# EU ACTIVITIES WITH THE WORLD TRADE ORGANISATION

# REPORT TO THE EUROPEAN PARLIAMENT

**WORKING DOCUMENT OF THE COMMISION SERVICES**
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This is the second annual report presented to the European Parliament on EU activities within the WTO. It covers main developments since 1998 and highlights key areas of WTO activities.

# WTO Report to the European Parliament

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# 1. REPORT ON THE WTO TO THE EUROPEAN PARLIAMENT: OVERVIEW OF WTO ACTIVITIES

## Introduction

This second annual report to the European Parliament on EU activities with the World Trade Organisation is intended to contribute to a closer dialogue between the two Community institutions. The report includes in its Annex a description of EU activities in key WTO policy areas.

In the course of the last year the EU has continued to play a leading role in the WTO. Against the background of the economic and financial crisis in Asia and elsewhere, the EU has consistently supported the WTO's fundamental principle of non-discrimination as a means to resist protectionist pressures. Faced with the threat of unilateral action by the US, the EU has also vigorously defended its rights under the WTO's dispute settlement system, which precludes such unilateral action. In all aspects of the WTO's regular work programme, the EU has exercised leadership and argued for policies that support the expansion of trade, growth, and development.

The Community has, in particular, taken the lead in proposing steps to enhance the transparency of WTO operations. Trade policy has a major impact on the livelihood and welfare of citizens. It is therefore only natural that WTO activities are a matter of legitimate public interest and debate. It is for this reason that the EU has proposed in the WTO the adoption of steps to ensure that WTO documents are immediately derestricted and made available to the public. Improvements are also proposed in the transparency of dispute settlement procedures. Finally, it is suggested that greater and more systematic use be made of avenues for WTO interaction with organisations of civil society. While some progress on these issues can be expected in the short term, the EC will continue to insist that transparency be considered as a priority issue in the WTO work programme.

While improved transparency in the WTO is certainly necessary, WTO members have a primary responsibility to develop, at the domestic level, procedures for consultation on trade policy making. The Commission is convinced that organisations of civil society are key stakeholders in the process of trade policy formulation. It is for this reason that the Commission has initiated a broad process of consultations with organisations of civil society on issues relating to the preparation of a new WTO Round. This process is intended to complement and not substitute the process of consultations and cooperation among the Community institutions. In this context, the Commission attaches the outmost priority to consultations with the European Parliament on issues relating to WTO work.

## 2. EU POLICY IN KEY WTO ACTIVITIES

## WTO DISPUTE SETTLEMENT

In 1998, the EC continued to make full use of the dispute settlement mechanism to ensure its rights under all trade agreements covered by the WTO.

The EC has launched 15 new cases and 8 cases have been initiated against us. In addition, the EC is also a third party in several cases initiated by other WTO Members in order to secure its trade interests or for systemic reasons so as to ensure that WTO jurisprudence will not affect the EC's rights. Several cases launched in 1997 are now at the implementation stage. The table hereunder lists the number of cases in which the EC is involved since the creation of the WTO.

| | **EC Complainant (*)** | **EC Defendant** | **EU Third Party (*)** | **Total cases (including non-EU)** |
|---|---|---|---|---|
| 1995 | 2 (1) | 8 (2) | 2 (1) | 31 |
| 1996 | 7 (1) | 4 (3) | 14 (7) | 47 |
| 1997 | 16 (5) | 10 (3) | 10 (2) | 65 |
| 1998 | 15 | 8 | 4 | 39 |
| | 40 | 30 | 31 | -- |
| **Total** | 101 | | | 153 |

The Dispute Settlement Understanding (DSU) has by now been in operation for four years. This period of time is of course not long enough to evaluate fully the system. Nevertheless, some preliminary conclusions can be drawn:

- WTO Members have increasingly had recourse to the DSU: this in itself is a positive demonstration of confidence in the system;

- Cases are no longer among major trading partners only: dispute settlement has also been initiated against developing countries and by developing countries against major trading partners and amongst themselves.

- With working procedures being codified, the system has become much more efficient, automatic and transparent than was the case at the time of GATT. There is, however, always room for improvement;

- It is no longer possible to conduct a WTO dispute in a ivory tower: violations of the WTO Agreements concern the interests of society at large.

(*) First figure refers to consultations and the second to panel procedures.

**Cases handled under the DSU**

Since the entry into force of the WTO, the EC has invoked the dispute settlement procedures (request for consultations and panel) more than 40 times and about 25 cases have been launched against the EC. The trend of being a "net complainant" thus continued in 1998. In this context the Market Access database as well as Trade Barrier Regulation have been instrumental in promoting a more offensive approach and being in a better position to protect the rights of European Industry in trading abroad. It should be noted that several of the cases against the EC, concerned a dispute against Member State legislation alone.

Most of the cases have been between the US and the EC, partly reflecting the volume of our mutual trade. Other than the US, the EC has launched cases against Argentina, Brazil, Canada, Chile, India, Indonesia, Japan, Korea and Pakistan. Cases in which the EC is defendant have been launched by the US, Brazil, Canada, Chile, Ecuador, India, New Zealand, Panama, Peru and Thailand.

Most cases in which the EC has been defendant relate to agriculture products. The EC has been particularly offensive (and successful) in eliminating barriers through the WTO dispute settlement on discriminatory taxes on alcoholic beverages and in the automobile sector. Industry's co-operation in providing good factual evidence has been of great use in supporting the legal arguments. Several cases relate to intellectual property rights which reflect the importance of the TRIPs agreement. So far the GATS has been only once the direct object of a WTO dispute (at consultation level)..

The cases handled in 1998 represent major economic interests for the EC. This is certainly the case for the Korean tax regime on alcoholic beverages on which the appellate body rendered its report early 1999 confirming the favourable panel ruling that Korea's tax regime on spirits is discriminatory. The case initiated by the EC against Indonesia for discriminatory taxes on cars has resulted in a favourable report from the Appellate Body. In July 1998, the EC has requested the establishment of a panel against the US to investigate the export subsidies granted through tax exemptions to American companies exporting through Foreign Sales Corporations (FSCs). The tax exemptions are worth an annual US $ 2 billion. In November 1998, the EC has launched a panel against Canada for insufficient patent protection for pharmaceuticals. The losses caused by the infringements total several hundred million US dollars per year. In December 1998 the EC requested WTO consultations with India on three matters namely the restrictive import regime for automotive products, import restrictions applied on series of products (chemicals, pharmaceuticals, agricultural products) and new customs duties applied above India's GATT commitments. In the leather and raw hides sector, consultations have taken place with Japan, Argentina and India. The two latter cases concern export bans and discriminatory taxes with the aim of protecting national industries while the Japanese case relates to restrictions on imports of finished leather into Japan.

The EC has also carefully monitored third countries' use of their trade defence instruments in order to ensure that their action is in compliance with the disciplines set out in the WTO Safeguards, Subsidies and Anti-dumping agreements. As a result of this monitoring 4 panels were established: 2 in the Safeguards area (Korea/dairy products, Argentina/footwear), 1 in the Subsidies area (USA/Countervailing duties on

certain steel products) and 1 in the Anti-dumping area (USA/1916 Anti-dumping act). Further cases were subject to WTO consultations and could lead to the establishment of panels in the near future.

Finally, in 1998 the EC has also continued to pursue its complaint against the US in relation to Massachusetts selective purchasing law targeting companies which do business in or with Burma. In the absence of any positive developments on the US side in meeting the EC concerns about this law, a panel has been established. This case is not only important from an economic point of view (EC operators being foreclosed from bidding in Massachusetts on non-trade grounds) but also given the extraterritoriality dimension involved and the US unilaterally sanctioning European operators.

In 1998, a number of important cases have also been initiated against the EC and notably the request for consultations by Canada for the measures banning the import of asbestos and asbestos products into the EC. Brazil is complaining about the EC's decision to grant favourable tariff treatment to countries combating drugs production, which it argues has resulted in a loss of coffee exports to Europe. India has initiated twocases against the imposition by the EC of antidumping duties on textile products.

In the EU/US dispute on the EC import regime for bananas, a key point at issue has been whether a WTO Member is entitled, to determine unilaterally whether measures taken by another Member are in compliance with the WTO obligations and on that basis retaliate. The Community, supported by a large number of WTO Members, is of the view that unilateral action is not allowed under WTO rules.

**Efficiency of the system and need for review**

Overall, the EC considers that the WTO dispute settlement mechanism has functioned well. In the latter part of 1998, the EC has submitted a discussion paper containing some suggestions for further improvements of which the main points are:

- Creation of a standing body of professional panellists. This should ensure professionalism and availability to serve in the panel and increase expertise on international trade law.
- Improving the consultation phase: the essential function of consultations is to settle disputes amicably. From statistics it appears that only a small percentage of the cases are terminated at the consultation phase. Suggestions are made so as to ensure that parties take this phase more seriously;
- Improve the rights of third parties who want to associate themselves in a dispute and possibly become co-complainants;
- Increasing the time limits before the Appellate Body: currently the Appellate Body has 2 to 3 months to consider a case in appeal. This is too short and in the interests of quality should be increased to 3 to 6 months;
- Developing countries: in case of complaint against a least developing country, use of good offices (rather than litigation) should be codified. The Community also considers that increased support should be provided to developing countries so that they can fully exercise their rights under WTO dispute settlement.

## Transparency

From the variety of cases handled under the DSU, it is clear that the public at large has an interest and is interested in the outcome of WTO disputes. The EC has proposed in the DSU review means to improve transparency in the dispute settlement procedure so as to meet the concerns expressed by civil society. In doing so, the essential nature and character of the WTO dispute settlement mechanism should be duly ensured and preserved.

The need for more transparency is recognised at three levels: for the WTO Members participating in the dispute; for non-participating Members and the general public. On all levels the EC has said it is in favour of making documents on the proceedings more easily and rapidly available to interested parties. Together with our trading partners we are discussing the modalities, taking into account the confidential nature of some information relating to the proceedings. The EC also expressed its willingness to allow third parties (non -parties to the dispute), to express their views to panels by allowing them to make written contributions and possibly to open the hearings before the panel and Appellate Body to them. Opportunities should also make available for interested members of the public to present their views to a panel, possibly through written submission. Within the context of the establishment of a standing body of professional panellists, consideration should be given to making certain sessions of the Panel and Appeal Body open to the public.

## Conclusion

From the variety of cases launched in 1998, it is clear that the DSU is being used as an effective tool to obtain market opening and to ensure a fair application of the different WTO Agreements. It is with this objective in mind that the EC will continue to contribute to the review process and encourage further transparency in order to achieve a fair and balanced protection of rights and obligations.

## WTO ACCESSIONS

### Overview

1. Thirty-one governments have now applied to accede to the WTO. (On 14 October 1998, the General Council approved the accession packages for Latvia and the Kyrgyz Republic, both of whom have subsequently acceded to the WTO.) The EC actively supports the smooth accession of all applicants as soon as possible on commercially viable terms. At a technical level, however, the accession of each country can proceed only at the pace that the acceding country is able to set. This is true of both major aspects of the accession process:
(i) The lengthy process of legislative alignment and institution-building required to bring the acceding country's trade regime into conformity with the WTO Agreements; and
(ii) The pace of liberalisation that any given country is able to achieve in terms of market opening for goods and services.
A significant number of acceding countries are still in transition towards a market economy (Russia, the ex-CIS States, China, Vietnam) and membership of the WTO for these applicants is part of a wider process of reform. As a result the progress in accession negotiation often depends on the success of, and continued domestic support for, internal change, rather than just the commitment of WTO Members and their negotiators.

2. The EC's objective in accession negotiations is that newly acceding countries should strengthen the system rather than weaken momentum towards further liberalisation and reform. The terms and conditions of their accessions should thus be conducive to further liberalisation, making them 'forward-looking' Members. The EC is careful, however, that our request for accessions at WTO standards is commensurate with the level of development of each applicant country and does not effectively raise the accession fee to an excessive level above normal WTO standards.

3. Of the thirty-one countries in the process of accession:

- Negotiations are in an advanced stage with: Estonia, Lithuania, Armenia, Georgia, Croatia, Moldova, Oman, Jordan, Albania and Vanuatu (10). Technically the Taiwanese negotiations are very close to completion, but the political question of membership remains unresolved.

- Negotiations are more or less actively proceeding with: Algeria, Belarus, Kazakhstan, Nepal, Saudi Arabia, Seychelles, Ukraine, Uzbekistan, Vietnam and Tonga.

- Foreign Trade Regime Memoranda are still awaited from: Andorra, Azerbaijan, Cambodia, Former Yugoslav Republic of Macedonia, Laos People's Democratic Republic, Samoa, Sudan.

- The WTO General Council has not yet accepted requests from Federal Republic of Yugoslavia and Iran.

- Further details of negotiations with China, Chinese Taipei and Russia are given below.

## CHINA

Chinese accession to the WTO has been under discussion since 1986 while China has made significant progress since then in moving toward a market economy. The EC believes China still needs to significantly improve the level of commitments that it is offering, notably in the field of market opening. Examples of areas where improvements are necessary are: a further reductions of import tariff "peaks" on industrial goods, disciplines on the functioning of state trading enterprises in the field of agriculture, the elimination of non-tariff barriers in the motor vehicle sector, and commitments in the field of services, notably financial services, telecommunications, distribution and professional services.

Europe has taken the general position that China's reforms can only be successful if domestic changes are complemented with equal efforts to open to the outside world, hence underlining the importance of the WTO negotiations.

## CHINESE TAIPEI (full name Customs Territory of Taiwan, Penghu, Kinmen and Matsu)

On substance, negotiations with Chinese Taipei are well advanced in all areas. The EC has concluded a bilateral agreement on market access. The most recent meeting of the WP (7-8 May 1998) had a first reading of the draft report, and Chinese Taipei intends to settle the remaining open issues of the Working Party report before the next meeting of the Working Party, which would take place in the first trimester of 1999.

## RUSSIAN FEDERATION

The Working Party has held seven fact-finding meetings. However, while some WTO-compatible legislation has been introduced over the past two years, the state of the Russia economy is hampering the government's ability to push through necessary reforms. As for the prospect of market opening, the continued shrinking of the Russian economy is likely to constrain the mandate for tariff commitments, and opening of the services market. The Commission is just beginning substantive tariff negotiations, following receipt of the Russian tariff offer in February 1998. It is not clear when a first offer on services will be tabled.

## Main developments in the Committee on Trade and Development (CTD)

The implementation of the special and differential treatment provisions of the existing WTO agreements has been the focus of much of the Committee on Trade and Development (CTD)'s work during 1998. The CTD, via its Sub-committee for LDCs, has also monitored the follow-up of the 1997 High Level Meeting for co-ordination of technical assistance to the Least Developed Countries. It has continued its analysis of ways to evaluate the effectiveness of technical assistance and training provided by the WTO Secretariat in all areas of its competence. Electronic commerce and development needs have been discussed as well, in parallel with the overall WTO work programme on this new issue. The special concerns of small economies were brought to the attention of the TDC by a group of developing countries.

## Least Developed Countries (LDCs)

The Sub-Committee for LDCs focused on the follow-up of the HLM on LDCs. The Integrated Framework was approved by all the international agencies involved (WTO, ITC, UNCTAD, UNDP, WB and IMF), confirming their commitment to enhanced co-ordination of their trade-related technical assistance programmes. A Joint Administrative Unit located within the ITC was established to manage the process on a day-to-day basis and to service the inter-agency coordination. An Integrated Framework Website was established on the Internet (http//www.ldcs.org). Modern technology (computers, software and know-how) was provided to access it. Needs assessments and integrated responses were completed for 40 LDCs and round tables or consultative groups meetings took place bringing together donors, private sector and governments representatives.

The Sub-Committee has launched an in-depth analysis of the remaining obstacles to market access and of the supply side constraints for the LDCs. The EU has followed-up its market access commitment by adopting a GSP regulation[⊗] which brings to 99% the percentage of LDCs exports entering the EU market duty free. In June 1998 the EU has further announced that it will start by the year 2000 a process which by 2005 will allow duty-free access for essentially all products from all LDCs.
More generally, the core idea of the HLM, that is. the need for enhanced and focused co-ordination among technical assistance providers, is increasingly perceived as an essential tool to address the needs of all developing countries, not only the Least Developed among them, in order to help them building the necessary capacity to take advantage of the trading opportunities.

[⊗] As reported in the first report to the EP.

**Developing countries interests in the new round**

A decision has been taken to hold a WTO High Level Symposium on Trade and Development in Geneva on 17-18 March 1999. This will provide an important occasion to build mutual trust and consider how developing country concerns can be best integrated in WTO work.

## Telecommunications

The **Basic Telecommunications** Agreement involves 69 governments from all continents and it accounts for well above 93% of the world revenues in telecommunications services. The EC leadership role was crucial for a successful conclusion. The deadline for the acceptance of the Fourth Protocol was 31 July 1998, and the deal entered into force on 5 February 1998 The monitoring of the implementation of these commitments will be of the highest priority over the coming years for the EC.

## Financial Services

After the successful conclusion of the WTO negotiations on **Financial Services** at the end of 1997, on the 27 February 1998, the Fifth Protocol to the General Agreement on Trade in Services (GATS) was opened for acceptance by the WTO Members who took part. The majority of the WTO Members that participated in the negotiations completed their internal ratification procedures by the 29 January 1999 and the Fifth Protocol entered into force on 1 March 1999. As a result of these negotiations, a total of 102 countries have now entered into commitments in this sector. Many of them have submitted significantly improved commitments as regards both market access granted to foreign financial institutions and national treatment guaranteed for those companies operating in another WTO Member's territory. This constitutes a considerable contribution to the continuing process of opening domestic banking, insurance, securities and other financial services on a non-discriminatory basis to foreign financial service suppliers. To the largest extent possible, the EC's major negotiating objective was achieved, and its leadership role was of great importance.

## Electronic commerce

In 1998, in the field of **electronic commerce,** the Community consistently took a leading role in discussions on basic principles for trade. On 24 April the EC and its Member States submitted a Communication to the WTO on trade aspects of electronic commerce at the WTO General Council. This initiative called for a complete and balanced approach on all WTO issues at stake in electronic commerce including market access; the clarification of how the WTO and the GATS should apply to electronic transactions; import duties and charges and other issues. Subsequently, at the Second WTO Ministerial Conference on 18-20 May 1998, a Declaration on electronic commerce was approved establishing a comprehensive work programme on all such trade-related issues. The list of issues to be covered by that programme was established on 24 September 1998 based on the suggestions of WTO Members. In parallel, the decision was taken by all WTO Members to continue their current practice of not imposing custom duties on electronic transmissions. In 1998, the Community also participated in discussions on electronic commerce under the auspices of OECD.

## Other GATS issues

In accordance with the mandate set by the Singapore Ministerial Conference in 1996, the Community has been working within the WTO Working Party on **Professional Services** to improve the opportunities for accountancy professionals wishing to practise outside their home countries. In 1998, the Community continued to play a key role in the GATS working party on professional services, with a special priority given to work on the opening-up of procurement rules for services. At the end of 1998, the Working Party on Professional Services finalised work on development of multilateral disciplines on domestic regulation in the accountancy sector. This ensures that the regulation of the accountancy sector is no more trade-restrictive than necessary to protect the consumer.

The Singapore Ministerial "built-in agenda" included negotiations to take place on **subsidies, government procurement and safeguards** under the aegis of the Working Party on Rules. GATS Members are considering disciplines for subsidy measures which adversely effect trade in services as well as multilateral disciplines based on transparency and non-discriminatory for the procurement of services' contracts

The Working Party is also examining whether there is a need for an **emergency safeguard** clause in trade in services, which should serve as a safety valve and at the same time an incentive to take up further liberalisation. There are difficulties with respect to its effective application: how to define a service industry and calculate the 'injury' incurred due to a sudden increase of imported services.

## Geographical indications

The work initiated in 1997 was continued in the TRIPs Council in 1998. The information-gathering process generated submissions on existing notification and registration systems for geographical indications. In July 1998, the European Communities and the Members States made a proposal for a system of notification and registration for wines and spirits. This proposal is currently being considered by several delegations. The US delegation indicated its intention to make its own proposal for a register in 1999. EC intends to continue promoting its proposal on the basis of a voluntary system with no additional obligations beyond current TRIPs provisions.

## Other issues

In 1998 the TRIPs Council continued reviewing the implementing legislation of several Members. Specific reviews of some articles of the TRIPs Agreement ("built-in-agenda"), such as Art. 24.2 on geographical indications, Art.27.3.b on patentability of animals and plants has started in 1998 and will continue in 1999.

## AGRICULTURE

### The Committee on Agriculture

The WTO Committee on Agriculture held four meetings in 1998. In accordance with Article 18.1 of the Agreement on Agriculture, the Committee, at each of its meetings, reviewed progress in the implementation of commitments negotiated under the Uruguay Round reform programme. The review process was undertaken on the basis of notifications submitted by WTO Members in the areas of market access, domestic support and export subsidies. In 1998, the EC's notifications on tariff quota fill, the use of the Special Agricultural Safeguard Clause, internal support and on export subsidies were analysed. On internal support, the questions from WTO Members to the EC focused on the criteria for the classification of support measures in the 'Green Box', i.e. in the category of non-product related support measures that are exempted from the reduction commitment. On export subsidies, the discussion focussed on the use by the EC of the roll over as regards the subsidised exported quantities for rice, olive oil, bovine meat and wine during the marketing year 1996/1997. The roll over foreseen under Article 9, paragraph 2 (b) of the Agreement on Agriculture which allows WTO Members between the second and fifth year of implementation flexibility in their reduction commitment, i.e. to carry over unused cumulated subsidised exported quantities or budgetary outlays. The Committee on Agriculture also analysed the notification from the US on internal support, which included the Fair Act. WTO Members questioned whether the flexibility payments are to be classified in the 'Green Box'. The Committee on Agriculture also addressed a wide range of general and specific matters relevant to the implementation of commitments such as the WTO conformity of auctioning, the issue of preferential imports under WTO tariff quotas, state trading enterprises or the use of export subsidies by Hungary to which a waiver on export subsidies was granted in 1997. The regular work of the Committee on Agriculture has proven to be a key element of the Agreement on Agriculture itself. Members have to a large extent complied with their commitments on market access, domestic support and export subsidies. The notification process has proceeded in a timely fashion, permitting members to monitor implementation.

### Informal meetings of the Committee on Agriculture (the Process of Analysis and Information Exchange).

According to Article 20 of the WTO Agreement on Agriculture the negotiations for continuing the reform process will be initiated one year before the end of the implementation period, i.e. at the end of 1999.

During the WTO Ministerial Conference in Singapore in December 1996 it was agreed to stick to the timetable foreseen in Article 20 of the Agreement on Agriculture and the Committee on Agriculture was mandated to start a Process of Analysis and Information Exchange in the form of informal meetings to allow WTO Members to understand the issues involved and to identify their interests in respect of them before undertaking the negotiations. Five informal open-ended meetings of the Committee on Agriculture took place in 1998. WTO Members discussed topics on a wide range of areas, including special safeguards in agriculture (SSG), direct payments under production limiting programmes (Blue Box), direct payments

decoupled from production (Green Box), Aggregate Measurement of Support commitments, effect of inflation on domestic support reduction commitments, state trading enterprises, export restrictions and taxes, food security, other non-trade concerns and the multifunctional nature of agriculture, issues of interest to developing countries, and techniques of trade liberalisation. The discussions were based on informal papers submitted by WTO Members.

As regards internal support, a certain number of countries claimed that the elimination of Article 6.5 Direct Payments under Production-Limiting Programmes (Blue Box) should be considered. The EC has submitted a paper refuting this position defending the Blue Box measures. A certain number of countries supported the EC's view. Also Members took the view that the reconsideration of Blue Box measures should take place in a broader context, namely also in reconsidering the criteria for measures eligible under the Green Box.

The EC has submitted an informal paper on multifunctionality of agriculture in which the EC explained that agriculture, a part from its production function, encompasses also other functions such as the preservation, the management and enhancement of the rural landscape, the protection of the environment, and a contribution to the viability of the rural areas. Agriculture must also be able to respond to consumer concerns for example those regarding food quality and safety. A substantial discussion on this issue took place.

As regards developing country Members, the Process of Analysis and Information Exchange has permitted to identify some of the problems linked to the application of the provisions of the Agreement on Agriculture related to the special and differential treatment.

The Process of Analysis and Information Exchange has allowed Members to understand issues involved in the implementation of the Agreement on Agriculture and to identify their interest before starting the reform process.

## INDUSTRIAL TARIFFS

### WTO Committee on Market Access

The Committee work was concerned with updating the basic documentation on the schedules of concessions of WTO Members to incorporate the changes to the Harmonised System Nomenclature (HS) introduced in 1996. The Market Access Committee has also been addressing the possibilities of electronic verification of concessions through submissions to the integrated DataBase (IDB). A prerequisite for this is the availability in electronic format of consolidated versions of all schedules of concessions based on HS96. The consolidated schedules will include any concessions previously made at lower rates or not included in UR schedules. The WTO Secretariat will assist developing countries to produce their electronic versions on request. Developed countries are expected to produce it themselves. The EU has strongly supported this activity and also supported pressure on WTO Members who failed to fulfil their obligations regarding annual submissions of their tariff and trade data to the IDB.

### Information Technology Agreement (ITA)

The most intensive activity on industrial tariffs in the WTO during 1998 concerned the negotiations to supplement the product coverage under the (zero for zero) Information Technology Agreement. The 30 June deadline for completing these ITA II negotiations could not be met.

Following further intensive negotiations in which the EU had a key role, the situation was reached in December 1998 whereby all parties to the ITA except Malaysia and India were prepared to accept a modest extension to the existing product coverage – e.g. equipment for producing and testing printed circuit boards, certain telecommunication items, banking machines, modern photocopiers, radar/navigation equipment. Malaysia wanted the addition of certain mainstream consumer electronic products (e.g. TV-sets) while India objected to the inclusion of radar/navigation equipment and other products which might have a possible military use. This meant that the required consensus of all ITA participants to the extension of the product coverage, however modest, could not be achieved. Efforts will continue in 1999 to reach agreement.

The Committee of Participants on the Expansion of Trade in Information Technology Products will also continue its efforts to ensure that non-tariff measures do not impede trade in IT products. In this respect, the issue of standards and conformity assessment procedures will be further examined.

### Trade in Pharmaceutical Products

During 1998 there was a second review of the Uruguay Round agreement on pharmaceutical products. A consensus was reached among the WTO Members concerned to provide duty free treatment on an extra 615 products from 1 July 1999. The EU undertook all the detailed technical work needed to facilitate this review.

## COMMITTEE ON REGIONAL TRADE AGREEMENTS (CRTA)

The work of the CRTA has continued along two principal tracks: the examination of individual Regional Trade Agreements (RTAs) and the consideration of the systemic implications of such agreements and regional initiatives for the multilateral trading system. At the end of 1998, the CRTA had before it for examination a total of 62 RTAs, of which 20 directly involved the EC. Until now, the Committee has not been able to complete any individual examinations of RTAs. This in part reflects a continuing lack of consensus among WTO Members on the correct interpretation of certain elements of the WTO rules applicable to RTAs. Although the Committee updated and refined its identification of issues requiring consideration from a systemic viewpoint, it has not yet been able to formulate any appropriate recommendations to the WTO General Council.

During 1999, the Committee is expected to continue its work on the examination of individual agreements, with the view of completing them wherever possible. It will also continue to examine the range of systemic issues, which have been identified, and, as appropriate, make recommendations to the General Council.

EU policy in this area is firmly based on the recognition of the need to ensure that regional agreements and initiatives are fully compatible with and support the multilateral trading system. The EU has continued to play a leading role in the work of the CRTA.

## Committee on Trade and Environment

Work in the WTO on trade and environment is centred on the Committee on Trade and Environment (CTE) established by the WTO General Council in January 1995. In 1998 the Committee continued its work under the mandate and terms of reference contained in the Marrakech Ministerial Decision on Trade and Environment of 15 April 1994. The Committee's work is structured around the ten Items listed in that Marrakech Decision. The EC continued to play an active role in the work of the CTE in line with the importance it attaches to the Committee's work. The basic point of reference for the Community's input and its objectives remains the Commission's 1996 Communication to the Council and the European Parliament.

Under the Chairmanship of Ambassador See, the CTE met three times during 1998. The meeting held on 19-20 March addressed the Work Programme Items related to market access. The meeting included a sector specific discussion of agriculture, energy, fisheries, forestry, non-ferrous metals, textiles and clothing, leather, and environmental services. The EC submitted a comprehensive paper on all the sectors dealt with;

The EC also suggested that the CTE undertake further and in-depth analytical work on the environmental benefits of removing restrictions on trade in environmentally friendly goods, services and technologies. The EC suggested that more work should be done on defining such environmental services, and on identifying in more precise terms any linkages between environmental goods, services and technologies, an area identified in the CTE's 1996 report to the Singapore Ministerial.
The meeting of 23-24 July focussed on Items concerning the linkages between the multilateral environment and trade agendas. The EC underlined the importance of the relationship between WTO rules and Multilateral Environmental Agreements (MEAs) pointing out that clarification of the relationship was essential for the WTO's credibility. The EC also drew attention to the need for coherence between the positions adopted by WTO members on this issue in the CTE and those they take in other fora.

The third meeting of 1998 held on 26-28 October dealt with Items 9 and 10 and adopted the CTE's report to the General Council. The EC agreed to a factual annual report but in a statement following its adoption noted that the Committee did not operate in isolation from the outside world and that, accordingly, its work during 1999 should take into account both the backdrop of events in the run up to the 1999 Ministerial and developments in the discussion aimed at a new round of trade liberalisation negotiations.

On 17-18 March the WTO Secretariat organised with the financial support of the EC a symposium with non-governmental organisations (NGOs) entitled "Strengthening Complementarities: Trade, Environment and Sustainable Development". As with a similar symposium held the previous year, environment and development interests, as well as industry and consumers, from both developed and developing were

represented. In total some 50 NGOs took part, providing useful opportunity for enhanced transparency through an exchange of views.

**High Level Symposium on Trade and Environment**

The Commission believes that notwithstanding the useful work undertaken by the CTE to date, the Committee should now further accelerate and intensify its endeavours. To this end, the EC suggested that before the 1999 WTO Ministerial a High Level Symposium (HLS) be convened under the auspices of the WTO. Such a meeting has now been arranged in Geneva on 16/16 March 1999. The main objective of holding such a meeting would be to enhance at political level the further confidence building which has taken place so far in the CTE at official level. The aim is also to clarify possible misperceptions concerning the relationship between trade and environment policies. In particular, greater transparency and the involvement of civil society are important.

## Working Group on Trade and Investment

The WTO Singapore Ministerial conference in 1996 set up a Working Group on the relationship between Trade and Investment (WGTI). The mandate for the WGTI provided for a report after two years (end 1998) and made future WTO investment negotiations subject to a new separate decision by a WTO Ministerial conference. In December 1998 the WGTI adopted a Report to the WTO General Council. The descriptive part of the report is fully factual and reflects the views expressed in the Group, the majority of which have underlined the positive benefits of investment for developed and developing countries, as well as the presently uneven state of play of rule making on investment world-wide. The report also recommended to the General Council to decide an extension of the WGTI's "educational" work, without prejudging any decision that could be taken by the WTO Ministerial on the initiation of eventual negotiations.

The WGTI engaged, in the course of 1998, in analytical and educational work on the relationship between trade and investment; the effects of investment on growth and development; the relationship between competition policy and investment; the effect of investment incentives; bilateral, regional and multilateral investment agreements; the definition of investment; the feasibility and desirability of multilateral investment rules, in particular in the WTO framework. .

The issue of development has figure prominently in the WGTI discussion, and obviously much more so than in any other multilateral forum in which investment issues have been discussed, with the possible exception of UNCTAD. As to the latter, however, both the mandate of the WGTI and the Midrand Declaration under which UNCTAD carries out analytical work on investment issues clearly directed the two organisation to co-operate closely and to pool their respective expertise. The result has been a particularly valuable example of co-operation between international organisation, and the two Secretariats have ensured a constant and substantial flow of information and analysis between the WGTI on the WTO side and the investment experts meetings on the UNCTAD side.

In the discussion, most WTO Members (developed and developing countries alike) were concerned, on the one hand, with attracting investment flows as an engine for economic growth and job creation and, on the other hand, with their capacity to regulate economic activity on their territory, including – and perhaps in particular – by foreign investors.

In the 4 WGTI meetings held in 1998, the Commission presented 3 written contributions on behalf of the Community and its Member States and actively participated in the discussion. Community interventions were discussed and co-ordinated with Member States prior to meetings of the WGTI.

In the latter part of the WGTI discussions, the Community has focussed on the need to build confidence in multilateral rule making for investment as a means to create a more stable investment climate throughout WTO membership. To this end, the first paper submitted to the WGTI concerned the identification of common features and differences of international investment instruments to which the European Community and its Member States are parties. The second submission related to the different approaches to the admission of investment in international investment agreements. Our third paper outlined the relationship between foreign investment and competition policy.

The Commission feels, however, that more substantive analysis should be done in 1999 on some key issues that were on the agenda of the Working Group and that were not discussed, or only briefly so. This is notably the case of the relationship between international investment rules and the right (and ability) of host countries to regulate economic activity (and whether separate regulation of foreign investors is appropriate); whether (and if so, how) international investment rules can enhance the development policies of the host country; what role the WTO should play in investment rule-making.

## Working Group on the Interaction between Trade and Competition Policy

Following a European initiative WTO members agreed at the second Ministerial meeting in 1996 to establish a Working Group to study the interaction between trade and competition policy. The basic premise for involvement of the WTO in this new area was that business behaviour today is more and more integrated across different markets and jurisdictions, and that there is therefore a strong case for strengthening the mutual supportiveness of national competition policies. A second point was that, as the WTO includes ever further reaching disciplines on the actions of governments with respect to international trade and investment, there should be an equal commitment to eliminating anticompetitive practices whose effect may be the same, i.e. to divide markets or foster monopolistic or other practices that harm consumers and the overall competitiveness of the economy. This is also the approach taken in the EC Treaty, where the elimination of public barriers to trade between Member States is complemented by provisions to prevent enterprises setting up barriers that would have the same effect. A third point is that a gradual convergence of national competition policies can reduce business costs as well as increasing the predictability of decisions of competition authorities to the advantage of private enterprise. Lastly, promoting equal conditions of competition between countries is at the heart of the mandate of the WTO, and will improve productivity and welfare across countries at all levels of development.

The EU has supported the exploratory work conducted in the WTO on the interaction between trade and competition policy. The EU has presented seven written submissions and played an active role throughout its discussions. The WTO Working Group has had a full agenda and all WTO members, both developed and developing, have participated in its activities and made submissions. The Working Group has met eight times, with each meeting devoted to specific issues relating to the interaction of trade and competition policy. Delegations have intervened to highlight their experiences and perspectives in a specific area, and this has been followed by debateAt the end of 1998, the Group presented a report which summaries the discussions of its two years of work. It was decided to hold further meetings in 1999 in order to have a more in depth considerations of certain topics.

There is now broad recognition among members of the Group that anticompetitive practices can have a significant effect on international trade. In the same vein developing countries have recognised that the adoption of competition law structures is an important ingredient when establishing a coherent overall policy for development, structural adjustment and reform. These will include other measures such as privatisation, deregulation, establishment of prudential and other supervisory structures, and foreign investment and trade liberalisation. The mutual supportiveness of trade liberalisation and competition enforcement has also been generally emphasised.

Throughout the WTO debate the European Union has given due consideration to the fact that there are many WTO members who do not yet have a comprehensive and effectively operating competition law and policy. We have recognised also that there are differences in the way in which competition policy is applied in different markets. There are also differences in the respective roles of administrative authorities and the judiciary on the enforcement of competition law.

## TRADE FACILITATION

Industry and business groups worldwide have called for action to simplify, harmonise and automate import and export procedures, reduce border and transport red tape and documentation, improve pre-shipment, customs inspection and licensing rules, and make procedures more transparent.

At the Singapore ministerial meeting in 1996 it was agreed that the WTO should carry out analytical work on the simplification of trade procedures, to assess the scope for WTO rules. The Community, and EU business federations, attach priority to this work, now underway in the WTO. Simplified trade procedures not only reduce costs to traders ; they also help governments in terms of improving efficiency of regulatory and border controls and, ultimately, higher revenue intakes. Any rule making in this area should of course be buttressed by commitments to capacity building in developing countries so that they can best take advantage of modern forms of trade administration. It should also be geared to helping SME's trade internationally.

## GOVERNMENT PROCUREMENT

The EU has continued to play a leading role in all three WTO Groups in which the issue of government procurement is being discussed –the multilateral work on both Transparency in Government Procurement and on Procurement of Services, and the plurilateral Government Procurement Agreement (GPA).

Multilaterally, the EU has a major offensive interest in bringing public procurement increasingly within WTO disciplines. It is presently exempted from the most basic of WTO disciplines, in particular that of national treatment, by virtue of GATT Article III.8 and GATS Article XIII.1. As a result, governments are able to maintain opaque and discriminatory procurement practices which – with government purchasing accounting for up to 15% of GDP - significantly distort trade and reduce potential growth. In large part, and particularly outside the framework of the GPA, EU companies have few – if any - guarantees of access to procurement market and are often either *de facto* or *de jure* excluded, yet our own procurement market is, to all intents and purposes, open to foreign competition.

However, it is important to recognise that the process of bringing procurement under the multilateral umbrella will be a long and gradual one. The fact that the GATT and GATS exemptions have existed unchallenged and largely unquestioned for so long bears witness to this. Nevertheless, two existing multilateral WTO processes should help to put us on the right track - the procurement of services work foreseen under the GATS, and the transparency exercise initiated at the Singapore Ministerial Conference. The EU has worked constructively and intensively on both fronts, on the former to ensure that the substantive negotiations to which all WTO members are committed deliver a balanced and mutually advantageous trade liberalisation, and on the latter to develop a shared understanding as to what the basic principles of transparency in government procurement are.

The EU remains committed to the GPA and has continued to play an active role in the Review of that Agreement. The aim of the Review is to make the Agreement more attractive to non-members by simplifying the rules (without reducing their strength), taking account of advances in information technology, and expanding coverage. In parallel, the EU has continued to seek to persuade third countries of the benefits of GPA membership and has engaged in further negotiations with existing members in order to expand coverage of the GPA regime in the bilateral relationship.