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PROVISIONS OF THE MULTILATERAL TRADING SYSTEM WITH RESPECT TO TRANSPARENCY OF TRADE MEASURES USED FOR ENVIRONMENTAL PURPOSES AND ENVIRONMENTAL MEASURES AND REQUIREMENTS WHICH HAVE SIGNIFICANT TRADE EFFECTS

Note by the Secretariat

1. The Report (1996) of the Committee on Trade and Environment (CTE) recommended that the Secretariat "compile from the Central Registry of Notifications all notifications of trade-related environmental measures and collate these in a single database which can be accessed by WTO Members. The database could contain information where available for each notified measure: its nature/title; objective(s); product coverage; relevant WTO provisions and MEA provisions; and a description of how it operates. This database should be kept updated." (Paragraph 192)

2. As a follow-up to the above recommendation, this Note is divided into three sections:

- (a) the status of the Central Registry of Notifications (CRN) and its role in establishing an Environmental Data Base. Two issues are noted: (a) the organization and delivery of the database in a manner that builds on CRN and other WTO databases; (b) the content of the database itself, including consideration of the classification, cataloguing and general nomenclature of environmental notifications;
- (b) an overview of environment-related measures notified in 1996. This overview is illustrative rather than comprehensive, and updates WT/CTE/W/28. Where possible, supplementary information is provided regarding the sector and/or product affected; and
- (c) possible future analysis related to evaluate quantitatively the trade effects of environmental measures on specific product groups.

I. ENVIRONMENTAL DATA BASE (EDB)

A. Organization and Delivery of Database

3. In its 1996 Report, the Committee on Trade and Environment identified the Central Registry of Notifications (CRN) as the principal reference in establishing an Environmental Data Base (EDB). By way of background, the CRN is organized to facilitate searches of all WTO notifications for various purposes, including ascertaining the degree to which a Member has notified a measure under a specific obligation. The design of the CRN enables information to be accessed in accordance with the Marrakesh Ministerial Decision on Notification Procedures, which notes that "[i]nformation in the central registry regarding individual notifications shall be made available on request to any Member entitled to receive the notification concerned." Although information contained in the CRN is available to Members upon request, the CRN does not as currently designed facilitate direct access by Members. However, the 1996 Report of the Working Group on Notification Obligations and Procedures recommended that

"future work [by the NOP should] also encompass matters relating to the Central Registry of Notifications, electronic transmission of notifications and further work on the notifications handbook." (G/NOP/W/16/Rev.1). As a follow-up to that recommendation, work continues within the Secretariat to enable the CRN to be accessed directly (electronically) by Members.

4. In addition to the CRN itself, other information sources may be of interest to Members in how best to create an Environmental Data Base (EDB). The Committee on Market Access continues to review the status of its Integrated Data Base (IDB) with the objective of consolidating and downsizing the IDB in order to *inter alia* simplify and focus data content, improve cost efficiency, upgrade electronic delivery capabilities by capitalizing on technological improvements, avoid duplication with other WTO databases, and ensure that the IDB responds to the information needs of Members. (See G/MA/IDB/W/2, "Summary Report on the Study For Downsizing on the Integrated Data Base).

5. In addition to the IDB, attention is drawn to the Decision on Notification Procedures for Quantitative Restrictions (G/L/59), whereby all notifications of quantitative restrictions (QRs) whether already notified to other WTO bodies or taken under GATT Article XX or XXI, are notified to the Market Access Division. Information is compiled in a data base according to product and tariff lines within the Harmonized System nomenclature, as well as by the type of measure taken (using standardized categories and symbols), the justification of the measure, and a statement of its trade effects. In accordance with that Decision, the Committee on Market Access "shall, at two-yearly interval after receipt of the complete notifications, review the notifications received, on the basis of the Secretariat summaries similar to the summaries prepared for the GATT Technical Group on Quantitative Restrictions and Other Non-Tariff Measures." Members can request computer printouts from the Secretariat of the information organized by product category, in relation to specific obligations and/or Articles (for example, GATT Article XX(b) and XX(g)), as well as a summary of QR measures adopted by some Members. Another potential source of useful information may be found in future reverse notifications (G/L/60).

6. Another point of reference is the Document Dissemination Facility (DDF). Since August 1996, Members can access directly WTO documents, including notifications, through the DDF and via the WTO Home Page of the Internet. (All restricted and derestricted documents will be backlogged to 1995 and made available on the DDF by July 1997). Security of information is assured through the use of passwords for individual Members. In 1997, the DDF included unrestricted WTO documents on the WTO Home Page for public access in accordance with the General Council Decision of July 1996 (WT/L/160/Rev.1).

7. In light of the CTE decision that the EDB shall be accessed by Members directly, possible options may include creating a search interface within the DDF based on index lists describing documents, establishing an online browse feature and downloading facility for the notification in question. However, while the DDF is intended to disseminate WTO documents as and when they are produced, the EDB would require considerable classification efforts which is not a feature of the DDF itself. Duplication of information between the DDF and the Environmental Data Base may arise, whereby the latter would in effect become a sub-category of the former. In order to avoid duplication of data, as well as to minimize costs, an alternative approach could entail creating a full-fledged EDB wholly distinct from either the CRN or DDF, which would comprise a descriptive catalogue of entries relevant to various environmental measures.

8. Given the different options available, guidance is sought from Members in identifying the optimal design of the Environmental Data Base. Options include:

- (a) notifications are to be collated periodically (annually, every six months or on an on-going basis) by the Secretariat and made available upon request by Members;

- (b) notifications are to be collated periodically and made available to the CTE through a W/ Document; and
- (c) notifications are to be collated on an on-going basis and disseminated through an electronic delivery system to be determined. This could build upon the DDF already accessible by Members, or it could comprise the creation of an independent, fully-fledged data base. If the electronic delivery system is chosen, a pilot phase could be initiated in 1997, and its operation could be reviewed periodically by the CTE.

B. Content of Database

9. The content of the Environmental Data Base is an issue of considerable complexity. It involves the manner with which diverse environment-related notifications are to be classified and catalogued within the EDB. Such measures can be broadly grouped in two categories. The first comprises notifications made in accordance with WTO provisions which either refer explicitly to the environment, or which are generally regarded as relating to environmental objectives. These provisions include:

- Annex 2, paragraph 12 of the Agreement on Agriculture;
- Article 8.2(c) of the Agreement on Subsidies and Countervailing Measures;
- Articles 2 and 5 of the Agreement on Technical Barriers to Trade;
- Article XIV(b) of the General Agreement on Trade in Services;
- Article 27.2 of the TRIPS Agreement; and
- Measures taken pursuant to GATT Article XX.

Notifications made under such provisions may not require definitional clarification, and are comparatively simple to catalogue.

10. The second group comprises notifications which are not made in accordance with an environment-related WTO provision, and which may or may not include as a purpose or objective measures intended for environmental protection. This in itself reflects the broad-based, multi-sectoral and at times imprecise definition of environmental policies themselves. For example, several notifications of domestic laws and regulations refer to a general policy objective sustainable development, while several sector-specific notifications include as a secondary objective measures related to environmental protection. Notifications catalogued in this Note have been classified on an *ad hoc* basis, reflecting the fact that many measures notified refer to the environment neither as the sole nor predominate feature, or do not refer explicitly to the environment but nonetheless may contain environment-related policy objectives.¹

11. In 1996, approximately 2980 notifications were made in 1996 under the 215 WTO notification provisions. Given the cross-sectoral nature of environmental policies, the question of how to classify and catalogue accurately environment-related notifications has considerable importance in ensuring the creation of a credible Environmental Data Base. Two areas of notification - energy-related and the protection of plants and animals - illustrate the complex nature of classifying and cataloguing measures associated with the environment.

¹This second category of trade-related environmental notifications raises practical problems in terms of searching tools in the CRN. In collating environment-related notifications summarized in Section II of this Note, no single search word sufficiently captures the broad-range of trade-related environmental measures notified by members. Accordingly, multiple searchwords are necessary, including *environment* (a searchword not particularly effective given numerous references throughout notifications to the economic environment of the multilateral trading system), *conservation*, *sustainable development*, *wildlife conservation*, *waste management and waste reduction*, *pollution controls*, *climate change*, *toxic chemicals*, *energy efficiency*, *multilateral environmental agreements*, *ozone*, *Montreal Protocol*, *CITES*, *Basel Convention*, *packaging*, *environmental or eco-labelling*, and other key words.

- (a) *Energy Policy*: several notifications made in 1996 provided information related to enhancing energy-efficiency, promoting energy conservation and/or savings or setting out product or performance-based regulations for a broad range of products, including electrical appliances, heaters and boilers, energy-saving devices for fishing vessels, alternative energy sources such as solar power, or energy related standards covering automobile engine efficiency performance standards. Such measures are primarily made under the TBT Agreement and Agreement on Subsidies and Countervailing Measures (SCM).² However, they do not necessarily link energy efficiency measures with environmental objectives. Accordingly, such links are often to be inferred. In addition, a TRIMs notification lists alternative energy sources "like solar, wind, etc., and equipment thereof" including energy-efficient lamps, although no reference is made to environmental objectives.³ The question of whether this type of notification should be included in the EDB requires clarification. Additional information on energy-related policies are found in several Trade Policy Review Reports, although links if any with environmental-related objectives are often not made.⁴
- (b) *Protection of Plants and Animals*: various notifications under different Agreements provide information on measures to conserve flora and fauna, protect endangered species (including measures taken pursuant to the Convention on International Trade in Endangered Species of Flora and Fauna (CITES)), promote plant variation or refer to policies related to the development and application of genetic resources, such as biotechnologies. Such measures are notified under the Agreement on Import Licensing Procedures and the Agreement on Subsidies and Countervailing Measures.⁵ In addition, a significant number of notifications under the Agreement on Sanitary and Phytosanitary Measures list as their objective "Plant Health".⁶ An additional consideration are measures notified under the TRIPS Agreement covering patent protection for the "Protection of Plant varieties". Although they do not contain an explicit reference to conservation or environmental protection, interest in the CTE has been expressed in related work of the UN Convention on Biodiversity.⁷

²See for example, G/TBT/Notif.96.56; G/TBT/Notif.96.124; G/TBT/Notif.96.130; G/TBT/Notif.96.284; G/TBT/Notif.96.287 and G/SCM/N/3/CZE, N/3/EEC; G/SCM/N/3/NOR; G/SCM/N/3/USA; G/SCM//716/EEC and G/SCM/N/3/CHE.

³G/TRIMS/N/1/IND/1/Add.1.

⁴For example, the TPR Report of 1996 on Switzerland notes that "In February 1991, the Federal Council introduced an action programme to encourage the rational use of energy... and the promotion of renewable forms of energy. The programme is considered by the International Energy Agency as Switzerland's most important energy initiative... Among other measures, target consumption levels have been determined for all electrical appliances and passenger cars... Apart from efficiency objectives, strong emphasis is placed on, and subsidies are provided for, the development and use of renewable energy sources (heat pumps, etc.)."

⁵See for example G/LIC/N/1/AUS; G/LIC/N/3/HKG; G/LIC/N/3/CAN; G/LIC/N/3/USA; G/LIC/N/3/SGP; G/LIC/N/3/ARG; G/LIC/N/3/JPN/1; and SCM/N/3/CZE; SCM/N/16/ROM.

⁶Supplementary information on domestic laws and regulations related to protection of flora and fauna, or measures taken pursuant to CITES, are contained in several TPR Reports of 1996.

⁷See for example Paragraph 209 of WT/CTE/1: "Some issues are under consideration by the Parties to the Convention on Biological Diversity who are also looking at the synergies and relationship between its objectives and the TRIPs Agreement. Information has been shared by the CTE regarding its work in response to requests by the Secretariat of the Convention on Biodiversity. The exchange of information between the CTE and the Convention on Biodiversity might be pursued further, as appropriate."

12. Further guidance is sought from Members regarding the efficient classification of measures to be included in the EDB. The following options have been identified:

- (a) the WTO notification system in general, as noted in the 1996 Report of the NOP, is functioning satisfactorily and is fully capable of capturing all trade-related environmental notifications.⁸ Work on classification and cataloguing should be left to the judgment of the Secretariat;
- (b) work is needed to improve the classification of environmental measures. Such work can be undertaken by the Secretariat, by the CTE, or by another body as appropriate; and
- (c) consideration may be warranted for the inclusion of certain key-words (to be determined) which would lead to the automatic classification of a notification as environment-related to be included in the EDB.

II. OVERVIEW OF ENVIRONMENT-RELATED NOTIFICATIONS UNDER WTO PROVISIONS IN 1996

A. Introduction

13. A broad range of trade-related environmental notifications were made in 1996. The most prevalent type of measure notified involved various technical regulations, including product and performance regulations, labelling and packaging standards, deposit-refund and take-back schemes, and other measures. This reflects a systemic predominance within the WTO of notifications of technical regulations.⁹ Notifications also included quantitative restrictions and import controls primarily implemented through import licensing; environment-related subsidies (including support of research and development projects, sectoral subsidies, special tax allowance and other measures); domestic laws and regulations related to environmental protection and sustainable development; measures taken pursuant to Multilateral Environmental Agreements (MEAs) and other international standards which contain an environmental component; and other measures summarized below. Supplementary information on selected environmental policies is contained in the majority of Trade Policy Reviews prepared in 1996.

⁸Among the conclusions of the 1996 Report of the NOP are the following of relevance to the CTE under Agenda Item 4: duplication of notification requirements and practices is not widespread. The most prevalent area of duplication occurred between the Agreement on Agriculture and the Agreement on Subsidies and Countervailing Measures. The NOP recommended that the Committee on Agriculture and the Committee on Subsidies and Countervailing Measures consider a modification of notification formats as set out in G/NOP/W/15. In addition, the NOP noted a "possible confusion" between the Agreement on Technical Barriers to Trade and the Agreement on Sanitary and Phytosanitary Measures, although it was felt that this did not reflect any duplication of notification obligations.

⁹An examination of 1500 Annex 1A Agreements received in the first fourteen months of the WTO found that over 40 percent of all notifications were of technical regulations under the TBT and SPS Agreements. The next largest number of notifications was in subsidies (10 percent), textiles (9 percent), anti-dumping (8 percent), safeguards and rules of origin (6 percent each). Over 80 percent of the notifications received were either *ad hoc* (required only when a specific action was taken) or one-time only (usually in relation to entry into force of the agreements). Although the NOP Working Group noted that it was difficult to calculate the exact rates of compliance, it nevertheless observed that "compliance rates varied greatly and few exceeded 50 percent." G/NOP/W/16/Rev.1.

14. The largest number of environmental notifications in 1996 was made (as in previous years) under the TBT Agreement.

Year	Number of environment notifications	Total number of notifications	Percentage of environment notifications
1996	53	460	11.52%
1995 (WTO TBT)	41	365	11.2%
1995 (GATT Tokyo Round)	--	27	--
1994	35	508	6.9%
1993	42	487	8.6%
1992	36	394	9.1%
1991	35	358	9,7%

15. In addition to TBT notifications, in 1996 environment-related measures were notified under other WTO Agreements, including the Agreements on Subsidies and Countervailing Measures, Import Licensing Procedures, Agriculture, Sanitary and Phytosanitary Measures, Trade-Related Investment Measures, and Trade-Related Aspects of Intellectual Property Rights. (However, the extent to which environment-related measures are contained in various WTO Agreements is directly related to the method by which such measures are classified and catalogued.) It is worth noting that the largest proportion of environment-related notifications contained in any WTO Agreement is the Agreement on Import Licensing Procedures, in which approximately 30 percent of all 1996 notifications related to the environment.

16. The following overview of environment-related notifications is organized according to many of the categories identified in WT/CTE/W/5, Annex and updated in WT/CTE/W/28. It will be recalled from WT/CTE/W/28 that no gaps in notification were identified in any categories listed. For simplicity sake and to avoid duplication, some categories such as economic instruments and domestic taxes have been combined under a single category. In addition, given the significant number of notifications under the Agreement on Subsidies and Countervailing Measures which relate to the environment, a separate Subsidies category has been created.

B. Handling Requirements

17. Four TBT notifications addressed different handling requirements related to the environment. These included one take-back scheme for used glass and bottles (G/TBT/Notif.96.129); two notifications regarding the transport, handling and storage of harmful chemicals and pesticides (in which the policy purpose was either environmental protection or the reduction of in-door pollution) (G/TBT/Notif.96.197, G/TBT/Notif.96.37); and one concerned the collection and removal of plastic sheeting used for agriculture and horticulture, including a provision banning the dumping of any plastic sheeting (G/TBT/Notif.96.4).

C. Other packaging requirements including bans, technical regulations that may require compliance with certain characteristics in order for packaging to be put on the market or allowed into the country, and take back requirements

18. Different types of packaging measures related to environmental objectives were notified under the TBT and other agreements. Notifications included producer responsibility and take-back obligations for packaging as a means to reduce waste (G/TBT/Notif.96.215); take-back obligations including producer or importer responsibility for the reuse and recovery of used automobile parts (G/TBT/Notif.96.448); requirements regarding minimum recycled content for packaging (G/TBT/Notif.96.241); standards to ensure the containment of different types of harmful and/or dangerous chemicals, including heavy metals, cadmium and chromium arsenic salt used in wood preservation (G/TBT/Notif.96.302, G/TBT/Notif.96.303, G/TBT/Notif.96.460); and the notification of a more general packaging and packaging waste policy, including third party responsibility, take-back obligations for producers or importers of packaging, information regarding certification, and information on specified recycling and reclamation rates set each year (G/TBT/Notif.96.225).

19. One notification under the SCM Agreement listed support of agricultural processing, including assistance in the "application of modern packaging procedures as well as energy savings and environmentally-sound technologies" (G/SCM/N/3/HUN/Suppl.1). In addition, the TPR Report on the European Union provided information on a recent European Parliament and Council Directive (94/62/EC) on packaging and packaging waste, including information that by the end of 1997, "only packaging complying with [EC] requirements will, in principle, be allowed into EU markets." The TPR Report on Colombia notes increasing concern among producers and exporters of various environmental measures, including packaging standards for coffee and fruit, as well as possible eco-labelling requirements for certain textile items.

D. Labelling and Eco-Labelling Schemes, Including the Criteria to be Satisfied in Order to be Granted a Label

20. Over 85 TBT notifications in 1996 contain information related in some way to labelling. Approximately 15 notifications under the Agreement on Sanitary and Phytosanitary Measures also contained information on labelling requirements. Examples of TBT notifications related to the environment include information on labelling regulations for maximum allowable emissions of carbon monoxide and hydrocarbons for motorcycles (G/TBT/Notif.96.178); labelling requirements for dangerous chemicals in general or for wood products containing arsenic (G/TBT/Notif.96.197, G/TBT/Notif.96.209); provisions related to test procedures, labelling and certification of electric motors for energy efficiency objectives; (G/TBT/Notif.96.424); labelling requirements for energy-efficiency standards covering air conditioners (G/TBT/Notif.96.289); and a more general notification of national guidelines and list of criteria for an eco-labelling programme (G/TBT/Notif.96.190).

21. The 1996 TPR Report for the European Union provided information regarding the award of eco-labels for the following products: washing machines and dishwashers, kitchen rolls, toilet paper and soil improvement substances. Additional information was provided regarding the criteria for eco-labelling, including the consumption of renewable and non-renewable resources, emissions of carbon dioxide, sulphur dioxide, the discharge of organic materials into water, use of organo-chlorides, and amounts of waste generated.

E. Process and Production Methods, Including Those Emanating from Product Life-Cycle Analysis

22. One notification specified ozone depleting chemicals subject to technical regulations, as well as various consumer products related to such chemicals, "whether incorporated" in the specified products or not (G/LIC/N/3/NZL/1). It is worth noting that depending on classification, many environment-related

subsidies are primarily aimed at improving the environmental performance of various process and production methods.

F. Environment-Related Subsidies

Notifications of different types of subsidies and related domestic support schemes are organized where possible according to the sector. Information in this category may be useful not only with regards to CTE Agenda Item 4, but also Agenda Item 6.

- (a) *Agriculture*: approximately 13 notifications under both the SCM and Agriculture Agreements contain information on support schemes intended to protect agricultural land and water from pollution and misuse (G/SCM/N/3/SUN) and/or to promote the "environmentally sound utilization of lands" (G/SCM/N/3/Hun.Suppl.1). Several notifications under the Agreement on Agriculture listed support for the conservation of agricultural lands (e.g. G/AG/N/Aus/5, G/AG/N/CYP.1, G/AG/N/CZE/7, G/AG/N/ZAF/5, G/AG/N/TUN/3, G/SCM/N/16/EEC), or somewhat more specific assistance available to farmers of wheat, feed, grains, rice and upland cotton programs provided they were in compliance with conservation requirements (G/AG/N/USA5). Others included support to prevent soil erosion, soil acidification, and the purification of livestock excretions for preventing water pollution (G/AG/N/KOT/7), and to encourage the use of non-chemicals in farming (G/AG/N/THA/15). An SCM notification listed agricultural support policies for sheep and milk production in which one objective included "integrating environmental issues with agricultural policy" (G/SCM/N/16/ISL). Another linked support of privatization, restructuring and research in agriculture to support of "genetic potential," preservation of the country-side and protection of water (G/SCM/N/3/CZE). An SPS notification on plant protection regulations to protect the agricultural and forestry sectors included as its objective "protection of the environment" (G/SPS/N/CAN/1). Several TRIPS notifications included general references to the Protection of Plant Varieties, as well as information on the Protection of Plant Breeder's Rights in particular (e.g. IP/N/SWE/P/2).
- (b) *Manufacturing Industries*: SCM notifications included subsidies to assist manufacturing industries in introducing or upgrading pollution control equipment, including information of the level of assistance in support of installation and other capital costs (G/SCM/N/16/CYP, G/SCM/N/16/ISR); to support environmental protection in general for "all companies regardless of industry" (G/SCM/N/3/CZE); and the inclusion in a domestic programme related to "Restructuring of the Manufacturing Sector and Technological Developments in Industry" promotion of "environmentally-friendly production" (G/SCM/N/3/SUN). Another notification provided information on process and production methods, including a general notification related to product and "manufacturing standards" which contributed to any form of pollution, including waste generation (G/TBT/Notif.96.263).
- (c) *Iron and Steel*: one notification under the Subsidies Agreement linked support of increased efficiency in iron and steel production in general, including support schemes to include environmental protection (G/SCM/N/16/ROM). Another contained information on allowable refunds of up to 95 percent of total investment costs for a steel firm modernization, in which "improvement of the environment" was listed as a secondary objective (G/SCM/N/3/BRA).
- (d) *Coal*: several notified measures listed support for the coal industry to help incorporate pollution control systems as a secondary objective (G/SCM/N/3/KOR/Rev.1, G/SCM/N/3/EEC). One notification provided a breakdown of the total annual domestic subsidies available to the mining sector, in which "protection of the environment" represented approximately 10 percent of the overall subsidy (G/SCM/N/3/HUN/Suppl.1). Another listed support of research and

development to promote the commercialization of clean coal technologies and to improve the environmental performance of existing and new coal facilities (G/SCM/N/3/USA). The TPR Report on the Czech Republic provides additional information on the restructuring of its coal mining sector to include expanded use of cleaner technologies for coal-fired power stations (WT/TPR/S/12).

- (e) *Forestry and Wood Products*: several notifications included information supporting the integration of environmental measures in the forestry sector, including an environmental forestry grant (G/SCM/N/3/CZE), measures in support of "quality forests" which included the promotion of forest-related environmental values (G/SCM/N/3/NOR); measures to enhance the conservation and sustainable use of forests (G/SCM/N/16/URY, G/SCM/N/3/PGL); and more general measures to encourage the "efficient and sustainable use ... of agriculture and natural resources, including lands, water, fish and forest products" (G/AG/N/Aus/5).
- (f) *Fisheries*: notifications related to the fisheries sector included a regional structural adjustment programme for fisheries and the aquaculture sector in which a secondary objective was the conservation of fisheries (G/SCM/N/16/EEC); the inclusion in a Fisheries Fund of the objective of "protection and improvement of the environment" (G/SCM/N/3/Hun/Suppl. 1); notification under the Agreement on Agriculture to support for the "conservation and responsible utilisation of wild fisheries" (H/AG/N/Aus/5). One notification made to the latter agreement also lists assistance to promote the "conservation and responsible utilisation of wild fisheries" (G/AG/N/Aus/5).
- (g) *Cleaner Technology and Efficiency Gains*: two notifications included information on assistance in support of the research, development and diffusion of cleaner technologies including energy efficient technologies, waste reduction technologies, the use of renewable energy as a means of reducing negative environmental impacts linked to traditional energy use (G/SCM/N/16/EEC, G/SCM/N/3/NOR and L/7611/Add.14).

G. Economic Instruments and Regulations, Including Domestic Taxes

23. Measures taken with respect to eco-labelling, deposit-refund schemes and some kinds of packaging schemes are generally classified as sub-components of environment-related economic instruments, and are covered elsewhere in this Note. Information on environment-related tax concessions to promote environmentally-friendly products is provided in various SCM notification (G/SCM/N/3/Hun/Suppl. 1). More detailed information on tax allowances for environmental purposes included information regarding unrestricted depreciation for investments related to environmental pollution control (G/SCM/N/16/EEC).

24. The 1996 TPR Report on the Czech Republic provides information regarding the domestic energy pricing policy intended to encourage the greater use of less-harmful energy sources as well as an overall reduction in energy use. The TPR Report on Korea notes that "[l]oans and taxes are available for enterprises investing in anti-pollution equipment, including long-term low-interest loans for small and medium-sized enterprises. Korea is currently considering the introduction of a carbon tax", while the Report on Canada notes that according "to authorities, Canada has no plans to introduce carbon tax." More general information related to domestic and other environmental laws and regulations are included in the 1996 TPR reports of Fiji, Venezuela, Singapore, the United States, Colombia, the Republic of Korea, Brazil and others.

H. Measures Under GATT Article XX

25. Notifications of quantitative restrictions (QR) taken in accordance with different WTO provisions are being classified with reference to the specific WTO and GATT Article under which the measure

is taken. Information is currently available through the Secretariat on numerous measures taken in accordance with GATT Article XX(b) and (g), including the listing of several WTO Members. However, notifications classified by GATT Article XX do not necessarily identify the purpose or objective under which the QR is taken as related to the environment. However, some QR measures do provide a more clear reference to environment-related objectives. For example, one Member notified the trade controls on specific products often linked to environmental policy goals (e.g. organic chemicals, pharmaceutical products, surface-active preparation and waste materials) because of GATT Article XX(b) provisions (G/LIC/N/3/CYP/1).

I. Trade Measures Taken for the Implementation of Multilateral Environmental Agreements (MEAs)

(a) Montreal Protocol

26. TBT notifications related to MEAs in 1996 were confined to measures taken pursuant to the Montreal Protocol. These comprised technical regulations to control or withdraw from sale specific ozone-depleting substances (ODS) identified in the Protocol and its amendments, and included controls on CFCs and halons (G/TBT/Notif.96.452), HCFCs and HBFCs (G/TBT/Notif.96.74, G/TBT/Notif.96.226, G/TBT/Notif.96.242) and methyl bromide (G/TBT/Notif.96.243). One notification identified products subject to control because of ODS, and included air conditioners, dehumidifiers and fire extinguishers (G/TBT/Notif.96.452). One notification listed measures to control processes and production methods associated with ODS, whereby HCFCs are forbidden in the manufacture of rigid polyurethane for building insulation (G/TBT/Notif.96.226).

27. Nine notifications were made in 1996 under the Import Licensing Agreement contained information on measures taken pursuant to the Montreal Protocol. These included:

- (i) notification of the general objective of protecting the ozone layer (G/LIC/N/1/Aus/1);
- (ii) notification of ODS products subject to controls. These include CFCs, HCFCs, methyl bromide, halons, methyl chloroform, carbon tetrachloride (G/LIC/N/1/Mus/1, G/LIC/N/3/Aus/1, G/LIC/N/3/HKG/1/Rev.1, G/LIC/N/3/PHL/1, G/LIC/N/3/NZL/1, G/LIC/N/3/PHL/1);
- (iii) controls of products associated with ODS (G/LIC/N/1/Mus/1, G/LIC/N/3/NZL/1). These included aerosol products (other than medical aerosols); fire extinguishers; dry-cleaning machines; certain plastic foams; automobile and truck air-conditioners; refrigerators; freezers, dehumidifiers, water coolers, ice machines, air conditioning and heat pump units, other domestic and commercial refrigeration, insulation boards and pre-polymers; and
- (iv) measure directly related to the Montreal Protocol itself (G/LIC/N/3/Aus/1, G/LIC/N/3/HKG/1, G/LIC/N/3/JPN/1).

(b) Measures related to the Basel Convention and Other Controls of Waste

28. Six import licensing notifications contained reference to import controls for various categories of waste, including wastes not subject to the Basel Convention (e.g. radioactive wastes¹⁰) (G/LIC/N/3/Aus/1, G/LIC/N/3/HKG/2, G/LIC/N/1/USA/1, G/LIC/N/3/Aus/1, G/LIC/N/3/JPN/1, G/LIC/N/3/Rom/1). Three notifications made explicit reference to the Convention itself. Of those,

¹⁰It should be noted that radioactive wastes are not covered under the Basel Convention, and are generally differentiated from national and international categories of hazardous wastes.

one notification noted the difficulty of providing additional information regarding a classification of hazardous wastes, noting that the "definition of "hazardous waste" and discriminating between "waste" and "product" remain areas of difficulty, and an expert Technical Working Group is also proposed to be formed to assist the Government with these issues." (G/LIC/N/3/Aus/1).

29. Notifications related to waste-management issues were made under the SCM Agreement, including notification of assistance to improve the management of certain types of wastes (e.g. waste water) (G/SCM/N/3/EEC); and subsidies for waste reduction and recycling, including the provision of a one-time investment grant for waste-related projects (G/SCM/N/3/Nor). Several TPR Reports in 1996 included information directly related to the Basel Convention or to domestic regulations covering waste management and related policies (e.g. TPR Reports of Colombia and Canada).

(c) Convention on International Trade in Endangered Species of Flora and Fauna (CITES) and Other Measures Related to the Protection of Plants, Biodiversity and Genetic Resources

30. As noted above, this represents a particularly complex area of classification. It should also be noted that measures included in this category are in no way necessarily presumed to be linked in any formal or legal manner to CITES or any other MEA. Measures under this category could include a large number of notifications under the Agreement on Sanitary and Phytosanitary Measures in which "Plant Health" is listed as the primary objective. However, it should be noted that no notifications contained an explicit reference to the Convention on Biodiversity itself. Types of measures which have been notified include:

- (i) measures to protect wildlife and endangered species of plants and animals (G/LIC/N/1/Aus/1 and G/LIC/N/3/Aus/1, G/LIC/N/3/HKG/1/Rev.1, G/LIC/N/3/USA/1);
- (ii) measures taken pursuant to CITES (G/LIC/N/3/Can/1, G/LIC/N/3/Arg/1, G/LIC/N/3/HKG/1, G/LIC/N/3/JPN/1). One notification notes that the permit system is adopted to "perform the duty of a treaty" and lists as a category "Animals (excluding sperm whales, bird's bakes whale, mink whale, seiwhale bryde's whale and finwhale) and plants included in Annex of CITES" (G/LIC/N/3/JPN/1); and
- (iii) measures to promote plant varieties, genetic resources and genetically-modified resources. This category includes subsidies to improve plant varieties (G/SCM/N/16/Rom,); SPS measures to control seeds, seed linings or growth crops which potentially threaten human, animal health and the environment (G/SPS/N/CZE/2), notifications related to genetic engineering (including its application in biotechnology for agricultural and other uses) (G/SPS/N/CAN/14, G/SPS/N/MEX/97).

31. Additional information is included in several TPR Reports of 1996, including the Report on Switzerland which provides information on "controls and prohibitions in accordance with CITES and additional national restrictions to protect indigenous species," and measures taken for the protection of wildlife in the TPR Report on the United States.

32. An indirect consideration related to this category may also be the approximately 24 notifications under the TRIPS Agreement related to patent protection for the "Protection of Plant Varieties."¹¹

¹¹"Checklist of Notifications of Main Dedicated Laws Relating to Patents, Protection of Plant Varieties, Layout-Designs (Topographies) of Integrated Circuits, protection of Undisclosed Information and Control of Anti-Competitive Practices in Contractual Licenses", Council for TRIPS, 27 February 1997.

J. Regulations or Standards Based Substantially on International Standards

33. TBT notifications which contained a reference to environment-related provisions in international standards included the International Convention for the Safety of Life at Sea (G/TBT/Notif.96.69), the International Convention for the Prevention of Pollution from Ships (G/TBT/Notif.96.56), and emission levels based on the International Motor Federation (G/TBT/Notif.96.51). An import control under the Agreement on Import Licensing Procedures included reference to obligations under the Antarctic Treaty (G/LIC/N/1/Aus/1). The 1996 TPR Report for Brazil provides information on the Brazilian Committee on Certification, noting that it plans to "establish a system of conformity assessments for environmental matters following ISO Guidelines."

III. QUANTITATIVE EFFECTS OF ENVIRONMENTAL MEASURES

34. As a follow-up to the CTE recommendation regarding the Environmental Data Base, it has been suggested that such a data base be designed to facilitate analysis of the trade effects of environmental measures notified by Members. In particular, it should enable quantitative analysis of the trade effects of environmental measures on particular products, with emphasis on products of export interest to developing and least-developed countries. In undertaking such an analysis, a useful reference may be the 1989 GATT list of "Products of Export Interest to Developing Countries" (GATT/NTM(TG)/W/5).

35. Several methodological problems arise in undertaking a quantitative analysis based on WTO notifications. As currently organized, notification of environment-related measures do not ensure a comprehensive profile of different measures applied, nor do they consistently identify products affected by such measures. Discussions in the CTE have primarily focused on the type of measure applied (e.g. packaging or labelling requirements) and not on their application to product categories. When products have been identified in environmental notifications, they have not always been aligned to the Harmonised System (HS) nomenclature.

36. An additional consideration is that trade effects stemming from different environmental measures may be indirect, and measures notified may not reflect the scope or breadth of environmental policy. For example, long-standing standards, regulations and other measures are not normally subject to annual or periodic notifications, and guidance is sought as to how far back the Environmental Data Base should extend in covering environmental notifications. Environment-related notifications commensurate with international standards or domestic measures which do not create significant trade effects in the view of the notifying country are not normally notified. Some measures, such as domestic environmental taxes, may not be subject to WTO notification obligations outside of GATT Article X provisions. In addition, the same type of measure, such as a domestic environmental tax, may be applied differently within the same country or between countries (e.g. as an excise tax on products deemed to be emission-intensive, or as an input or production tax on certain energy-intensive industries), resulting in different trade effects.

37. In order to help categorize environmental measures by product area, the table below provide additional information from TBT notifications made in 1996 in terms of frequency of notified measures which relate to specified products:

Type of Measure or Description of Product	Number of TBT Notifications and percentage of environmental notifications	Harmonized System Number
Motor Engines and Motor Vehicles	8 (15.1%)	87
Waste (hazardous, waste water, radioactive, other)	7(13.2%)	72, 79, 81, 80
Heaters, Boilers, Vessels and Pipes	8(15.1%)	84
Electrical Appliances	4(7.5%)	85
Chemicals	3(5.6%)	29 (organic chemicals)

38. In determining the trade and market access effects of different environmental measures on specific products, guidance is needed from Members on whether the Environmental Data Base should make use of information sources external to WTO notifications themselves in order to undertake such a quantitative analysis (e.g. UNCTAD, the International Trade Centre, OECD, the World Bank, and research institutes) as well as whether the EDB itself should be designed to undertake such trade impact analysis.