role in technical assistance activities in cooperation with the other organizations involved. As a first step, a request for information on the implementation situation in each developing country has been circulated. The results will be assessed at a meeting in February 1998.

Provision	Implementation
<p><i>Annex III:1</i></p> <p>The five-year delay in the application of the provisions of the Agreement by developing country Members provided for in Article 20.1 may, in practice, be insufficient for certain developing country Members. In such cases a developing country Member may request before the end of the period referred to in Article 20.1 an extension of such period, it being understood that the Members will give sympathetic consideration to such a request in cases where the developing country Member in question can show good cause.</p>	<p>The original five-year delay has not yet lapsed.</p>
<p><i>Annex III:2</i></p> <p>Developing countries which currently value goods on the basis of officially established minimum values may wish to make a reservation to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Members.</p>	<p>This provision has been invoked by 31 developing countries (of which 9 least-developed countries).</p>
<p><i>Annex III:3</i></p> <p>Developing countries which consider that the reversal of the sequential order at the request of the importer provided for in Article 4 of the Agreement may give rise to real difficulties for them may wish to make a reservation to Article 4 in the following terms:</p> <p>"The Government of ..... reserves the right to provide that the relevant provision of Article 4 of the Agreement shall apply only when the customs authorities agree to the request to reverse the order of Articles 5 and 6."</p> <p>If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.</p>	<p>This provision has been invoked by 47 developing countries (of which 8 least-developed countries).</p>

Provision	Implementation
<p><i>Annex III:4</i> Developing countries may wish to make a reservation with respect to Article 5:2 of the Agreement in the following terms:</p> <p>"The Government of ..... reserves the right to provide that Article 5:2 of the Agreement shall be applied in accordance with the provisions of the relevant note thereto whether or not the importer so requests."</p> <p>If developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement.</p>	<p>This provision has been invoked by 45 developing countries (of which 7 least-developed countries).</p>
<p><i>Annex III:5</i> Certain developing countries may have problems in the implementation of Article 1 of the Agreement in so far as it relates to importations into their countries by sole agents, sole distributors and sole concessionaires. If such problems arise in practice in developing country Members applying the Agreement, a study of this question shall be made, at the request of such Members, with a view to finding appropriate solutions.</p>	<p>No request for a study has been made so far.</p> <p>The WCO has conducted a survey of its members on this subject. Discussions resulted in the formulation of an Advisory Opinion.</p>

Provision	Implementation
<p><b>Decision on Texts Relating to Minimum Values and Imports by Sole Agents, Sole Distributors and Sole Concessionaires</b></p>	
<p><i>Minimum values: Text 1</i></p>	
<p>Where a developing country makes a reservation to retain officially established minimum values within the terms of Annex III:2 (mentioned in Section 2.8 of this document) and shows good cause, the Committee shall give the request for the reservation sympathetic consideration.</p>	<p>31 developing country Members have made the reservation to retain minimum values under Annex III.2.</p>
<p>Where a reservation is consented to, the terms and conditions referred to in Annex III:2 shall take full account of the development, financial and trade needs of the developing country concerned.</p>	
<p><i>Related agents: Text 2:1-2</i></p>	
<p>A number of developing countries have a concern that problems may exist in the valuation of imports by sole agents, sole distributors and sole concessionaires. Under Article 20:1 (mentioned in Section 2.7 of this document), developing country Members have a period of delay of up to five years prior to the application of the Agreement. In this context, developing country Members availing themselves of this provision could use the period to conduct appropriate studies and to take such other actions as are necessary to facilitate application.</p>	
<p>In consideration of this, the Committee recommends that the Customs Co-operation Council assist developing country Members, in accordance with the provisions of Annex II, to formulate and conduct studies in areas identified as being of potential concern, including those relating to importations by sole agents, sole distributors and sole concessionaires.</p>	<p>The Technical Committee of the WCO has finalized its consideration of a draft case study related to an importation by a sole distributor.</p>

<b>Provision</b>	<b>Implementation</b>
<p><b>2.8 Agreement on Preshipment Inspection</b></p> <p><i>Preamble</i> <i>Noting</i> that a number of developing country Members have recourse to preshipment inspection;</p> <p><i>Recognizing</i> the need of developing countries to do so for as long and in so far as it is necessary to verify the quality, quantity or price of imported goods;</p> <p><i>Obligations of Exporter Members - Technical Assistance: Article 3:3</i> Exporter Members shall offer to provide to user Members, if requested, technical assistance directed towards the achievement of the objectives of this Agreement on mutually agreed terms.</p>	
<p><b>2.9 Agreement on Import Licensing Procedures</b></p> <p><i>Preamble</i> <i>Taking into account</i> the particular trade, development and financial needs of developing country Members.</p> <p><i>General Provisions : Article 1.2</i> Members shall ensure that the administrative procedures used to implement import licensing regimes are in conformity with the relevant provisions of GATT 1994 including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing country Members.</p>	<p>This matter has not been raised in the Committee on Import Licensing. However, this provision has been invoked in dispute settlement cases.</p>

Provision	Implementation
<p><i>Automatic Import Licensing: Article 2:2 footnote 5</i></p> <p>A developing country Member, other than a developing country Member which was a Party to the Agreement on Import Licensing Procedures done on 12 April 1979, which has specific difficulties with the requirements of Article 2:2 subparagraphs (a)(ii) and (a)(iii)<sup>5</sup> may, upon notification to the Committee, delay the application of these subparagraphs by not more than two years from the date of entry into force of the WTO Agreement for such Member.</p>	<p>This provision has been invoked by 24 developing countries (of which 3 least-developed countries).</p>
<p><i>Non-automatic Import Licensing: Article 3:5(a)(iv)</i></p> <p>Members shall provide, upon the request of any Member having an interest in the trade in the product concerned, all relevant information concerning where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing. Developing country Members would not be expected to take additional administrative or financial burdens on this account.</p>	
<p><i>Non Automatic Import Licensing: Article 3.5 (j)</i></p> <p>In allocating licences, the Member should consider the import performance of the applicant. In this regard, consideration should be given as to whether licences issued to applicants in the past have been fully utilized during a recent representative period. In cases where licences have not been fully utilized, the Member shall examine the reasons for this and take these reasons into consideration when allocating new licences.</p>	<p>This matter has not been raised in the Committee on Import Licensing. However, this provision has been invoked in dispute settlement cases.</p>

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<sup>5</sup>These subparagraphs pertain to specific provisions that apply to automatic import licensing procedures.

Provision	Implementation
<p>Consideration shall also be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing country Members and, in particular, the least-developed country Members.</p>	
<p><b>2.10 Agreement on Subsidies and Countervailing Measures</b></p>	
<p><i>Developing Country Members referred to in Article 27:2 (a) : Annex VII</i></p>	
<p>The developing country Members not subject to the provisions of Article 3:1 (a) under the terms of Article 27:2 (a) are:</p>	
<p>(a) Least-developed countries designated as such by the United Nations which are Members of the WTO.</p>	
<p>(b) ..... developing countries which are Members of the WTO shall be subject to the provisions which are applicable to other developing country Members according to Article 27.2 (b) when GNP per capita has reached \$1,000 per annum<sup>6</sup> .....</p>	<p>The Committee on Subsidies took note that the GNP per capita per annum of four developing countries have exceeded the figure listed in Annex VII(b).</p>
<p><i>Special &amp; Differential Treatment of Developing Country Members: Article 27</i></p>	
<p>Members recognize that subsidies may play an important role in economic development programmes of developing country Members. (Article 27.1)</p>	
<p>The prohibition of Article 3.1(a) shall not apply to:</p>	
<p>(a) developing country Members referred to in Annex VII.</p>	
<p>(b) other developing country Members for a period of eight years from the date of entry into force of the WTO Agreement, subject to compliance with the provisions in Article 27:4.</p>	<p>Five developing country Members have invoked this provision when notifying pursuant to Article 25.</p>
<p>(Article 27.2)</p>	

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<sup>6</sup>The inclusion of developing country Members in the list in paragraph (b) is based on the most recent data from the World Bank on GNP per capita.

<b>Provision</b>	<b>Implementation</b>
<p>The prohibition of Article 3.1 (b) shall not apply to developing country Members for a period of five years, and shall not apply to least developed country Members for a period of eight years, from the date of entry into force of the WTO Agreement. (Article 27:3)</p> <p>Any developing country Member referred to in Article 27:2(b) shall phase out its export subsidies within the eight-year period, preferably in a progressive manner. However, a developing country Member shall not increase the level of its export subsidies, and shall eliminate them within a period shorter than that provided for in this paragraph when the use of such export subsidies is inconsistent with its development needs. If a developing country Member deems it necessary to apply such subsidies beyond the 8-year period, it shall not later than one year before the expiry of this period enter into consultation with the Committee, which will determine whether an extension of this period is justified, after examining all the relevant economic, financial and development needs of the developing country Member in question. If the Committee determines that the extension is justified, the developing country Member concerned shall hold annual consultations with the Committee to determine the necessity of maintaining the subsidies. If no such determination is made by the Committee, the developing country Member shall phase out the remaining export subsidies within two years from the end of the last authorized period. (Article 27:4)</p>	<p>Four developing country Members have invoked this provision when notifying pursuant to Article 25.</p> <p>No request for consultations has been made to date.</p>

Provision	Implementation
<p>A developing country Member which has reached export competitiveness<sup>7</sup> in any given product shall phase out its export subsidies for such product(s) over a period of two years. However, for a developing country Member which is referred to in Annex VII and which has reached export competitiveness in one or more products, export subsidies on such products shall be gradually phased out over a period of eight years. (Article 27:5)</p>	<p>No developing country Member has notified having reached export competitiveness.</p>
<p>The provisions of Article 4 shall not apply to a developing country Member in the case of export subsidies which are in conformity with the provisions of Article 27:2 through 27:5. The relevant provisions in such a case shall be those of Article 7. (Article 27.7)</p>	<p>This provision has been invoked in the dispute settlement context.</p>
<p>There shall be no presumption in terms of Article 6.1 that a subsidy granted by a developing country Member results in serious prejudice, as defined in this Agreement. Such serious prejudice, where applicable under the terms of Article 27:9, shall be demonstrated by positive evidence, in accordance with the provisions of Article 6:3 through 6:8. (Article 27:8)</p>	<p>This provision has been invoked in the dispute settlement context.</p>
<p>Regarding actionable subsidies granted or maintained by a developing country Member other than those referred to in Article 6:1, action may not be authorized or taken under Article 7 unless nullification or impairment of tariff concessions or other obligations under GATT 1994 is found to exist as a result of such a subsidy, in such a way as to displace or impede imports of a like product of another Member into the market of the subsidizing developing country Member or unless injury to a domestic industry in the market of an importing Member occurs. (Article 27:9)</p>	<p>This provision has not been invoked so far in the dispute settlement context.</p>

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<sup>7</sup>Export competitiveness in a product exists if a developing country Member's exports of that product have reached a share of at least 3.25 per cent in world trade of that product for two consecutive calendar years. The Committee is to review the operation of this provision (i.e Article 27:6) five years from its date of the entry into force. (Article 27.6)

Provision	Implementation
<p>Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that:</p> <p>(a) the overall level of subsidies granted upon the product in question does not exceed 2 per cent of its value calculated on a per unit basis; or</p> <p>(b) the volume of the subsidized imports represents less than 4 per cent of the total imports of the like product in the importing Member, unless imports from developing country Members whose individual shares of total imports represent less than 4 per cent collectively account for more than 9 per cent of the total imports of the like product in the importing Member. (Article 27:10)</p> <p>For those developing country Members within the scope of Article 27:2(b) which have eliminated export subsidies prior to the expiry of the period of eight years from the date of entry into force of the WTO Agreement, and for those developing country Members referred to in Annex VII, the number in Article 27:10(a) shall be 3 per cent rather than 2 per cent. This provision shall apply from the date that the elimination of export subsidies is notified to the Committee, and for so long as export subsidies are not granted by the notifying developing country Member. This provision shall expire eight years from the date of entry into force of the WTO Agreement. (Article 27:11)</p> <p>The provisions of Article 27:10 and 27:11 shall govern any determination of <i>de minimis</i> under Article 15:3.<sup>8</sup> (Article 27:12)</p>	<p>Five of the countervailing duty legislative notifications reviewed by the Committee include provisions relating to such favourable treatment. Additionally, twenty-seven Members have notified the Committee that the full text of the Agreement on Subsidies and Countervailing Measures has been incorporated into their domestic legal systems.</p>

<sup>8</sup>For other Members, the *de minimis* is fixed at less than 1 per cent *ad valorem*.

Provision	Implementation
<p>The provisions of Part III (Actionable Subsidies) shall not apply to direct forgiveness of debts, subsidies to cover social costs, in whatever form, including relinquishment of government revenue and other transfer of liabilities when such subsidies are granted within and directly linked to a privatization programme of a developing country Member, provided that both such programme and the subsidies involved are granted for a limited period and notified to the Committee and that the programme results in eventual privatization of the enterprise concerned. (Article 27:13)</p>	<p>The Committee received and discussed one notification made pursuant to this provision.</p>
<p>The Committee shall, upon request by an interested developing country Member, undertake a review of a specific countervailing measure to examine whether it is consistent with the provisions of 27:10 and 27:11 as applicable to the developing country Member in question. (Article 27:15)</p>	<p>No such request has been received by the SCM Committee.</p>
<p><b>2.11 Agreement on Safeguards</b></p>	
<p><i>Developing Country Members: Article 9.1 and footnote 2:</i></p>	
<p>Safeguard measures shall not be applied against a product originating in a developing country Member as long as its share of imports of the product concerned in the importing Member does not exceed 3 per cent, provided that developing country Members with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product concerned.</p>	<p>The following Members have applied safeguard measures pursuant to the Agreement: Argentina, Brazil, Korea and the United States. Each of these Members has notified regarding the exemption of developing countries' exports which are below the specified threshold. Other Members' legislation and regulations reviewed by the Committee also reflect this provision.</p>
<p><i>footnote 2:</i></p>	
<p>A Member shall immediately notify an action taken under Article 9:1 to the Committee on Safeguards.</p>	

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Provision	Implementation
<p data-bbox="209 398 724 427"><i>Developing Country Members: Article 9.2</i></p> <p data-bbox="209 432 786 943">A developing country Member shall have the right to extend the period of application of a safeguard measure for a period of up to two years beyond the maximum period provided for in Article 7:3. Notwithstanding the provisions of Article 7:5, a developing country Member shall have the right to apply a safeguard measure again to the import of a product which has been subject to such a measure, taken after the date of entry into force of the WTO Agreement, after a period of time equal to half that during which such a measure has been previously applied, provided that the period of non-application is at least two years.</p>	<p data-bbox="815 432 1385 842">Because the safeguard measures which have been applied to date are in their initial period of application (where the Agreement provides no special and differential treatment for developing countries) this provision remains unused for the time being. Five of the notifications of safeguard legislation and regulations reviewed by the Committee reflect this provision. Additionally, 11 developing country Members have notified that the Agreement on Safeguards has been fully incorporated into their legal systems.</p>

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**Provision**

**Implementation**

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**3. GENERAL AGREEMENT ON TRADE IN SERVICES**

*Preamble:*

*Wishing* to establish a multilateral framework of principles and rules for trade in services with a view to the expansion of such trade under conditions of transparency and progressive liberalization and as a means of promoting the economic growth of all trading partners and the development of developing countries.

*Recognizing* the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right;

*Desiring* to facilitate the increasing participation of developing countries in trade in services and the expansion of their service exports including, *inter alia*, through the strengthening of their domestic services capacity and its efficiency and competitiveness;

*Taking* particular account of the serious difficulty of the least-developed countries in view of their special economic situation and their development, trade and financial needs

*Transparency: Article III:4*

Each Member shall respond promptly to all requests by any other Member for specific information on any of its measures of general application or international agreements within the meaning of Article III:1. Each Member shall also establish one or more enquiry points to provide specific information to other Members, upon request, on all such matters as well as those subject to the notification requirement in Article III:3. Such enquiry points shall be established within two years from the date of entry into force of the Agreement Establishing the WTO.

Provision	Implementation
<p>Appropriate flexibility with respect to the time-limit within which such enquiry points are to be established may be agreed upon for individual developing country Members.</p> <p><i>Increasing Participation of Developing Countries: Article IV:1</i></p> <p>The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments, by different Members pursuant to Parts III and IV of this Agreement, relating to:</p> <ul style="list-style-type: none"> <li>(a) the strengthening of their domestic services capacity and its efficiency and competitiveness, <i>inter alia</i> through access to technology on a commercial basis;</li> <li>(b) the improvement of their access to distribution channels and information networks; and</li> <li>(c) the liberalization of market access in sectors and modes of supply of export interest to them.</li> </ul>	<p>The first set of commitments was negotiated in the Uruguay Round. Subsequently further commitments have been undertaken in the context of extended negotiations on financial services, movement of natural persons, maritime transport and basic telecommunications. The Council for Trade in Services is carrying out an assessment of trade in services, with reference to the objectives set out in Article IV:1, <i>inter alia</i>, in the course of its preparation of guidelines for the next round of negotiations on services scheduled to begin by the year 2000.</p>
<p><i>Increasing Participation of Developing Countries: Article IV:2</i></p> <p>Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning:</p> <ul style="list-style-type: none"> <li>(a) commercial and technical aspects of the supply of services;</li> <li>(b) registration, recognition and obtaining of professional qualifications; and</li> <li>(c) the availability of services technology.</li> </ul>	<p>So far 50 Members have notified that they have established contact points pursuant to this provision.</p>

<b>Provision</b>	<b>Implementation</b>
<p><i>Increasing Participation of Developing Countries: Article IV:3</i> Special priority shall be given to the least-developed country Members in the implementation of Article IV:1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.</p>	
<p><i>Economic Integration: Article V:3</i> (a) Where developing countries are parties to an agreement of the type referred to in Article V:1, flexibility shall be provided for regarding the conditions set out in Article V:1, particularly with reference to Article V:1(b) thereof, in accordance with the level of development of the countries concerned, both overall and in individual sectors and sub-sectors. (b) Notwithstanding Article V:6, in the case of an agreement of the type referred to in Article V:1 involving only developing countries, more favourable treatment may be granted to juridical persons owned or controlled by natural persons of the parties to such an agreement.</p>	
<p><i>Subsidies: Article XV:1</i> Members recognize that, in certain circumstances, subsidies may have distortive effects on trade in services. Members shall enter into negotiations with a view to developing the necessary multilateral disciplines to avoid such trade-distortive effects. The negotiations shall also address the appropriateness of countervailing procedures. Such negotiations shall recognize the role of subsidies in relation to the development programmes of developing countries and take into account the needs of Members, particularly developing country Members, for flexibility in this area.</p>	<p>Work has begun in the Working Party on GATS Rules on the negotiation of disciplines relating to subsidies. Such negotiations are taking place pursuant to the mandate of this provision.</p>

Provision	Implementation
<p><i>Negotiation of Specific Commitments:</i> <i>Article XIX:2</i></p> <p>The process of liberalization shall take place with due respect for national policy objectives and the level of development of individual Members, both overall and in individual sectors. There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV.</p>	<p>The Council for Trade in Services has started work on an exchange of information exercise, which should prepare the ground for the next comprehensive round of negotiations in services due to start no later than the year 2000. On the basis of the results of this exchange the Council will begin work on the negotiating guidelines for the next round.</p>
<p><i>Technical Co-operation: Article XXV:2</i></p> <p>Technical assistance to developing countries shall be provided at the multilateral level by the Secretariat and shall be decided upon by the Council for Trade in Services.</p>	<p>The Secretariat has been providing technical assistance to developing country Members upon request. No such assistance at the multilateral level has been decided upon by the Council. Between July and October 1997 the Secretariat has organized and conducted seven regional seminars for developing countries on the GATS and on the on-going sectoral negotiations.</p>
<p><i>Annex on Telecommunications: paragraph 5(g)</i></p> <p>A developing country Member may, consistent with its level of development, place reasonable conditions on access to and use of public telecommunications transport networks and services necessary to strengthen its domestic telecommunications infrastructure and service capacity and to increase its participation in international trade in telecommunications services. Such conditions shall be specified in the Member's Schedule.</p>	

Provision	Implementation
<p><i>Annex on Telecommunications: paragraph 6</i></p> <p>(a) Members recognize that an efficient, advanced telecommunications infrastructure in countries, particularly developing countries, is essential to the expansion of their trade in services. To this end, Members endorse and encourage the participation, to the fullest extent practicable, of developed and developing countries and their suppliers of public telecommunications transport networks and services and other entities in the development programmes of international and regional organizations, including the International Telecommunication Union, the United Nations Development Programme, and the International Bank for Reconstruction and Development.</p> <p>(b) Members shall encourage and support telecommunications cooperation among developing countries at the international, regional and sub-regional levels.</p> <p>(c) In cooperation with relevant international organizations, Members shall make available, where practicable, to developing countries information with respect to telecommunications services and developments in telecommunications and information technology to assist in strengthening their domestic telecommunications services sector.</p> <p>(d) Members shall give special consideration to opportunities for the least-developed countries to encourage foreign suppliers of telecommunications services to assist in the transfer of technology, training and other activities that support the development of their telecommunications infrastructure and expansion of their telecommunications services trade.</p>	<p>A number of other international and regional organizations continue to sponsor events which give consideration to the coordination of developing country initiatives and strategies on telecommunications. Upon request, the Secretariat participates in such activities, providing information on how the GATS relates to the sector. Many Members (both developed and developing) participate in and support these activities.</p> <p>Organizations such as the ITU, UNCTAD, and the WTO (under the auspices of the Group on Basic Telecommunications) have sponsored information-sharing exercises aimed at making details more readily available on industry developments and national policy reforms in both the telecommunications and information services sectors.</p> <p>As members of the respective organizations, WTO Members have participated in such exercises.</p> <p>Under the auspices of organizations such as the ITU, UNDP and the World Bank, Members have supported policies encouraging private sector participation in the enhancement of developing country telecommunications sectors. More recently such initiatives have included programmes for improving least-developed country access to internet and internet services.</p>

Provision	Implementation
<p><b>4. AGREEMENT ON TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)</b></p>	
<p><i>Preamble:</i></p>	
<p><i>Recognizing</i> the underlying public policy objectives of national systems for the protection of intellectual property, including developmental and technological objectives;</p>	
<p><i>Recognizing</i> also the special needs of the least-developed country Members in respect of maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base</p>	
<p><i>Transitional Arrangements: Article 65</i></p> <p>Subject to the provisions of paragraphs 2, 3 and 4, no Member shall be obliged to apply the provisions of this Agreement before the expiry of a general period of one year following the date of entry into force of the WTO Agreement.</p> <p>(Article 65.1)</p>	<p>The provisions of Article 65 and 66 lay down the transitional periods applicable under the Agreement. Article 65.2 and 65.4 contain transitional periods for developing country Members and Article 66.1 for least-developed country Members. Members are automatically eligible for the periods applicable to them. Nevertheless, to date, 15 Members have, in the interest of transparency, made communications to the TRIPs Council providing information that they are availing themselves of the transitional arrangements in question. One of these communications was from a least-developed country Member.</p>
<p>A developing country Member is entitled to delay for a further period of four years the date of application, as defined in paragraph 1, of the provisions of this Agreement other than Articles 3, 4 and 5. (Article 65.2)</p>	
<p>To the extent that a developing country Member is obliged by this Agreement to extend product patent protection to areas of technology not so protectable in its territory on the general date of application of this Agreement for that Member, as defined in paragraph 2, it may delay the application of the provisions on product patents of Section 5 of Part II to such areas of technology for an additional period of five years. (Article 65.4)</p>	

Provision	Implementation
<p><i>Least-Developed Country Members: Article 66</i>            In view of the special needs and requirements of least-developed country Members, their economic, financial and administrative constraints, and their need for flexibility to create a viable technological base, such Members shall not be required to apply the provisions of this Agreement, other than Articles 3, 4 and 5, for a period of 10 years from the date of application as defined under Article 65.1. The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period. (<i>Article 66.1</i>)</p>	<p>See under <i>Transitional Arrangements: Article 65</i></p>
<p>Developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base. (<i>Article 66.2</i>)</p>	<p>At the meeting of the TRIPS Council in September 1997, which had a special focus on technical cooperation, the attention of the Council was drawn to Article 66.2 of the Agreement and the obligations of developed country Members under these provisions. (See documents IP/C/M/15, paragraph 59 and IP/C/12, paragraph 23.)</p>
<p><i>Technical Cooperation: Article 67</i>            In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least-developed country Members. Such cooperation shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and shall include support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.</p>	<p>Technical cooperation has been a prominent issue in the TRIPS Council and on the agenda of all regular meetings of the Council. In order to ensure that information on available assistance is readily accessible and to facilitate the monitoring of compliance with the obligation of Article 67, developed country Members have agreed to present descriptions of their relevant technical and financial cooperation programmes and to update this annually. For the sake of transparency, intergovernmental organizations have also presented, on the invitation of the Council, information on their activities. In addition, the WTO Secretariat has provided information on its technical cooperation in the TRIPS area. (For the information provided in 1997, see documents IP/C/W/77-79 and addenda.)</p>

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Provision	Implementation
	<p>Developing countries have been encouraged to indicate their technical cooperation needs to the Council. Developed country Members have agreed to notify contact points in their administrations for technical cooperation on TRIPS (see document IP/N/7, revisions and addenda). In addition, the Secretariat has organized, jointly with the International Bureau of WIPO, two workshops on specific aspects of technical cooperation. The purpose of these workshops, which were organized in conjunction with the sessions of the Council, was to enable an exchange of views on technical cooperation needs and experiences related to the implementation of the TRIPS Agreement. Furthermore, the Agreement between the WIPO and the WTO (in force since 1.1.96) provides for cooperation between the two organizations in the areas of legal-technical assistance and technical cooperation relating to the TRIPS Agreement, including the requirement that the International Bureau of WIPO make available to developing countries Members of the WTO, but not of WIPO, the same legal-technical assistance relating to the TRIPS Agreement as it makes available to Member States of WIPO which are developing countries (the WTO Secretariat is required to reciprocate). Pursuant to this, the two Secretariats cooperate regularly in their technical cooperation activities.</p>

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Provision	Implementation
<b>5. UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES (DSU)</b>	
<p><i>General Provisions: Article 3:12</i> Notwithstanding Article 3:11, if a complaint based on any of the covered agreements is brought by a developing country Member against a developed country Member, the complaining party shall have the right to invoke, as an alternative to the provisions contained in Articles 4, 5, 6 and 12 of this Understanding, the corresponding provisions of the Decision of 5 April 1966 (BISD 14S/18), except that where the Panel considers that the time-frame provided for in paragraph 7 of that Decision is insufficient to provide its report and with the agreement of the complaining party, that time-frame may be extended. To the extent that there is a difference between the rules and procedures of Articles 4, 5, 6 and 12 and the corresponding rules and procedures of the Decision, the latter shall prevail.</p>	<p>To date this provision of the DSU has not been used by any developing country</p>
<p><i>Consultations: Article 4.10</i> During consultations Members should give special attention to developing country Members' particular problems and interests.</p>	
<p><i>Composition of Panels: Article 8.10</i> When a dispute is between a developing country Member and a developed country Member the panel shall, if the developing country Member so requests, include at least one panelist from a developing country Member.</p>	<p>Out of the sixteen disputes involving a developing country Member, 12 panels have included a panelist from a developing country Member. In three of the other four cases panelists were selected with the agreement of the parties. In one case, the panel was selected by the Director-General.</p>

<b>Provision</b>	<b>Implementation</b>
<p><i>Panel Procedures: Article 12.10</i></p> <p>In the context of consultations involving a measure taken by a developing country Member, the parties may agree to extend the periods established in Article 4:7 and 4:8. If, after the relevant period has elapsed, the consulting parties cannot agree that the consultations have concluded, the Chairman of the DSB shall decide, after consultation with the parties, whether to extend the relevant period and, if so, for how long. In addition, in examining a complaint against a developing country Member, the panel shall accord sufficient time for the developing country Member to prepare and present its argumentation. The provisions of Article 20:1 and of Article 21:4 are not affected by any action pursuant to this paragraph.</p>	<p>The Chairman of the DSB has not formally acted under this provision because no Members have invoked it. The Secretariat knows of no specific agreement between Members based on this provision. It should be noted, however, that most panel requests are made well beyond the required 60 days after the start of the consultation period.</p> <p>The time periods for submission of material are normally agreed by consensus. This provision has been cited in discussing such time periods, but panels have not made specific rulings based on it.</p>
<p><i>Panel Procedures: Article 12.11</i></p> <p>Where one or more of the parties is a developing country Member, the panel's report shall explicitly indicate the form in which account has been taken of relevant provisions on differential and more-favourable treatment for developing country Members that form part of the covered agreements which have been raised by the developing country Member in the course of the dispute settlement procedures.</p>	<p>To date, no panel report has cited this provision in either the "Findings" section or in the description of the parties' arguments.</p>
<p><i>Surveillance of Implementation of Recommendations and Rulings: Article 21.2</i></p> <p>Particular attention should be paid to matters affecting the interests of developing country Members with respect to measures which have been subject to dispute settlement.</p>	<p>In some dispute settlement cases Members have raised matters affecting the interests of developing countries in connection with the surveillance of implementation.</p>
<p><i>Surveillance of Implementation of Recommendations and Rulings: Article 21.7</i></p> <p>If the matter is one which has been raised by a developing country Member, the DSB shall consider what further action it might take which would be appropriate to the circumstances.</p>	<p>The DSB has not taken specific action under this provision.</p>

Provision	Implementation
<p><i>Surveillance of Implementation of Recommendations and Rulings: Article 21.8</i></p> <p>If the case is one brought by a developing country Member, in considering what appropriate action might be taken, the DSB shall take into account not only the trade coverage of measures complained of, but also their impact on the economy of developing country Members concerned.</p>	<p>The DSB has not taken specific action under this provision.</p>
<p><i>Special Procedures Involving Least-Developed Members: Article 24:1</i></p> <p>At all stages of the determination of the causes of a dispute and of dispute settlement procedures involving a least-developed country Member, particular consideration shall be given to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under these procedures involving a least-developed country Member. If nullification or impairment is found to result from a measure taken by a least-developed country Member, complaining parties shall exercise due restraint in asking for compensation or seeking authorization to suspend the application of concessions or other obligations pursuant to these procedures.</p>	<p>No least-developed country has been involved in disputes as complainants or respondents, or as third parties in panel proceedings.</p>
<p><i>Special Procedures Involving Least-Developed Members: Article 24:2</i></p> <p>In dispute settlement cases involving a least-developed country Member, where a satisfactory solution has not been found in the course of consultations the Director-General or the Chairman of the DSB shall, upon request by a least-developed country Member offer their good offices, conciliation and mediation with a view to assisting the parties to settle the dispute, before a request for a panel is made. The Director-General or the Chairman of the DSB, in providing the above assistance, may consult any source which either deems appropriate.</p>	<p>No least-developed country has been involved in disputes, whether as complainants, respondents or third-parties.</p>

<b>Provision</b>	<b>Implementation</b>
<p><i>Responsibilities of the Secretariat: Article 27.2</i></p> <p>While the Secretariat assists Members in respect of dispute settlement at their request, there may also be a need to provide additional legal advice and assistance in respect of dispute settlement to developing country Members. To this end, the Secretariat shall make available a qualified legal expert from the WTO technical cooperation services to any developing country Member which so requests. This expert shall assist the developing country Member in a manner ensuring the continued impartiality of the Secretariat.</p>	<p>The Technical Cooperation and Training Division employs two consultants, who are each available one day a week and who provide such advice. Occasionally, consultants are hired to provide advice in a specific dispute.</p>
<p><b>6. TRADE POLICY REVIEW MECHANISM</b></p>	
<p><i>Procedures for review: Section C:(ii)</i></p> <p>The trade policies and practices of all Members shall be subject to periodic review. Share of world trade in a recent representative period, will be the determining factor in deciding on the frequency of reviews. The first four trading entities so identified (counting the European Communities as one) shall be subject to review every two years. The next 16 shall be reviewed every four years. Other Members shall be reviewed every six years, except that a longer period may be fixed for least-developed country Members.</p>	<p>Reviews of seven developing countries, including one least developed country were held during 1997. By end-1997, 88 reviews had been held, covering 61 Members (counting the EU as one), including 4 least-developed countries (Benin, Bangladesh, Uganda and Zambia); 20 Members had been reviewed twice or more.</p> <p>The 1998 programme will add 11 Members which have not previously been reviewed, including 6 least-developed countries (Burkina Faso, Guinea, Lesotho, Mali, Solomon Islands and Togo).</p>
<p><i>Reporting: Section D</i></p> <p>In order to achieve the fullest possible degree of transparency, each Member shall report regularly to the TPRB. Particular account shall be taken of difficulties presented to least-developed country Members in compiling their reports. The Secretariat shall make available technical assistance on request to developing country Members, and in particular to the least-developed country Members.</p>	<p>The Secretariat continues to provide technical assistance on request for Members under review. Assistance was provided to Benin in the context of its TPR in 1997. Togo has, to date, requested such assistance for 1998. Togo has, to date, requested such assistance for 1998.</p>

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**Provision**

**Implementation**

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**III.**

**7. MINISTERIAL DECISIONS AND DECLARATIONS**

**7.1 Decision on Measures in Favour of Least-Developed Countries**

*Preamble:*

*Recognizing* the plight of the least-developed countries and the need to ensure their effective participation in the world trading system, and to take further measures to improve their trading opportunities;

*Recognizing* the specific needs of the least-developed countries in the area of market access where continued preferential access remains an essential means for improving their trading opportunities;

*Reaffirming* their commitment to implement fully the provisions concerning the least-developed countries contained in paragraphs 2(d), 6 and 8 of the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

*Having regard* to the commitment of the participants as set out in Section B (vii) of Part I of the Punta del Este Ministerial Declaration;

*Paragraph 1*

If not already provided for in the instruments negotiated in the course of the Uruguay Round, notwithstanding their acceptance of these instruments, the least-developed countries, and for so long as they remain in that category, while complying with the general rules set out in the aforesaid instruments, will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, or

The period was further extended until December 1995.

21 least-developed countries became original WTO Members in accordance with this Ministerial Decision, and their schedules were annexed to the Marrakesh Protocol.

Provision	Implementation
<p>their administrative and institutional capabilities. The least-developed countries shall be given additional time of one year from 15 April 1994 to submit their schedules as required in Article XI of the Agreement Establishing the World Trade Organization.</p>	
<p><i>Paragraph 2 (i):</i> Expeditious implementation of all special and differential measures taken in favour of least-developed countries including those taken within the context of the Uruguay Round shall be ensured through, <i>inter alia</i>, regular reviews (which currently take place in the Committee on Trade and Development).</p>	<p>The Committee on Trade and Development conducted reviews at its meetings in September 1996 and November 1997.</p>
<p><i>Paragraph 2 (ii):</i> To the extent possible, MFN concessions on tariff and non-tariff measures agreed in the Uruguay Round on products of export interest to the least-developed countries may be implemented autonomously, in advance and without staging.</p>	<p>On the occasion of the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development held on 27-28 October 1997, Canada in the context of simplification of its tariff, announced that it intends to accelerate to 1998 most of its Uruguay Round tariff reductions currently scheduled for implementation on 1 January 1999.</p>
<p>Consideration shall be given to further improve GSP and other schemes for products of particular export interest to least-developed countries.</p>	<p>On the occasion of the High-Level Meeting, 13 Members, both developed and developing, made announcements of steps they had or would be taking to improve preferential market access measures for least-developed countries.</p>
<p><i>Paragraph 2 (iii):</i> The rules set out in the various agreements and instruments and the transitional provisions in the Uruguay Round should be applied in a flexible and supportive manner for the least-developed countries. To this effect, sympathetic consideration shall be given to specific and motivated concerns raised by the least-developed countries in the appropriate Councils and Committees.</p>	

Provision	Implementation
<p><i>Paragraph 2 (iv):</i> In the application of import relief measures and other measures referred to in paragraph 3(c) of Article XXXVII of GATT 1947 and the corresponding provision of GATT 1994, special consideration shall be given to the export interests of least-developed countries.</p>	
<p><i>Paragraph 2 (v):</i> Least-developed countries shall be accorded substantially increased technical assistance in the development, strengthening and diversification of their production and export bases including those of services, as well as in trade promotion, to enable them to maximize the benefits from liberalized access to markets.</p>	<p>The High Level Meeting endorsed the "Integrated Framework for Trade-related Technical Assistance, including for Human and Institutional Capacity-Building, to Support Least-developed Countries in Their Trade and Trade-related Activities" (WT/LDC/HL/1/Rev.1). The Framework seeks to increase the benefits that least-developed countries derive from the trade-related technical assistance available to them from the six organizations involved in designing this Framework: IMF, ITC, UNCTAD, UNDP, World Bank and WTO, as well as from other multilateral, regional and bilateral sources.</p>
<p><i>Paragraph 3:</i> To keep under review the specific needs of the least-developed countries and to continue to seek the adoption of positive measures which facilitate the expansion of trading opportunities in favour of these countries.</p>	<p>Pursuant to the mandate received from the WTO Ministerial Conference in Singapore, the High-Level Meeting on Integrated Initiatives for Least-developed Countries' Trade Development took place on 27-28 October in WTO. It was organized with the support and active participation of the Secretariats of UNCTAD, ITC and UNDP, and the staff of the IMF and the World Bank. The main objectives of this Meeting were to enable Members to announce improved market access for least-developed countries, and to endorse the Integrated Framework for Trade-Related Technical assistance. The Meeting encouraged all WTO Members to keep under</p>

Provision	Implementation
	<p>active review all options for improving market access for least-developed countries presented in the Comprehensive and Integrated WTO Plan of Actions for Least-developed Countries and to monitor the implementation of the commitments made in this regard. The Meeting also recommended to the WTO that a full report on the outcome and follow-up of the Meeting and announcements of implementation of autonomous market access measures and commitments in favour of least developed countries be prepared by the Director-General of the WTO and submitted to the WTO Ministerial Conference in May 1998.</p>

**7.2 Declaration on the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policy-making**

*Paragraph 2 states inter alia:*

There is also a need for an adequate and timely flow of concessional and non-concessional financial and real investment resources to developing countries and for further efforts to address debt problems, to help ensure economic growth and development. Trade liberalization forms an increasingly important component in the success of the adjustment programmes that many countries are undertaking, often involving significant transitional social costs. In this connection, Ministers note the role of the World Bank and the IMF in supporting adjustment to trade liberalization, including support to net food-importing developing countries facing short-term costs arising from agricultural trade reforms.

In November 1996 the General Council approved WTO agreements with the IMF and the World Bank. The agreements aimed to strengthen inter-agency relations. The High-Level Meeting for Least-Developed Countries' Trade Development in October 1997 endorsed the participation of six inter-governmental agencies including the IMF and World Bank in the Integrated Framework for Trade-Related Technical Cooperation for least-developed countries

**7.3 Decision on Notification Procedures**

*Review of notification obligations and procedures: Part III*

The Council for Trade in Goods will undertake a review of notification obligations and procedures under the Agreements in Annex 1 A of the WTO Agreement .....  
.... bearing in mind the possible need of some developing country Members for assistance in meeting their notification obligations.

The WTO Secretariat has prepared a practical handbook on notification obligations.

Provision	Implementation
<b>7.4 Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries</b>	

The follow-up of the Decision has represented an important part of the work of the Committee on Agriculture. The Decision has been on the agenda of virtually each meeting of the Committee. Agreement was found on a number of elements related to the Decision, that is, (i) an annual review (November) of the implementation of the Decision; (ii) notification requirements, notably for developed country Members, for actions taken under the Decision; (iii) the establishment of a WTO list of NFICs, which comprises currently the 48 least-developed countries as defined by the United Nations and 18 developing country Members. In addition to the annual reviews of the Decision in the Committee on Agriculture which were undertaken, *inter alia*, on the basis of some 20 notifications received from Members on the subject, the Committee made specific recommendations to the Singapore Ministerial Conference (SMC) which were adopted. The recommendations, which are set out below, have been followed-up in the relevant bodies and monitored within the Committee on Agriculture.

*Paragraph 3:*

Ministers agree to establish appropriate mechanisms to ensure that the implementation of the results of the Uruguay Round on trade in agriculture does not adversely affect the availability of food aid at a level which is sufficient to continue to provide assistance in meeting the food needs of developing countries, especially least-developed and net food-importing developing countries. To this end Ministers agree:

Provision	Implementation
<p><i>Paragraph 3 (i):</i> To review the level of food aid established periodically by the Committee on Food Aid under the Food Aid Convention 1986 and to initiate negotiations in the appropriate forum to establish a level of food aid commitments sufficient to meet the legitimate needs of developing countries during the reform programme.</p>	<p>The SMC agreed that, in anticipation of the expiry of the current Food Aid Convention (FAC) in June 1998 and in preparation for the renegotiation of the FAC, action be initiated in 1997 within the framework of the FAC, under arrangements for participation by all interested countries and by relevant international organizations as appropriate, to develop recommendations with a view towards establishing a level of food aid commitments, covering as wide a range of donors and donable foodstuffs as possible, which is sufficient to meet the legitimate needs of developing countries during the reform programme. In response, since January 1997, several meetings have taken place within the framework of the FAC, including meetings with net food-importing developing and least-developed countries. In December 1997, the FAC Food Aid Committee decided to extend the current FAC for one year (until June 1999) and to open the Convention for renegotiation in 1998, taking into account, among others, the SMC recommendation. The Committee on Agriculture continues its monitoring role.</p>
<p><i>Paragraph 3 (ii):</i> To adopt guidelines to ensure that an increasing proportion of basic foodstuffs is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the Food Aid Convention 1986.</p>	<p>The SMC agreed that the recommendations referred to above should include guidelines to ensure that an increasing proportion of food aid is provided to least-developed and net food-importing developing countries in fully grant form and/or on appropriate concessional terms in line with Article IV of the current FAC, as well as means to improve the effectiveness and positive impact of food aid.</p>
<p><i>Paragraph 3 (iii):</i> To give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance to least-developed and net food-importing developing countries to improve their agricultural productivity and infrastructure.</p>	<p>The SMC called on developed country WTO Members to continue to give full consideration in the context of their aid programmes to requests for the provision of technical and financial assistance in this light.</p>

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Provision	Implementation
<p><i>Paragraph 4:</i> To ensure that any agreement relating to agricultural export credits makes appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries.</p>	<p>Ministers reaffirmed the commitment at the SMC.</p>
<p><i>Paragraph 5:</i> As a result of the Uruguay Round certain developing countries may experience short-term difficulties in financing normal levels of commercial imports and that these countries may be eligible to draw on the resources of international financial institutions under existing facilities, or such facilities as may be established, in the context of adjustment programmes, in order to address such financing difficulties. In this regard, Ministers take note of paragraph 37 of the report of the Director-General to the CONTRACTING PARTIES to GATT 1947 on his consultations with the Managing Director of the International Monetary Fund and the President of the World Bank (MTN.GNG/NG14/W/35).</p>	<p>At the SMC it was agreed that WTO Members, in their individual capacity as members of relevant international financial institutions, take appropriate steps to encourage the institutions concerned, through their respective governing bodies, to further consider the scope for establishing new facilities or enhancing existing facilities for developing countries experiencing Uruguay Round-related difficulties in financing normal levels of commercial imports of basic foodstuffs. At recent meetings of the Committee on Agriculture, the World Bank and the IMF reported that they are in a position to meet relevant requests from existing facilities.</p>

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Provision	Implementation
<b>8. THE GENERAL AGREEMENT ON TARIFFS AND TRADE<sup>9</sup></b>	
<b>8.1 Article XVIII</b>	
<p>1. The contracting parties recognize that the attainment of the objectives of this Agreement will be facilitated by the progressive development of their economies, particularly of those contracting parties the economies of which can only support low standards of living and are in the early stages of development.</p>	
<p>2. The contracting parties recognize further that it may be necessary for those contracting parties, in order to implement programmes and policies of economic development designed to raise the general standard of living of their people, to take protective or other measures affecting imports, and that such measures are justified in so far as they facilitate the attainment of the objectives of this Agreement. They agree, therefore, that those contracting parties should enjoy additional facilities to enable them (a) to maintain sufficient flexibility in their tariff structure to be able to grant the tariff protection required for the establishment of a particular industry and (b) to apply quantitative restrictions for balance of payments purposes in a manner which takes full account of the continued high level of demand for imports likely to be generated by their programmes of economic development.</p>	

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<sup>9</sup>References to notes and supplementary provisions (Ad Articles) have been left out in the interest of brevity.

<b>Provision</b>	<b>Implementation</b>
<p>3. The contracting parties recognize finally that, with those additional facilities which are provided for in Sections A and B of this Article, the provisions of this Agreement would normally be sufficient to enable contracting parties to meet the requirements of their economic development. They agree, however, that there may be circumstances where no measure consistent with those provisions is practicable to permit a contracting party in the process of economic development to grant the governmental assistance required to promote the establishment of particular industries with a view to raising the general standard of living of its people. Special procedures are laid down in Sections C and D of this Article to deal with those cases.</p>	
<p>4. (a) Consequently, a contracting party, the economy of which can only support low standards of living and is in the early stages of development, shall be free to deviate temporarily from the provisions of the other Articles of this Agreement, as provided in Sections A, B and C of this Article.</p>	
<p>(b) A contracting party, the economy of which is in the process of development, but which does not come within the scope of subparagraph (a) above, may submit applications to the CONTRACTING PARTIES under Section D of this Article.</p>	
<p>5. The contracting parties recognize that the export earnings of contracting parties, the economies of which are of the type described in paragraph 4 (a) and (b) above and which depend on exports of a small number of primary commodities, may be seriously reduced by a decline in the sale of such commodities. Accordingly, when the exports of primary commodities by such a contracting party are seriously affected by measures taken by another contracting party, it may have resort to the consultation provisions of Article XXII of this Agreement.</p>	

Provision	Implementation
<p>6. The CONTRACTING PARTIES shall review annually all measures applied pursuant to the provisions of Sections C and D of this Article.</p>	
<p><i>Section A</i></p>	
<p>7. (a) If a contracting party coming within the scope of paragraph 4 (a) of this Article considers it desirable, in order to promote the establishment of a particular industry with a view to raising the general standard of living of its people, to modify or withdraw a concession included in the appropriate Schedule annexed to this Agreement, it shall notify the CONTRACTING PARTIES to this effect and enter into negotiations with any contracting party with which such concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein. If agreement is reached between such contracting parties concerned, they shall be free to modify or withdraw concessions under the appropriate Schedules to this Agreement in order to give effect to such agreement, including any compensatory adjustments involved.</p>	<p>The provision has not been invoked by developing country Members since the WTO Agreement came into force.</p>
<p>(b) If agreement is not reached within sixty days after the notification provided for in subparagraph (a) above, the contracting party which proposes to modify or withdraw the concession may refer the matter to the CONTRACTING PARTIES which shall promptly examine it. If they find that the contracting party which proposes to modify or withdraw the concession has made every effort to reach an agreement and that the compensatory adjustment offered by it is</p>	

<b>Provision</b>	<b>Implementation</b>
<p>adequate, that contracting party shall be free to modify or withdraw the concession if, at the same time, it gives effect to the compensatory adjustment. If the CONTRACTING PARTIES do not find that the compensation offered by a contracting party proposing to modify or withdraw the concession is adequate, but find that it has made every reasonable effort to offer adequate compensation, that contracting party shall be free to proceed with such modification or withdrawal. If such action is taken, any other contracting party referred to in subparagraph (a) above shall be free to modify or withdraw substantially equivalent concessions initially negotiated with the contracting party which has taken the action.</p>	
<p><i>Section B</i></p> <p>8. The contracting parties recognize that contracting parties coming within the scope of paragraph 4 (a) of this Article tend, when they are in rapid process of development, to experience balance of payments difficulties arising mainly from efforts to expand their internal markets as well as from the instability in their terms of trade.</p>	<p>The provision has been invoked by 12 developing country Members since the WTO Agreement came into force. See also section 8.2 below under Understanding on Balance-of-Payments Provisions of GATT 1994.</p>
<p>9. In order to safeguard its external financial position and to ensure a level of reserves adequate for the implementation of its programme of economic development, a contracting party coming within the scope of paragraph 4 (a) of this Article may, subject to the provisions of paragraphs 10 to 12, control the general level of its imports by restricting the quantity or value of merchandise permitted to be imported; <i>Provided</i> that the import restrictions instituted, maintained or intensified shall not exceed those necessary:</p>	

Provision	Implementation
<p>(a) to forestall the threat of, or to stop, a serious decline in its monetary reserves, or            (b) in the case of a contracting party with inadequate monetary reserves, to achieve a reasonable rate of increase in its reserves.</p>	
<p>Due regard shall be paid in either case to any special factors which may be affecting the reserves of the contracting party or its need for reserves, including, where special external credits or other resources are available to it, the need to provide for the appropriate use of such credits or resources.</p>	
<p>10. In applying these restrictions, the contracting party may determine their incidence on imports of different products or classes of products in such a way as to give priority to the importation of those products which are more essential in the light of its policy of economic development; <i>Provided</i> that the restrictions are so applied as to avoid unnecessary damage to the commercial or economic interests of any other contracting party and not to prevent unreasonably the importation of any description of goods in minimum commercial quantities the exclusion of which would impair regular channels of trade; and <i>Provided</i> further that the restrictions are not so applied as to prevent the importation of commercial samples or to prevent compliance with patent, trade mark, copyright or similar procedures.</p>	
<p>11. In carrying out its domestic policies, the contracting party concerned shall pay due regard to the need for restoring equilibrium in its balance of payments on a sound and lasting basis and to the desirability of assuring an economic employment of productive resources. It shall progressively relax any restrictions applied under this Section as</p>	

Provision	Implementation
<p>conditions improve, maintaining them only to the extent necessary under the terms of paragraph 9 of this Article and shall eliminate them when conditions no longer justify such maintenance; <i>Provided</i> that no contracting party shall be required to withdraw or modify restrictions on the ground that a change in its development policy would render unnecessary the restrictions which it is applying under this Section.</p>	
<p>12. (a) Any contracting party applying new restrictions or raising the general level of its existing restrictions by a substantial intensification of the measures applied under this Section, shall immediately after instituting or intensifying such restrictions (or, in circumstances in which prior consultation is practicable, before doing so) consult with the CONTRACTING PARTIES as to the nature of its balance of payments difficulties, alternative corrective measures which may be available, and the possible effect of the restrictions on the economies of other contracting parties.</p>	<p>Since the entry into force of the WTO, consultations have been held with twelve developing country Members: Bangladesh, Brazil, Egypt, India, Israel, Nigeria, Pakistan, the Philippines, South Africa, Sri Lanka, Turkey and Tunisia. Brazil's claim for BOP cover was not accepted by the Committee. Egypt, Israel, South Africa and Turkey have disinvoked BOP provisions. The Philippines undertook to disinvoke the provisions subject to the liberalization of remaining restrictions by 31 December 1997. Tunisia has agreed to a phase-out programme running until 1 July 2000; Pakistan is to submit a time table for phasing out of remaining restrictions within 12 months from November 1997. India is in a dispute settlement process with the United States concerning its phase-out programme.</p>
<p>(b) On a date to be determined by them the CONTRACTING PARTIES shall review all restrictions still applied under this Section on that date. Beginning two years after that date, contracting parties applying restrictions under this Section shall enter into consultations of the type provided for in subparagraph (a) above with the CONTRACTING PARTIES at intervals of approximately, but not less than, two years according to a programme to be drawn up each year by the CONTRACTING PARTIES; <i>Provided</i> that no consultation under this subparagraph shall take place within two years after the conclusion of a consultation of a general nature under any other provision of this paragraph.</p>	<p>The following developing countries are thus currently subject to BOP consultations: Bangladesh, Nigeria, Pakistan, Sri Lanka and Tunisia.</p>

Provision	Implementation
<p>(c) (i) If, in the course of consultations with a contracting party under subparagraph (a) or (b) of this paragraph, the CONTRACTING PARTIES find that the restrictions are not consistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV), they shall indicate the nature of the inconsistency and may advise that the restrictions be suitably modified.</p> <p>(ii) If, however, as a result of the consultations, the CONTRACTING PARTIES determine that the restrictions are being applied in a manner involving an inconsistency of a serious nature with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that damage to the trade of any contracting party is caused or threatened thereby, they shall so inform the contracting party applying the restrictions and shall make appropriate recommendations for securing conformity with such provisions within a specified period. If such contracting party does not comply with these recommendations within the specified period, the CONTRACTING PARTIES may release any contracting party the trade of which is adversely affected by the restrictions from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.</p>	
<p>(d) The CONTRACTING PARTIES shall invite any contracting party which is applying restrictions under this Section to enter into consultations with them at the request of any contracting party which can establish a <i>prima facie</i> case that the restrictions are inconsistent with the provisions of this Section or with those of Article XIII (subject to the provisions of Article XIV) and that its trade is adversely affected thereby. However, no such invitation shall be issued unless the CONTRACTING PARTIES have ascertained that direct discussions between the contracting parties concerned have not been successful. If, as a</p>	

<b>Provision</b>	<b>Implementation</b>
<p>result of the consultations with the CONTRACTING PARTIES no agreement is reached and they determine that the restrictions are being applied inconsistently with such provisions, and that damage to the trade of the contracting party initiating the procedure is caused or threatened thereby, they shall recommend the withdrawal or modification of the restrictions. If the restrictions are not withdrawn or modified within such time as the CONTRACTING PARTIES may prescribe, they may release the contracting party initiating the procedure from such obligations under this Agreement towards the contracting party applying the restrictions as they determine to be appropriate in the circumstances.</p>	
<p>(e) If a contracting party against which action has been taken in accordance with the last sentence of subparagraph (c) (ii) or (d) of this paragraph, finds that the release of obligations authorized by the CONTRACTING PARTIES adversely affects the operation of its programme and policy of economic development, it shall be free, not later than sixty days after such action is taken, to give written notice to the Executive Secretary to the Contracting Parties of its intention to withdraw from this Agreement and such withdrawal shall take effect on the sixtieth day following the day on which the notice is received by him.</p>	
<p>(f) In proceeding under this paragraph, the CONTRACTING PARTIES shall have due regard to the factors referred to in paragraph 2 of this Article. Determinations under this paragraph shall be rendered expeditiously and, if possible, within sixty days of the initiation of the consultations.</p>	

Provision	Implementation
<i>Section C</i>	
<p>13. If a contracting party coming within the scope of paragraph 4 (a) of this Article finds that governmental assistance is required to promote the establishment of a particular industry with a view to raising the general standard of living of its people, but that no measure consistent with the other provisions of this Agreement is practicable to achieve that objective, it may have recourse to the provisions and procedures set out in this Section.</p>	<p>Since the WTO Agreement entered into force, one developing country Member cited this provision during a dispute.</p>
<p>14. The contracting party concerned shall notify the CONTRACTING PARTIES of the special difficulties which it meets in the achievement of the objective outlined in paragraph 13 of this Article and shall indicate the specific measure affecting imports which it proposes to introduce in order to remedy these difficulties. It shall not introduce that measure before the expiration of the time-limit laid down in paragraph 15 or 17, as the case may be, or if the measure affects imports of a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, unless it has secured the concurrence of the CONTRACTING PARTIES in accordance with provisions of paragraph 18; <i>Provided</i> that, if the industry receiving assistance has already started production, the contracting party may, after informing the CONTRACTING PARTIES, take such measures as may be necessary to prevent, during that period, imports of the product or products concerned from increasing substantially above a normal level.</p>	
<p>15. If, within thirty days of the notification of the measure, the CONTRACTING PARTIES do not request the contracting party concerned to consult with them, that contracting party shall be free to deviate from the relevant provisions of the other Articles of this Agreement to the extent necessary to apply the proposed measure.</p>	

<b>Provision</b>	<b>Implementation</b>
<p>16. If it is requested by the CONTRACTING PARTIES to do so, the contracting party concerned shall consult with them as to the purpose of the proposed measures, as to alternative measures which may be available under this Agreement, and as to the possible effect of the measure proposed on the commercial and economic interests of other contracting parties. If, as a result of such consultation, the CONTRACTING PARTIES agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective outline in paragraph 13 of this Article, and concur in the proposed measure, the contracting party concerned shall be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to apply that measure.</p>	
<p>17. If, within ninety days after the date of the notification of the proposed measure under paragraph 14 of this Article, the CONTRACTING PARTIES have not concurred in such measure, the contracting party concerned may introduce the measure proposed after informing the CONTRACTING PARTIES.</p>	
<p>18. If the proposed measure affects a product which is the subject of a concession included in the appropriate Schedule annexed to this Agreement, the contracting party concerned shall enter into consultations with any other contracting party with which the concession was initially negotiated, and with any other contracting party determined by the CONTRACTING PARTIES to have a substantial interest therein. The CONTRACTING PARTIES shall concur in the measure if they agree that there is no measure consistent with the other provisions of this Agreement which is practicable in order to achieve the objective set forth in paragraph 13 of this Article, and if they are satisfied:</p>	

<b>Provision</b>	<b>Implementation</b>
<p>(a) that agreement has been reached with such other contracting parties as a result of the consultations referred to above, or</p> <p>(b) if no such agreement has been reached within sixty days after the notification provided for in paragraph 14 has been received by the CONTRACTING PARTIES, that the contracting party having recourse to this Section has made all reasonable efforts to reach an agreement and that the interests of other contracting parties are adequately safe guarded.</p> <p>The contracting party having recourse to this Section shall thereupon be released from its obligations under the relevant provisions of the other Articles of this Agreement to the extent necessary to permit it to apply the measure.</p> <p>19. If a proposed measure of the type described in paragraph 13 of this Article concerns an industry the establishment of which has in the initial period been facilitated by incidental protection afforded by restrictions imposed by the contracting party concerned for balance of payments purposes under the relevant provisions of this Agreement, that contracting party may resort to the provisions and procedures of this Section; <i>Provided</i> that it shall not apply the proposed measure without the concurrence of the CONTRACTING PARTIES.</p> <p>20. Nothing in the preceding paragraphs of this Section shall authorize any deviation from the provisions of Articles I, II and XIII of this Agreement. The provisos to paragraph 10 of this Article shall also be applicable to any restriction under this Section.</p>	

Provision	Implementation
<p>21. At any time while a measure is being applied under paragraph 17 of this Article any contracting party substantially affected by it may suspend the application to the trade of the contracting party having recourse to this Section of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove; <i>Provided</i> that sixty days' notice of such suspension is given to the CONTRACTING PARTIES not later than six months after the measure has been introduced or changed substantially to the detriment of the contracting party affected. Any such contracting party shall afford adequate opportunity for consultation in accordance with the provisions of Article XXII of this Agreement.</p>	
<p><b>8.2 General Agreement on Tariffs and Trade 1994 Understanding on Balance-of-Payments Provisions</b></p>	
<p><i>Procedures for BOP consultations: Paragraph 8</i></p>	
<p>Consultations may be held under the simplified procedures approved on 19 December 1972 (referred to in this paragraph as "simplified consultation procedures") in the case of least-developed country Members or in the case of developing country Members which are pursuing liberalization efforts in conformity with the schedule presented to the Committee in previous consultations. Simplified consultation procedures may also be used when the Trade Policy Review of a developing country Member is scheduled for the same calendar year as the date fixed for the consultations. In such cases the decision as to whether full consultation procedures should be used will be made on the basis of the factors enumerated in paragraph 8 of the 1979 Declaration. Except in the case of least-developed country Members, no more than two successive consultations may be held under simplified consultation procedures.</p>	<p>Bangladesh, a least-developed country, has always to date held consultations under simplified procedures. However, the Committee has determined that full consultations would be desirable and Bangladesh has been invited to consider holding such consultations in the autumn of 1998 or, in any case, before May 1999.</p> <p>The next consultations with Pakistan, Sri Lanka and Tunisia should also be held on a simplified basis in the context of liberalization schedules.</p>

Provision	Implementation
<i>Notification and Documentation:</i>	
<i>Paragraph 12</i>	
The Secretariat shall, with a view to facilitating the consultations in the Committee, prepare a factual background paper dealing with the different aspects of the plan for consultations. In the case of developing consulting Member, the Secretariat document shall include relevant background and analytical material on the incidence of the external trading environment on the balance-of-payments situation and prospects of the consulting Member. The technical assistance services of the Secretariat shall, at the request of a developing country Member, assist in preparing the documentation for the consultations.	Background papers are contained in the BOP/S/... series.  Technical assistance and advice relating to substantive issues before the Committee is provided to delegations on request by the Secretary of the Committee.

### 8.3 Article XXXVI

1. The contracting parties,
  - (a) recalling that the basic objectives of this Agreement include the raising of standards of living and the progressive development of the economies of all contracting parties, and considering that the attainment of these objectives is particularly urgent for less-developed contracting parties;
  - (b) considering that export earnings of the less-developed contracting parties can play a vital part in their economic development and that the extent of this contribution depends on the prices paid by the less-developed contracting parties for essential imports, the volume of their exports, and the prices received for these exports;
  - (c) noting, that there is a wide gap between standards of living in less-developed countries and in other countries;
  - (d) recognizing that individual and joint action is essential to further the development of the economies of less-developed contracting parties and to bring about a rapid advance in the standards of living in these countries;

Provision	Implementation
<p>(e) recognizing that international trade as a means of achieving economic and social advancement should be governed by such rules and procedures - and measures in conformity with such rules and procedures - as are consistent with the objectives set forth in this Article;</p> <p>(f) noting that the CONTRACTING PARTIES may enable less-developed contracting parties to use special measures to promote their trade and development;</p>	
<p>agree as follows.</p>	
<p>2. There is need for a rapid and sustained expansion of the export earnings of the less-developed contracting parties.</p>	
<p>3. There is need for positive efforts designed to ensure that less-developed contracting parties secure a share in the growth in international trade commensurate with the needs of their economic development.</p>	<p>A response to the provisions of paragraphs 3, 4 and 5 may be found in the maintenance of preferential tariff and other market access arrangements maintained under Members' GSP schemes, the GSTP, and other non-reciprocal preferential arrangements. See also the reference to improved preferential market access measures for least-developed countries under Section 7.1 above (Decision on Measures in Favour of Least-Developed Countries).</p>
<p>4. Given the continued dependence of many less-developed contracting parties on the exportation of a limited range of primary products, there is need to provide in the largest possible measure more favourable and acceptable conditions of access to world markets for these products, and wherever appropriate to devise measures designed to stabilize and improve conditions of world markets in these products, including in particular measures designed to attain stable, equitable and remunerative prices, thus</p>	<p>See also under Section 2.1 above (Agreement on Agriculture).</p>

Provision	Implementation
<p>permitting an expansion of world trade and demand and a dynamic and steady growth of the real export earnings of these countries so as to provide them with expanding resources for their economic development.</p>	
<p>5. The rapid expansion of the economies of the less-developed contracting parties will be facilitated by a diversification of the structure of their economies and the avoidance of an excessive dependence on the export of primary products. There is, therefore, need for increased access in the largest possible measure to markets under favourable conditions for processed and manufactured products currently or potentially of particular export interest to less-developed contracting parties.</p>	<p>See above.</p>
<p>6. Because of the chronic deficiency in the export proceeds and other foreign exchange earnings of less-developed contracting parties, there are important inter-relationships between trade and financial assistance to development. There is, therefore, need for close and continuing collaboration between the CONTRACTING PARTIES and the international lending agencies so that they can contribute most effectively to alleviating the burdens these less-developed contracting parties assume in the interest of their economic development.</p>	<p>See under Section 7.2 above (Declaration on the Contribution of the WTO to Achieving Greater Coherence in Global Economic Policy-Making).</p>
<p>7. There is need for appropriate collaboration between the CONTRACTING PARTIES, other intergovernmental bodies and the organs and agencies of the United Nations system, whose activities relate to the trade and economic development of less-developed countries.</p>	<p>A global arrangement for cooperation between WTO and the United Nations was concluded on 29 September 1995 by an exchange of letters between the Director-General and the UN Secretary General (WT/GC/W/10).</p>

<b>Provision</b>	<b>Implementation</b>
<p>8. The developed contracting parties do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less-developed contracting parties.</p> <p>9. The adoption of measures to give effect to these principles and objectives shall be a matter of conscious and purposeful effort on the part of the contracting parties both individually and jointly.</p>	<p>See above under paragraphs 3, 4 and 5. In addition, this provision was taken into account during the negotiations in the Uruguay Round. This is reflected both in the extent of bindings on industrial products and the average level of tariffs of the developing country Members.</p> <p>In 1997 in the Information Technology Agreement the developing country Members were given the facility of a longer time period for a limited number of products for elimination of tariffs.</p>
<b>8.4 Article XXXVII</b>	
<p>1. The developed contracting parties shall to the fullest extent possible - that is, except when compelling reasons, which may include legal reasons, make it impossible give effect to the following provisions:</p> <p>(a) Accord high priority to the reduction and elimination of barriers to products currently or potentially of particular export interest to less-developed contracting parties, including customs duties and other restrictions which differentiate unreasonably between such products in their primary and in their processed forms;</p> <p>(b) refrain from introducing, or increasing the incidence of, customs duties or non-tariff import barriers on products currently or potentially of particular export interest to less-developed contracting parties; and</p> <p>(c) (i) refrain from imposing new fiscal measures, and (ii) in any adjustments of fiscal policy accord high priority to the reduction and elimination of fiscal measures,</p>	<p>A similar provision has been taken into account in the reduction of tariffs on tropical products during the Uruguay Round. See under Section 2.1 above (Agreement on Agriculture).</p>

Provision	Implementation
<p>which would hamper, or which hamper, significantly the growth of consumption of primary products, in raw or processed form, wholly or mainly produced in the territories of less-developed contracting parties, and which are applied specifically to those products.</p>	
<p>2. (a) Whenever it is considered that effect is not being given to any of the provisions of subparagraph (a), (b) or (c) of paragraph 1, the matter shall be reported to the CONTRACTING PARTIES either by the contracting party not so giving effect to the relevant provisions or by any other interested contracting party.</p>	<p>No request for consultations has been made either by a Member giving effect to the provisions of sub-paragraphs a, b and c of paragraph 1 or by any other interested Member.</p>
<p>(b) (i) The CONTRACTING PARTIES shall, if requested so to do by any interested contracting party, and without prejudice to any bilateral consultations that may be undertaken, consult with the contracting party concerned and all interested contracting parties with respect to the matter with a view to reaching solutions satisfactory to all contracting parties concerned in order to further the objectives set forth in Article XXXVI. In the course of these consultations, the reasons given in cases where effect was not being given to the provisions of subparagraph (a), (b) or (c) of paragraph 1 shall be examined.</p>	
<p>(ii) As the implementation of the provisions of subparagraph (a), (b) or (c) of paragraph 1 by individual contracting parties may in some cases be more readily achieved where action is taken jointly with other developed contracting parties, such consultation might, where appropriate, be directed towards this end.</p>	
<p>(iii) The consultations by the CONTRACTING PARTIES might also, in appropriate cases, be directed towards agreement on joint action designed to further the objectives of this Agreement as envisaged in paragraph 1 of Article XXV.</p>	

Provision	Implementation
<p>3. The developed contracting parties shall:</p> <p>(a) Make every effort, in cases where a government directly or indirectly determines the resale price of products wholly or mainly produced in the territories of less-developed contracting parties, to maintain trade margins at equitable levels.</p> <p>(b) Give active consideration to the adoption of other measures designed to provide greater scope for the development of imports from less-developed contracting parties and collaborate in appropriate international action to this end.</p> <p>(c) Have special regard to the trade interests of less-developed contracting parties when considering the application of other measures permitted under this Agreement to meet particular problems and explore all possibilities of constructive remedies before applying such measures where they would affect essential interests of those contracting parties.</p>	<p>This provision has been incorporated into the Anti-dumping Agreement.</p>
<p>4. Less-developed contracting parties agree to take appropriate action in implementation of the provisions of Part IV for the benefit of the trade of other less-developed contracting parties, in so far as such action is consistent with their individual present and future development, financial and trade needs taking into account past trade developments as well as the trade interests of less-developed contracting parties as a whole.</p>	<p>No measure has been notified by a developing country Member since the WTO Agreement entered into force. However, one agreement, namely the Protocol for Trade Negotiations among Developing Countries which was drawn up in 1971 is still in force. Another global agreement namely the GSTP negotiated in UNCTAD is still in force. In addition, announcements of new preferential market access measures in favour of least-developed countries were made by a number of developing countries at the High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development in October 1997. See under Section 7.1 above.</p>
<p>5. In the implementation of the commitments set forth in paragraph 1 to 4 each contracting party shall afford to any other interested contracting party or contracting parties full and prompt opportunity for consultations under the normal procedures of this Agreement with respect to any matter or difficulty which may arise.</p>	

Provision	Implementation
<b>8.4 Article XXXVIII</b>	
<p>1. The contracting parties shall collaborate jointly, with the framework of this Agreement and elsewhere, as appropriate, to further the objectives set forth in Article XXXVI.</p>	<p>The Committee on Trade and Development provides a forum for Members to collaborate jointly in this regard.</p>
<p>2. In particular, the CONTRACTING PARTIES shall:</p> <p>(a) where appropriate, take action, including action through international arrangements, to provide improved and acceptable conditions of access to world markets for primary products of particular interest to less-developed contracting parties and to devise measures designed to stabilize and improve conditions of world markets in these products including measures designed to attain stable, equitable and remunerative prices for exports of such products;</p> <p>(b) seek appropriate collaboration in matters of trade and development policy with the United Nations and its organs and agencies, including any institutions that may be created on the basis of recommendations by the United Nations Conference on Trade and Development;</p> <p>(c) collaborate in analysing the development plans and policies of individual less-developed contracting parties and in examining trade and aid relationships with a view to devising concrete measures to promote the development of export potential and to facilitate access to export markets for the products of the industries thus developed and, in this connection, seek appropriate collaboration with governments and international organizations, and in particular with organizations having competence in relation to financial assistance for economic development, in systematic studies of trade and aid relationships in individual less-developed contracting parties aimed at obtaining a clear analysis of export potential, market prospects and any further action that may be required;</p>	<p>This matter has generally been considered in UNCTAD from the inception.</p> <p>See comment under Section 8.3 above (Article XXXVI:7).</p> <p>The High-Level Meeting on Integrated Initiatives for Least-Developed Countries' Trade Development was in part a response to this provision.</p>

Provision	Implementation
<p>(d) keep under continuous review the development of world trade with special reference to the rate of growth of the trade of less-developed contracting parties and make such recommendations to contracting parties as may, in the circumstances, be deemed appropriate;</p>	<p>The Committee on Trade and Development conducts regular reviews of the participation of developing countries in world trade.</p>
<p>(e) collaborate in seeking feasible methods to expand trade for the purpose of economic development, through international harmonization and adjustment of national policies and regulations, through technical and commercial standards affecting production, transportation and marketing, and through export promotion by the establishment of facilities for the increased flow of trade information and the development of market research; and</p>	<p>The work of the WTO/UNCTAD International Trade Centre is oriented towards meeting the objectives of this provision.</p>
<p>(f) establish such institutional arrangements as may be necessary to further the objectives set forth in Article XXXVI and to give effect to the provision of this Part.</p>	

Provision	Implementation
<b>V.</b>	
<b>9. 1979 DECISION OF THE CONTRACTING PARTIES ON DIFFERENTIAL AND MORE FAVOURABLE TREATMENT, RECIPROCITY AND FULLER PARTICIPATION OF DEVELOPING COUNTRIES: "Enabling Clause"</b>	
1. Notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries <sup>10</sup> , without according such treatment to other contracting parties.	
2. The provisions of paragraph 1 apply to the following: <sup>11</sup>	
(a) Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the Generalized System of Preferences. <sup>12</sup>	All developed country Members are maintaining GSP schemes.
(b) Differential and more favourable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT.	Measures for differential and more favourable treatment are contained in all of the WTO Agreements covering non-tariff measures.
(c) Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the CONTRACTING PARTIES, for the mutual reduction or elimination of non-tariff measures, on products imported from one another.	14 regional and global agreements have been notified by the developing countries under the Enabling Clause (WT/COMTD/W/27/Rev.1).

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<sup>10</sup>The words "developing countries" as used in this text are to be understood to refer also to developing territories.

<sup>11</sup>It would remain open for the CONTRACTING PARTIES to consider on an *ad hoc* basis under the GATT provisions for joint action any proposals for differential and more favourable treatment not falling within the scope of this paragraph.

<sup>12</sup>As described in the Decision of the CONTRACTING PARTIES of 25 June 1971, relating to the establishment of "generalized, non-reciprocal and non-discriminatory preferences beneficial to the developing countries."

Provision	Implementation
(d) Special treatment on the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.	All industrialized countries' GSP schemes contain special provisions for least-developed countries. Ten developing country Members have made announcements of special preferences for least-developed countries at the High-Level Meeting.
3. Any differential and more favourable treatment provided under the clause:	
(a) shall be designed to facilitate and promote the trade of developing countries and not to raise barriers to or create undue difficulties for the trade of any other contracting parties;	
(b) shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis;	
(c) shall in the case of such treatment accorded by developed contracting parties to developing countries be designed and, if necessary, modified, to respond positively to the development, financial and trade needs of developing countries.	
4. Any contracting party taking action to introduce an arrangement pursuant to paragraphs 1, 2 and 3 above or subsequently taking action to introduce modification or withdrawal of the differential and more favourable treatment so provided shall: <sup>13</sup>	
(a) notify the CONTRACTING PARTIES and furnish them with all the information they may deem appropriate relating to such action;	Since the WTO Agreement entered into force, EU, Japan, New Zealand, Norway, Switzerland and US have made notifications under this provision (WT/COMTD/N/-series).

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<sup>13</sup>Nothing in these provisions shall affect the rights of contracting parties under the General Agreement.

Provision	Implementation
<p>(b) afford adequate opportunity for prompt consultations at the request of any interested contracting party with respect to any difficulty or matter that may arise. The CONTRACTING PARTIES shall, if requested to do so by such contracting party, consult with all contracting parties concerned with respect to the matter with a view to reaching solutions satisfactory to all such contracting parties.</p>	
<p>5. The developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries, i.e., the developed countries do not expect the developing countries, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. Developed contracting parties shall therefore not seek, neither shall less-developed contracting parties be required to make, concessions that are inconsistent with the latter's development, financial and trade needs.</p>	<p>See the comments made under Section 8.3, (Article XXXVI. paras. 3, 4, 5 and 8).</p>
<p>6. Having regard to the special economic difficulties and the particular development, financial and trade needs of the least-developed countries, the developed countries shall exercise the utmost restraint in seeking any concessions or contributions for commitments made by them to reduce or remove tariffs and other barriers to the trade of such countries, and the least-developed countries shall not be expected to make concessions or contributions that are inconsistent with the recognition of their particular situation and problems.</p>	
<p>7. The concessions and contributions made and the obligations assumed by developed and less-developed contracting parties under the provisions of the General Agreement should promote the basic objectives of the Agreement, including those embodied in the</p>	

<b>Provision</b>	<b>Implementation</b>
<p>Preamble and in Article XXXVI. Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement.</p>	
<p>8. Particular account shall be taken of the serious difficulty of the least-developed countries in making concessions and contributions in view of their special economic situation and their development, financial and trade needs.</p>	
<p>9. The contracting parties will collaborate in arrangements for review of the operation of these provisions, bearing in mind the need for individual and joint efforts by contracting parties to meet the development needs of developing countries and the objectives of the General Agreement.</p>	<p>The Committee on Trade and Development reviews regularly the implementation of WTO provisions relating to differential and more favourable treatment of developing countries.</p>