

## **TRADE POLICY REVIEWS**

### **IN SELECTED APEC ECONOMIES**

Note by the WTO Secretariat<sup>1</sup>

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1. APEC economies represent a large and influential constituency in the WTO. Some of them are among the most open economies in the world and have demonstrated a long-term commitment to opening up their markets to international trade and investment. The progress of individual APEC economies in this regard has been tracked in the WTO over many years through the Trade Policy Review Mechanism (TPRM); the results for Australia; Canada; Japan; New Zealand; the United States; Chile; Hong Kong, China; Korea; Malaysia; Mexico; Peru; Singapore; and Chinese Taipei are summarized in the Appendix to this paper.

2. Over the past twenty years, APEC economies have been at the forefront of efforts to liberalize trade multilaterally through the GATT and the WTO and to strengthen the rules-based multilateral trading system. They have been active in all areas of the current negotiations under the Doha Development Agenda (DDA). APEC economies played a valuable role in forging the political consensus that allowed the successful conclusion of the Uruguay Round negotiations in 1994. APEC needs to continue to show that same energy and commitment to help establish consensus for a prompt and successful conclusion of the DDA.

3. The world economy avoided a serious outbreak of trade protectionism in the context of the global financial crisis. This fact can be attributed in large part to the existence of the multilateral trading system, and the maturity of the political response to the crisis by developed and developing countries. Governments have been largely successful in resisting protectionist pressures to date. The danger of protectionism was clearly recognized, and firmly rejected by APEC Leaders at all their meetings. APEC's strong political messages to eschew new trade restrictions and to highlight the benefits of trade liberalization have been valuable in providing a much needed counterbalance to protectionist pressures. However, those pressures will not relent until rates of unemployment stop rising and economic recovery is well established and is once again generating job growth. Continued vigilance over trade policy developments must be a key element of the response of WTO Members, including APEC economies, to ensure that trade-led growth is at the forefront of global economic recovery and that trade restrictions do not derail it.

4. With regard to regionalism, although in general APEC industrialized economies have aimed to undertake preferential trade liberalization which is comprehensive and includes trade in goods, services and investment, some gaps and asymmetries remain. Efforts by APEC to develop detailed model measures of best practices in RTAs can help to further trade and investment liberalization and to fulfil APEC's goal of "open regionalism" and free trade among its members. In this regard, the 2009 Decision by APEC Trade Ministers to accelerate work on identifying divergences in APEC member RTAs and to facilitate trade *inter alia* through the "harmonization of rules of origin", as well as reduce "behind the border measures", is an important recognition of the need for convergence of RTAs on the multilateral trading system.

#### **APEC and Regional Trade Agreements**

5. The Bogor Declaration of 1994 set out a number of goals for APEC economies to meet, the key among which was free and open trade in goods, services and investment by 2010 for "developed" APEC economies. At that time APEC economies were involved in few regional trade agreements (RTAs), principally the North American Free Trade Area (NAFTA), the Association of South East

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<sup>1</sup> This note has been prepared under the sole responsibility of the WTO Secretariat in response to a request from the APEC Secretariat.

Asian Nations (ASEAN) and the Australia-New Zealand Closer Economic Relations (CER) agreement. By the time a mid-term stocktaking exercise was conducted in 2005, approximately 45 RTAs (many of them covering both goods and services) involving APEC economies were in force. Today, the 13 APEC economies have almost 100 RTAs in force. All APEC economies are involved in RTA negotiations.

6. Given the increased involvement of APEC economies in RTAs and the need for reconciling this trade policy goal with APEC's "open regionalism" goal, APEC has encouraged its members to negotiate "consistent and high-quality" agreements and to use APEC's *Best Practices for RTAs and FTAs* in negotiating RTAs. The Best Practices *inter alia* call for consistency of RTAs with APEC and WTO principles and rules; that they build upon existing WTO commitments and explore commitments in additional areas not covered by WTO rules; comprehensive coverage including liberalization in all sectors including the elimination of tariff and non-tariff barriers to trade and investment as well as minimum phase out periods for protection of sensitive products; transparency; efforts to improve trade facilitation; and simple rules of origin. To remain consistent with APEC's open regionalism policy, the agreements should also be open to accession from all third parties on negotiated conditions.

7. Model measures following the *Best Practices* have been developed for fifteen Chapters most commonly found in RTAs.<sup>2</sup> The model measures are intended to guide APEC members when negotiating their RTAs. APEC members have also been discussing the possibility of negotiating a Free Trade Area of the Asia Pacific (FTAAP) which would bring together the APEC economies in a single regional trade agreement.

8. The 13 APEC economies currently have 40 RTAs in force with APEC members and an estimated 59 with non APEC economies.<sup>3</sup> The lead in negotiating intra-APEC RTAs has been taken by Singapore Japan and Chile with 13, 10 and 9 intra APEC RTAs in force. This is followed by Australia with 7 intra APEC agreements, Malaysia, New Zealand and Peru with 6 each and the United States with 5 agreements in force. Chinese Taipei is the only one of these APEC economies that does not have intra-APEC RTAs in force currently. A large number of additional intra-APEC agreements are under negotiation by these economies with Korea leading the field with 7 agreements being negotiated or yet to enter into force

9. In addition to negotiating RTAs within APEC, APEC economies are involved in RTAs with non-APEC countries. The number of these agreements in force today for these 13 APEC economies is 59. In contrast to the pattern for intra-APEC RTAs, Mexico and Chile have taken the lead with 19 and 16 RTAs in force, followed by Peru with 7 agreements and Singapore and the United States with 6 each.<sup>4</sup> Thus, while APEC continues to lower intra-APEC tariffs, both through unilateral and preferential tariff reductions, several APEC economies are also reducing tariffs on a preferential basis outside the region.

10. Regarding intra-APEC trade liberalization in goods, data submitted to the WTO Secretariat by the parties to recent RTAs and used in the Secretariat's factual presentations (see list of RTAs in Table II below) show that in general coverage in terms of elimination of tariffs ranges between 87% and 100% of tariff lines liberalized and 86% and 100% of RTA imports liberalized at the end of the period

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<sup>2</sup> These are: trade facilitation (endorsed in 2005); cooperation, dispute settlement, government procurement, technical barriers to trade, trade in goods and transparency (endorsed in 2006); electronic commerce, rules of origin and SPS measures (endorsed in 2007); and competition policy, customs administration and trade facilitation, environment, safeguards and temporary entry for business persons (endorsed in 2008).

<sup>3</sup> The figures on RTAs in force include those that have been notified to the WTO as well as those that have not been notified.

<sup>4</sup> A number of the extra-APEC RTAs, especially those involving Mexico and Chile, are partial scope agreements under the umbrella of the LAIA/ALADI agreement.

of implementation<sup>5</sup>. The implementation period of these RTAs ranges from immediate liberalization to up to 20 years in a few cases, with the majority of agreements being implemented within 15 years. Average preferential tariffs in APEC economies as a result are considerably lower than current average MFN rates. By 2010, these preferential average rates are expected to be lower still and in some cases eliminated altogether (Table I). In several cases there is significant liberalization in RTAs, resulting in a large gap between the applied MFN and preferential tariffs.

11. Liberalization in some cases is asymmetric. Of the APEC economies covered in this paper, Canada, Japan, Korea, Mexico, Peru and the United States tend to have higher average preferential (and MFN) tariffs for agricultural products compared with relatively liberal tariff policies for non-agricultural products<sup>6</sup>; the differences between agricultural and non-agricultural average tariffs are particularly marked for Korea, Canada and Mexico. Australia, Malaysia and New Zealand have higher average tariffs for non-agricultural products than for agricultural products.

12. The general tendency to protect agriculture more than non-agriculture is evident from the share of agricultural imports liberalized under RTAs, which tend to be significantly lower in some cases, as well as from longer implementation periods for phasing out agricultural tariffs. Agricultural liberalization in RTAs is also frequently tempered by the use of tariff rate quotas which restrict the quantity of a particular import under preferential tariffs, and special safeguards which also ensure that imports do not exceed certain fixed quantities or drive domestic prices below certain levels.

**Table I: Intra APEC RTAs  
2010 unless otherwise indicated**

	Total average tariff	Agriculture (WTO)	Non-agricultural products
<b>Australia</b>			
<b>MFN (2009)</b>	<b>3.6</b>	<b>1.4</b>	<b>3.9</b>
Chile	1.2	0	1.3
New Zealand (CER)	0	0	0
Papua New Guinea (PATCRA)	0		
Singapore	..	..	..
Thailand	0.2	0	0.2
United States	0.5	0	0.6
ASEAN-New Zealand <sup>a</sup>	..	..	..
<b>Canada</b>			
<b>MFN (2009)</b>	<b>6.2</b>	<b>21.9</b>	<b>3.7</b>
Chile	..	..	..
Peru	2.6	17	0.1
NAFTA (2009)			
- United States	3	17.2	0.6
- Mexico	3	17.1	0.6
<b>Chile</b>			
<b>MFN (2009)</b>	<b>6</b>	<b>6.1</b>	<b>6</b>
Australia	0.7	0.3	0.8
Canada	..	..	..
China	0.4	0.2	0.5
Japan	0.8	2.3	0.6
Mexico			
Korea			
Trans-Pacific SEP			
- Brunei	0.3	1.3	0.2
- New Zealand	0.3	1.3	0.2
- Singapore	0.3	1.3	0.2

**Table I (cont'd)**

<sup>5</sup> The estimates are based on calculations by the WTO Secretariat for factual presentations of RTAs shown in Table II below. All other factual presentations can be consulted through the WTO's RTA database (<http://rtais.wto.org>).

<sup>6</sup> Chinese Taipei's average MFN tariff for agricultural products is also higher than for non-agriculture.

	Total average tariff	Agriculture (WTO)	Non-agricultural products
United States			
<b>Chinese Taipei</b>			
<b>MFN (2009)</b>	<b>3.6</b>	<b>10.1</b>	<b>2.4</b>
<b>Hong Kong China</b>			
<b>MFN (2009)</b>	<b>0</b>	<b>0</b>	<b>0</b>
China			
<b>Japan</b>			
<b>MFN (2008/09)</b>	<b>4.8</b>	<b>11.2</b>	<b>3.4</b>
ASEAN			
- Brunei	2.3	9.7	0.8
- Indonesia	2.1	9.4	0.6
- Malaysia	1.9	8.6	0.5
- Philippines	2	8.9	0.6
- Singapore			
- Thailand	2	8.8	0.5
- Vietnam			
Chile	2.0	0.6	1.9
Mexico	2.1	9.9	0.6
<b>Korea</b>			
<b>MFN (2008)</b>	<b>12.8</b>	<b>53.5</b>	<b>6.5</b>
APTA	12.3	53.2	6.0
Chile	6.3	46.6	0.1
<b>Malaysia</b>			
<b>MFN (2009)</b>	<b>7.4</b>	<b>2.8</b>	<b>7.9</b>
CEPT (AFTA)	0.7	0.7	0.7
China	2.9	0.6	3.2
Japan	4.6	1.8	5.0
Korea	3.2	1.2	3.4
<b>Mexico</b>			
<b>MFN (2007)</b>	<b>11.2</b>	<b>23.0</b>	<b>9.9</b>
NAFTA			
- Canada	0.4	4.4	0.0
- United States	0.0	0.1	0.0
Chile	0.2	1.8	0.0
Japan	7.6	12.9	7.0
<b>New Zealand</b>			
<b>MFN (2009)</b>	<b>2.4</b>	<b>1.8</b>	<b>2.5</b>
Australia	0	0	0
China	1.5	0.6	1.7
Singapore	0	0	0
Thailand SEP	0.6	0	0.7
Trans-Pacific SEP			
- Brunei	0.6	0	0.7
- Chile	0.6	0	0.7
- Singapore	0.6	0	0.7
<b>Peru</b>			
<b>MFN (2009)</b>	<b>5</b>	<b>6.3</b>	<b>4.8</b>
Canada	1.4	2.3	1.3

Table I (cont'd)

	Total average tariff	Agriculture (WTO)	Non-agricultural products
Singapore	2.7	3.3	2.6
United States	0.9	1.9	0.7
<b>Singapore<sup>b</sup></b>			
<b>MFN (2009)</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>United States</b>			
<b>MFN (2009)</b>	<b>4.2</b>	<b>8.2</b>	<b>3.8</b>
Australia (2009)	1.3	2.6	1
Chile	0.4	2	0.1
NAFTA			
- Canada	0.1	0.1	0
- Mexico	0	0.1	0
Peru	0.5	2.8	0.1
Singapore	..	..	..

a Notification expected.

b Singapore has RTAs with: AFTA, Australia, China, Japan, Korea, Peru, Transpacific SEP (Brunei, Chile, New Zealand) and the United States. Its MFN tariff is zero except for six lines for which it maintains specific duties. In its RTAs, it has agreed to remove these specific duties on the six lines.

.. Not available

Note: The MFN 2009 tariff is taken from notifications to the IDB or for the TPR of the individual country; the preferential tariff is taken from the RTA database and therefore reflects commitments made between the RTA partners.

Source: WTO TPR, RTA and IDB databases.

13. Preferential trade liberalization in services and investment tends to be based either on a positive GATS type list of commitments or on a negative list where all is assumed to be liberalized except for non-conforming measures listed by the parties to the RTA. Although difficult to measure, in general it seems that liberalization of services and investment in RTAs tends to go beyond commitments by APEC Members of the WTO in the GATS, both through additional commitments and also through the inclusion of new sectors in which the parties have no GATS commitments. The degree of additional liberalization, however, tends to vary considerably, depending on the agreement and the parties. In several cases, the status quo is bound through RTAs, as a result of which there is relatively little preferential liberalization in addition to what is already available on an MFN basis to other WTO Members.

**Table II: Factual Presentations of RTAs between APEC economies considered in the CRTA**

Australia-Chile (goods and services)	Brunei Darussalam-Japan (goods and services)	Chile-China (Goods)
Chile-Japan (goods and services)	Japan-Indonesia (goods and services)	Japan-Malaysia (goods and services)
Japan-Mexico (goods and services)	Japan-Philippines (goods and services)	Korea-Chile (goods)
Korea-Singapore (goods and services)	Thailand-Australia (goods and services)	Thailand-New Zealand (goods)
Trans-Pacific Strategic Economic Partnership (goods and services)	US-Australia (goods and services)	



## APPENDIX

### **Summary of the Secretariat's reports for WTO Trade Policy Reviews (TPR) of Australia; Canada; Japan; New Zealand; the United States; Chile; Hong Kong, China; Korea; Malaysia; Mexico; Singapore; Peru; and Chinese Taipei.**

#### **I. AUSTRALIA**

(i) *The fifth TPR of Australia, 2007 (WT/TPR/S/178/Rev.1)*

14. The high degree of transparency in the formulation and evaluation of Australia's economic policies in relation to their rationale, nature, and economic effects, enhances government accountability and public debate over the merits of these policies. Hence, transparency has contributed greatly to the continued process of reform, which began in the 1980s, and in which trade liberalization, much of it unilateral, has played an integral part. The extent of structural reform in Australia is exemplified by the drop in the effective rate of assistance for manufacturing during the past two decades, from 25% to 4.5% in 2003-04, the last year for which the indicator is available.

15. Australia's foreign investment regime is generally transparent and liberal, although foreign equity restrictions in certain "sensitive" sectors remain, and a screening process continues to be applied to ensure that foreign investment is not contrary to the "national interest".

16. As a result of unilateral reductions (in 2005) in tariffs applied to textiles, clothing, and footwear (TCF) as well as to passenger motor vehicles (PMVs), the overall simple average applied MFN tariff rate (including ad valorem equivalents of non-ad valorem duties) fell from 4.5% in 2002 to 3.8% in 2006. Despite the cuts in tariffs applied to TCF and PMV products, their rates are still considerably higher than the average applied MFN rate. In addition, non-ad valorem rates, applying to a few tariff lines, tend to conceal relatively high tariffs. Although strict sanitary and phytosanitary (SPS) measures remain, steps have been taken to improve import risk analyses in order to make the process more transparent, efficient, and timely. Australia has observer status in the WTO Committee on Government Procurement, but has no intention of becoming a party to the GPA. Government procurement of motor vehicles still incorporates local-content requirements.

17. Discretionary export licensing restrictions are maintained for reasons related to SPS, the environment, and alignment with international agreements. Export quotas remain on some cheese products and merino sheep. Exports of certain agricultural products are still managed by state-trading enterprises. Although local-content requirements were removed under the Export Market Development Grants in June 2006, the values of the Export Finance and Insurance Corporation's contracts with recipients of such assistance continue to depend on the degree of local content.

18. The Tax Expenditure Statement publishes details of tax measures annually, enhancing their transparency. However, the apparent lack of cost-benefit analysis of some schemes, including tax measures, makes it difficult to determine whether the assistance has yielded net social benefits. Following the review of the National Competition Policy, the Council of Australian Governments endorsed a new National Reform Agenda, including competition and regulatory reforms. In addition, the Banks Taskforce made a large number of recommendations (including regular review and cost-benefit analysis of regulations). Amendments to the Copyright Act 1968, and minor changes to the Patents Act 1990 were made to incorporate requirements under the AUSFTA. The authorities state that these changes are applied on an MFN basis to all WTO Members.

19. Domestic support for agriculture remains well below the OECD average. Tariffs on agricultural products remain low (averaging 1.4% in 2006), but ad valorem equivalents for a few non-ad valorem duties are much higher. Despite the privatization/corporatization of some

state-trading enterprises, state-trading arrangements have been maintained for exports of some agricultural products. In addition, Australia's quarantine framework remains strict. The mining sector operates in a competitive market. The effective rate of assistance for mining was virtually zero in 2003-04. Manufacturing continues to receive the largest portion of budgetary assistance.

20. During the review period, government assistance to services has been increasing, mainly through measures to encourage investment, R&D, and exports. Stricter prudential regulations in financial services were announced in 2006 to bring them into line with international practices. It was announced that foreign ownership restrictions on media would be removed from 2007. The regulatory framework in maritime transport was identified as the greatest impediment to the development of Australia's infrastructure. Since the signing of a bilateral agreement in 2003, international airlines from New Zealand have been accorded cabotage rights. Also, price regulation of airport services has been relaxed since 2002, and the Government has discontinued price notification and price-cap arrangements for all airports, and introduced price monitoring for the seven most important.

(ii) *The fourth TPR of Australia, 2002 (WT/TPR/S/104)*

21. Australia's trade and trade-related policies as well as their formulation are, by and large, highly transparent. Information on the nature, if not the effects, of various policies is usually available in published documents and from web sites operated by most public sector entities. Moreover, the Freedom of Information Act allows public access to non-confidential government documents. The transparency of policies, practices, and measures is further enhanced by organizations such as the Productivity Commission, the main independent review and advisory body, which reports on and conducts evaluations of the economic impact and/or effectiveness of protection, government assistance, and regulations.

(iii) *The third TPR of Australia, 1998 (WT/TPR/S/41)*

22. Since its previous Trade Policy Review in 1994, Australia has, by and large, pressed on with its unilateral trade liberalization programme, which has been central to the process of structural reform and the exposure of Australian business to increased competition. Under the current programme, the general level, which dropped to 5% in 1996, is expected to be reduced further by the year 2000. Furthermore, Australia has met its Uruguay Round commitments by tariffing all remaining quantitative restrictions in agriculture and removing export subsidies. Internal structural reforms have been seen as complementing the trade liberalization process. There has been a reduction in subsidies, spurred by the Government's commitment to reduce the budget deficit. Australia has also recently enacted a new competition policy, which requires, *inter alia*, a review of all legislation that may contain anti-competitive elements and impose costs on business. Moreover, government enterprises, previously excluded from competition rules, are now subject to the same rules as private business. Deregulation and privatization are also taking place in many services sectors. A continuation of the trade reforms, accompanied by comprehensive competition policy reforms and internal deregulation, is seen as the key to improved competitiveness and the ability of Australian industry to compete successfully on the international market. The high degree of transparency regarding the nature and effects of various distortions to competition have greatly facilitated not only this Review, but the process of trade and structural reform during the 1990s.

## II. CANADA

(i) *The eighth TPR of Canada, 2007 (WT/TPR/S/179/Rev.1)*

23. The outward-looking orientation of Canada's trade regime has facilitated the economy's successful adjustment to a number of external shocks, and helps explain Canada's good economic

performance during the period under review. However, significant trade barriers still protect certain agricultural activities, and foreign investment restrictions remain in some sectors such as telecommunications, audiovisual, and air transport.

24. Canada grants at least MFN tariff treatment to all WTO Members. The simple average applied MFN tariff declined slightly, from 6.8% in 2002 to 6.5% in 2006. Around 53% of all tariff items entered Canada duty free in 2006. There is tariff escalation between semi-processed and fully processed products. Internal taxes are applied equally to imported and domestic products except for wine produced from Canadian-grown grapes, which is exempt from federal excise duties, and for initial production volumes of beer made by domestic brewers, which are subject to lower excise duties than imported beer. There has been a sharp reduction in Canada's use of contingency measures during the period under review. The importation of used motor vehicles is prohibited, except when they originate in the United States.

25. Export taxes are applied on softwood lumber exported to the United States when the agreed reference price for lumber falls below a certain threshold. This is the result of an agreement between the United States and Canada ending a long-running trade dispute regarding U.S. anti-dumping and countervailing duties on imports of Canadian softwood lumber. Export duties are also imposed on Canadian-manufactured tobacco products with the aim of reducing smuggling.

26. Canada is a party to the WTO Agreement on Government Procurement. The list of Canada's state-trading enterprises includes the Canadian Wheat Board, the Canadian Dairy Commission, the Freshwater Fish Marketing Corporation, the ten provincial and territorial liquor boards, and the Ontario Bean Marketing Board. During the period under review, changes were made to the Patent Act and the Trademarks Act. The Patented Medicines (Notice of Compliance) Regulations and the data protection provisions in the Food and Drug Regulations were amended in October 2006.

27. In agriculture, according to the OECD, support remains below its members' average, and is relatively less trade distorting. Canada provides significant assistance to supply-managed products (which cover dairy products, chicken, turkey, eggs, and broiler hatching eggs), including through the use of high out-of-quota tariffs (frequently exceeding 200%). In-quota volumes are, in some cases, small, reserved for certain countries, or for preferential partners at reduced tariff rates. The Canadian Wheat Board has a monopoly on sales for export and for domestic human consumption of wheat and barley produced in Western Canada.

28. Several provinces and territories offer tax incentives for the processing of minerals originating in mines located within the respective province or territory. With respect to oil and gas, official approval for investment may, in some cases, be linked to local content requirements. In the electricity sector, competition and state involvement varies between provinces.

29. There have been no major regulatory changes to Canada's telecommunication, broadcasting, financial or transportation services. In telecommunications, facilities-based common carriers providing telecommunications services in Canada must be Canadian-owned and controlled. The banking sector is open to foreign competition, but ownership restrictions apply on domestic and foreign banks. In maritime transport, cabotage remains reserved for Canadian-flag ships, although access to foreign ships is allowed when suitable Canadian-registered ships are not available. In the air transport sector, foreign-owned airlines may not provide cabotage services and foreign ownership of Canadian airlines is limited to 25% of voting shares, supplemented by a flexible *de facto* control examination.

(ii) *The seventh TPR of Canada, 2003 (WT/TPR/S/112)*

30. Since Canada's previous Review in December 2000, adjustments in its trade policies and practices have confirmed that its trade regime is amongst the world's most transparent and liberal, notwithstanding barriers to imports in a few albeit important sectors.

(iii) *The sixth TPR of Canada, 2000 (WT/TPR/S/78)*

31. Canada's trade and investment regime is amongst the world's most transparent and liberal notwithstanding persistent barriers in a few but important areas, including certain agri-food industries, textiles and clothing, and some service activities.

(iv) *The fifth TPR of Canada, 1998 (WT/TPR/S/53)*

32. Canada has continued to pursue an outward-oriented strategy that, combined with prudent macroeconomic policies, has been integral to a recent strong growth performance. However, a few areas have proved relatively impervious to change and remain sheltered from foreign competition by trade or investment barriers; among those are certain activities in the agriculture, textiles and clothing, motor vehicles and services sectors.

(v) *The fourth TPR of Canada, 1996 (WT/TPR/S/22)*

33. External liberalization is being complemented by a process of internal deregulation, commercialization and government retrenchment. This has helped to ease distortions in the incentive system, consolidate public finances and create a stronger basis for longer-term economic expansion; in the meantime, however, unemployment remains high and domestic demand lags GDP growth. Under the new Agreement on Internal Trade (AIT), efforts are being made to harmonize conditions for trade and investment and facilitate factor flows among the provinces. The combined effects of domestic and external reforms touch virtually all sectors of the economy, with the exception of a few sensitive areas such as cultural industries and supply-managed agriculture.

34. Canada became a founding Member of the WTO on 1 January 1995. Tariff liberalization has proceeded in line with both NAFTA and WTO obligations. Tariffs on U.S.-made manufactures currently average about 1 per cent as against 6.6 per cent on m.f.n. imports. To prevent further erosion of General Preferential Tariff benefits, a reduction in preferential rates on some 3,000 items and an extension in product coverage are being phased in. Canada has also embarked on a tariff review process intended to simplify the present multi-layered tariff régime. To enhance industrial competitiveness, tariffs on some 1,500 items, mainly inputs for manufacturing, were reduced in June 1995. Performance-based duty drawback and remission schemes are being phased out under WTO and NAFTA provisions. Anti-dumping remains a potentially powerful trade defence instrument, with over 90 measures currently in force (including price undertakings). However, the number of new initiations has declined in the wake of booming exports and currency depreciation, continuing a downward trend since the mid-1980s.

### **III. JAPAN**

(i) *The ninth TPR of Japan, 2009 (WT/TPR/S/211/Rev.1)*

35. Since its previous Trade Policy Review, Japan has introduced measures aimed at further liberalizing its trade and investment regimes. The authorities continue to promote regulatory reform and strengthen competition policy. It would appear that Japan has not introduced new trade measures to protect its market since the onset of the global financial crisis in September 2008.

36. Japan has continued to take measures to make itself a more attractive investment destination for foreign firms. On the other hand, for the first time under the current Foreign Exchange and Foreign Trade Law, the Government has issued a recommendation against an FDI proposal (for an electric utility) on the grounds of "public order, public safety, and national security".

37. Most imports enter Japan duty free or are subject to low tariff rates. In fiscal year (April-March) 2008, the simple average applied MFN tariff rate (including ad valorem equivalents of non-ad valorem duties) was 6.1%, down from 6.5% in FY2006. Nearly 99% of tariff lines are bound and most applied MFN rates coincide with bound MFN rates, thereby imparting a high degree of predictability to Japan's tariff schedule. At the same time, non-ad valorem duties are an important feature of the tariff, particularly for agricultural products. These duties, which account for 6.7% of all tariff lines, tend to involve high ad valorem equivalents. Preferential tariff rates are offered to 141 developing countries and 14 territories under the GSP, including additional preferences for 49 LDCs. Whereas the simple average tariff rate under the GSP is 4.9%, that for LDCs is 0.5% (down from 3.3% in FY2006). Japan also grants preferential access to imports from Singapore, Mexico, Malaysia, Chile, Thailand, Indonesia, and Brunei under bilateral free-trade agreements. Japan has few non-tariff border measures. Those currently applied notably involve some import prohibitions and quantitative import restrictions (for example, on some fish). Since its previous Review, Japan has used two anti-dumping measures. It has one countervailing measure in place. It did not impose any safeguard measures during the period under Review.

38. Japan maintains certain export controls on national security and public safety grounds and to ensure adequate domestic supplies of certain agricultural and other primary products.

39. No preferences are granted to domestic suppliers with regard to procurement covered by the Agreement on Government Procurement. In March 2007, the Government adopted the Basic Policy for Public Procurement of Information Systems, whose main objective is to increase transparency. About 96% of Japanese Industrial Standards (JIS) were aligned to their international counterparts in 2008 (compared with 93% in 2005). Although Japan has relatively high statutory rates of both corporate and personal income taxes, the amount of taxes collected in relation to GDP is relatively low in comparison with other OECD countries. Various laws on intellectual property rights (IPRs) have been amended since Japan's previous Review to strengthen protection (e.g. by increasing penalties for infringement). The authorities have continued their efforts to reduce the time required for patent registration. In June 2007, Japan adopted a new Three-Year Programme for Promoting Regulatory Reform, which was further revised in March 2008. The authorities intend to continue to strengthen competition policy. A bill to amend the Anti-monopoly Act (AMA) seeks to introduce a surcharge (fine) in respect of practices involving exclusionary types of private monopolization, and a 50% increase in the surcharge on businesses that have played a leading role in cartels and bid-rigging.

40. In agriculture, Japan has introduced measures to move further away from price support towards income support. However, the sector remains relatively protected from foreign competition. In 2007, Japan's total transfers to agriculture amounted to 0.9% of GDP compared with agriculture's 1.2% share in GDP (in 2006). During the review period, the authorities placed emphasis on the promotion of selected industries; for example, additional assistance was introduced for the production of aircraft. Nonetheless, Japanese manufacturing has, by and large, been much more exposed to international competition than agriculture and certain services. Since its previous Review, Japan has further liberalized its gas sector to promote competition.

41. Regulatory reforms have progressed particularly in financial services, which are important for channelling savings into profitable investments across various sectors of the economy. Besides a substantial reduction of non-performing loans (NPLs), and restructuring of government-affiliated institutions, the Government has targeted improved transparency in the financial system (through, for example, the adoption of the "no action letter" system). Privatization of Japan Post commenced in October 2007, and the Japan Post Bank and Japan Post Insurance started operations. The Government's policy framework on telecommunications remained largely unchanged during the review period. In transport, liberalization measures have been introduced in bilateral air traffic with some of Japan's trading partners.

(ii) *The eighth TPR of Japan, 2007 (WT/TPR/S/175/Rev.1)*

42. Since its previous Trade Policy Review, in 2005, Japan has introduced various measures aimed at further liberalizing its trade and investment regimes. Progress has been made in improving the competitive environment, including in financial services. The authorities continue to promote regulatory reform and strengthen competition policy, which could, inter alia, help create more opportunities for domestic and foreign businesses.

(iii) *The seventh TPR of Japan, 2005 (WT/TPR/S/142)*

43. Since its previous Review, Japan has introduced various measures aimed at further liberalizing its trade and investment regimes. Progress has been made in improving the competitive environment, including in telecommunications and financial services; however, the use of contingency measures is somewhat more evident than before, and potentially important distortions to competition remain in some sectors, particularly agriculture. The authorities attach priority to regulatory reform and sound competition policy, which could, inter alia, help create more opportunities for domestic and foreign businesses, including those entailing inward FDI.

(iv) *The sixth TPR of Japan, 2002 (WT/TPR/S/107)*

44. Since its previous Trade Policy Review, Japan has continued to liberalize gradually its trade and investment regimes. Although progress has been made in improving the competitive environment, potentially important distortions to competition are still evident in some sectors, especially agriculture. Recognizing the continued need to promote competition, the authorities seemingly attach high priority to further regulatory reform and sound competition policy.

(v) *The fifth TPR of Japan, 2000 (WT/TPR/S/76)*

45. Japan has continued to liberalize its trade and investment regimes, mainly as part of its broad regulatory reforms. However, measures constituting potentially important distortions to competition are still evident in some sectors, notably agriculture and certain services. Recognizing the need to further promote competition, the authorities attach high priority to sound competition policy.

(vi) *The fourth TPR of Japan, 1998 (WT/TPR/S/32)*

46. Japan does not belong to any customs unions or free-trade areas.

47. The simple average MFN applied tariff rate (including *ad valorem* equivalents of non-*ad valorem* duties) was 9.4% in 1997; some 60 per cent of tariff lines are rated at 5% or below. Tariff peaks occur in agriculture, food manufacturing, textiles and footwear, rising to some 920 per cent (the *ad valorem* equivalent of a specific rate) on some vegetable products. Substantial tariff escalation occurs in a number of sectors, mainly between semi-processed and fully-processed items, particularly in food manufacturing and petroleum refining. About 120 tariff lines at the HS nine-digit level remain unbound and import quotas apply to some items. State trading remains in rice, wheat and barley, milk products, raw silk, salt, leaf tobacco, industrial alcohol and opium. The import cartel covering imports of silk from China was abolished and replaced by an import quota system in 1996; annual consultations are held with China regarding imports of silk yarn and fabrics. Surveillance is also in force on some other products, including VERs by China on garlic and ginger. Japan has notified to the Textiles Monitoring Body a phase-out programme for its prior confirmation and customs confirmation system on silk product imports from the Republic of Korea.

48. The number of Japanese industrial standards corresponding to international norms has grown since 1995, and the scope of permission for foreign testing, certification, and factory approval has also increased somewhat. Mandatory technical regulations (in some cases implementing otherwise voluntary standards) are in force notably on food, pharmaceuticals, fertilizers, electrical goods, and

products covered under safety regulations for road vehicles, though little information on the total number of such regulations is available. Anti-dumping investigations were initiated and definitive duties were imposed on cotton yarn from Pakistan in 1995. Japan has never used countervailing actions or GATT safeguard measures. In 1996, Japan introduced operational guidelines to apply the 1994 Action Plan for greater fairness and transparency in government procurement.

49. Japan's import and investment promotion programmes include substantial government incentives, yet it is not evident that these programmes fully address the obstacles encountered. Import promotion measures, including tax incentives and financial measures, have been extended at least until March 1998. Promotional measures for inward direct investment, mainly comprising tax incentives, financial support and technical assistance, were also expanded.

50. Under WTO provisions, Japan is reducing the number and scope of restrictions on exports. The only remaining "voluntary" export restraint is the monitoring arrangement on car exports to the European Union, which is to be eliminated in 1999. Nine of 11 export cartels have been abolished since 1995. Remaining export cartels, related either to protection of quality or intellectual property, or to import monopolies in partner countries are to be abolished by end-1999.

51. Changes have taken place in Japan's competition law under the Anti-Monopoly Act (AMA). AMA exemptions allowing retail price maintenance on designated cosmetics and over-the-counter medicines were revoked in 1997. The number of permitted ("exempted") cartels has declined steadily. On intellectual property rights, recent legislative amendments include a reduction in the time required by the patent office to treat patents cases and the introduction of a post-grant opposition system. To combat violations of industrial property rights at the border, the Copyright Law was amended and fines for infringement were tripled in 1996.

52. The overall level of support to agriculture remains well above the OECD average. Japan has triggered Special Safeguards under the WTO Agreement for a number of products subject to tariffication. Rice imports are not currently subject to tariffication; the question of continuation of special treatment agreed in the Uruguay Round is to be negotiated in the year 2000. Recent steps to deregulation in energy have incorporated certain competition-enhancing measures, including the liberalization of petroleum product imports in March 1996 and the introduction of competition in wholesale sales of electric power to the utility companies. Some relaxation in regional monopoly arrangements for city gas companies has also been introduced. Tariffs on most manufactures are generally low by comparison to both historical and international levels; however, exceptions include textiles and clothing and leather and leather products. Voluntary export restrictions remain on Japan's car exports to the European Union.

53. Legislation in certain areas of the financial, telecommunications, air and maritime transport services sectors allows a high degree of discretion to the authorities. Japan is gradually reducing its traditional reliance on government intervention and control, for example in moving toward eliminating the "demand-supply adjustment" provisions that limit competition in many areas.

#### **IV. NEW ZEALAND**

(i) *The fourth TPR of New Zealand, 2009 (WT/TPR/S/216/Rev.1)*

54. Since its previous Trade Policy review in 2003, New Zealand has remained among the more open economies in the world.

55. Foreign investment legislation was amended in 2005; it continues to screen investment in a few areas of "critical" interest, namely certain sensitive types of land, strategic infrastructure projects on sensitive land, "significant business assets" other than land, and fishing quotas.

56. Under a unilateral tariff reduction programme, New Zealand's average applied MFN tariff dropped from 4.1% (2002) to 2.5% (2008); it is expected to drop further to 2.4% (July 2009). The tariff structure was simplified considerably and consists mainly of three ad valorem rates (zero, 5%, 12.5%) and six specific rates; "alternative specific" tariff rates were eliminated in 2005. Peak *ad valorem* rates (19% in 2002) have dropped considerably and will be 10% by July 2009. Agriculture faces relatively low tariff rates, compared with non-agricultural items (WTO definition). Although 99.6% of tariff lines are bound, the average gap of 9.1 percentage points between applied and bound MFN rates (9.7 percentage points for agricultural items) still imparts a degree of unpredictability to the tariff regime and provides scope for the authorities to raise applied rates within the bindings. During the period under review, however, New Zealand has not taken advantage of this gap. Tariff concessions are granted whenever suitable alternative goods are not available from local manufacturers or the domestic content of the locally produced item is less than 25% of its ex-factory cost of production.

57. No import restrictions or prohibitions are operated on commercial grounds; no import licensing requirements have been in place since 1992. Nonetheless, imports of animal and plant products are subject to relatively strict sanitary and phytosanitary laws. Some products, notably non-pasteurized cheese, live poultry, and fresh eggs, may not be imported until their risk to human, animal and plant health is assessed. Most standards are voluntary, and the share of those not equivalent to international standards has dropped. Most anti-dumping investigations have been taken against imports involving paper articles originating in Asia, and have led to the adoption of final measures in 11 out of 17 cases. Anti-dumping actions may not be taken on goods covered by the Australia New Zealand Closer Economic Relations Agreement (ANZCERTA); instead, prohibitions on the misuse of market power, under each country's competition law, are extended to the other's market.

58. New Zealand has no barriers to exports except for those maintained for health and safety reasons or those necessary to comply with international obligations.

59. Direct funding and income tax incentives (including for R&D from 2007-08 to April 2009) are being used. New Zealand does not appear to provide direct subsidies for any sector-specific activities. Under its bilateral and plurilateral agreements, New Zealand, an observer to the WTO Agreement on Government Procurement since December 2008, is committed not to discriminate between suppliers of goods and services; nevertheless, government departments have been instructed to require origin and local-content information in all offers to supply goods. Assistance is provided to domestic enterprises, government departments and bodies to identify major procurement opportunities that can be fulfilled through competitive local supply. Privatization has been at a standstill and re-nationalization has occurred.

60. During the period under review, intellectual property rights protection was strengthened with legislative amendments in the areas of trade marks and copyright; implementation in the area of geographical indications was delayed. New Zealand has remained a non-party to most WIPO treaties.

61. Minor changes have been made to the substantive provisions of New Zealand's generic competition legislation. Comprehensive amendments have been made, inter alia, to the regulatory control provisions, including in industry-specific competition legislation.

62. Agriculture receives only limited government support, with the Producer Support Estimate (PSE) being 0.7%. Average applied MFN tariffs in agriculture have declined, while statutory marketing boards were "disestablished" during the review period. Reform of state-trading enterprises (STEs) in recent years virtually eliminated their influence on exports of major agricultural products, except for kiwifruit, for which one state-trading enterprise (Zespri) has almost exclusive rights. Amending legislation was passed in 2007 providing for the allocation of access rights amongst various dairy processors, other than the Fonterra Cooperative Group, to certain restricted dairy markets overseas. Competition policy concerns arise due to Fonterra's dominance in the dairy market. Approximately 60% of the electricity sold is generated by state-owned companies; the sole transmission company is also government owned. The review period also saw the establishment of a

gas industry regulator and the introduction of an emissions trading scheme. The Government has increased budgetary allocations for skills and market development as a measure of support for manufacturing.

63. Overall, the services sector has remained relatively liberal and competitive, with low barriers to entry. However, there is still to be state involvement in the aviation sector, where the Government is the majority stake holder in the largest airline. Aviation is subject to a foreign investment cap. Despite deregulation in the telecommunications sector with the unbundling of the local loop, tariffs remain relatively high. Continued reform of the financial sector, such as the implementation of the Basel II capital adequacy framework, has seen banks' balance sheets improve. To ensure continued confidence in the banking system, the New Zealand has introduced deposit guarantees (up to NZ\$1 million) for the first time in its history.

(ii) *The third TPR of New Zealand, 2003 (WT/TPR/S/115)*

64. Radical macroeconomic and structural reform, including unilateral trade liberalization, commencing in the mid 1980s, have transformed New Zealand from a rather closed economy into one of the most open in the world. By and large, New Zealand has maintained an open and highly transparent trade and investment regime, based on regular and widespread public consultations. In general, foreign direct investment (FDI) is relatively unrestricted, although "national interest" considerations apply to foreign investment in land. As an integral part of its package of comprehensive market-oriented reforms initiated in the mid 1980s, New Zealand greatly reduced barriers to trade, largely unilaterally; in particular, tariffs were cut considerably and non-tariff barriers in the form of quantitative restrictions (including those on textiles and clothing) were eliminated.

(iii) *The second TPR of New Zealand, 1996 (WT/TPR/S/20)*

65. In an effort to break from a history of poor economic performance, New Zealand has transformed its economy from among the most heavily protected and regulated to one of the most market-oriented and open in the world. The instruments of reform applied since 1984 have included trade and financial liberalization, privatization, and labour market and other domestic deregulation. Structural measures have been supported by disciplined macroeconomic policies. A noteworthy aspect of New Zealand's reform process is that it has been largely unilateral; New Zealand has taken the clear view that lowering barriers is primarily for its own benefit. New Zealand has already implemented two tariff reduction and simplification programmes, and further unilateral reductions are to follow. Import licensing has been eliminated, as have subsidies and most forms of government assistance to industry and agriculture. Most State-owned enterprises have been commercialized or privatized; commercial functions of government departments have generally been separated from regulatory and advisory ones; product and service markets have been deregulated and most cabotage restrictions on coastal shipping eliminated; the exchange rate has been floated and all foreign exchange restrictions removed; and the labour market has been reformed, facilitating the resource mobility that has proven vital to success.

## **V. UNITED STATES**

(i) *The ninth TPR of the United States, 2009 (WT/TPR/S/200/Rev.1)*

66. The openness and transparency of the U.S. trade regime have been key contributing factors to the efficiency that characterizes the U.S. economy as a whole. Since its last Review in 2006, the United States has taken further steps to liberalize its trade regime, although mostly on a preferential basis.

67. The United States has long maintained a policy of national treatment of foreign direct investment, subject to sector-specific considerations, prudential concerns, and national security.

68. The United States accords MFN tariff treatment to all WTO Members except Cuba. All except two tariff lines are bound, generally at low rates. The simple average applied MFN tariff was 4.8% in 2007, virtually the same as in 2004 (4.9%). The applied MFN rate for agriculture (WTO definition) fell from 9.7% in 2004 to 8.9% in 2007. At 4%, the 2007 average applied MFN rate for non-agricultural products remained unchanged. Around 2% of all lines are subject to tariff quotas. In addition to tariffs, imports are subject to ad valorem harbour maintenance and merchandise processing fees; the second is not applied on imports from some preferential partners. Initial production volumes of small domestic wine and beer producers benefit from either a reduced federal excise tax rate or an excise tax credit. This benefit is not available for imported products. Non-tariff import restrictions are maintained largely for non-commercial purposes. This includes a ban on imports of marine mammal products, shrimp, and tuna from countries found not to be in compliance with U.S. environmental provisions. Anti-dumping (AD) measures remain a key trade policy instrument for the United States. At end 2007, the United States maintained no safeguard measures, but 31 countervailing (CV) orders were in place involving 13 trading partners. The Continued Dumping and Subsidy Offset Act of 2000 (the Byrd Amendment) was repealed in 2005, but AD and CV duties assessed before October 2007 continue to be distributed to U.S. producers who supported the petition for investigation.

69. A new approval process for first-time imports of fruits and vegetables subject to designated phytosanitary measures became effective in August 2007.

70. Export taxes are barred under the U.S. Constitution. However, the United States maintains export restrictions and controls for national security or foreign policy purposes, or to address shortages of scarce materials. Two WTO Members, Cuba and Myanmar, are subject to economic sanctions. In May 2006, the United States repealed the "grandfathering" provisions that allowed U.S. firms to exclude certain "foreign trade" income from their taxable income for certain transactions.

71. Apart from export assistance, domestic producers benefit from federal and sub-federal tax exemptions, financial outlays, and credit programmes. Agriculture and energy are by far the largest recipients of federal support notified to the WTO. The United States participates in the WTO plurilateral Agreement on Government Procurement (GPA). For procurement not covered by the GPA or other international agreements, the United States maintains a number of domestic purchasing requirements, such as those under the Buy American Act. In some states, sub-federal regulations grant preferences to local suppliers, and impose local-content requirements under certain conditions. The United States employs a variety of mechanisms to promote increased IPR protection and enforcement, including through its engagement in WTO activities and negotiations, FTAs, bilateral intellectual property agreements and bilateral investment treaties.

72. As measured by the OECD, overall support to agriculture accounted for 11% of gross farm receipts in 2006, down five percentage points from 2004. Certain commodities, including sugar and milk, continue to receive high levels of assistance. Payments under some commodity programmes (e.g., marketing assistance loans) provide incentives for resource use. Assistance for domestic ethanol production includes tax incentives and import duties. The Energy Policy Act of 2005 contains provisions to address shortcomings in the regulatory framework governing electricity markets. In computing fuel economy standards, NAFTA-produced automobiles are treated differently from other vehicles. Manufacturing tariffs are generally low, but high tariffs have sheltered a few industries, such as textiles, clothing, and footwear and leather, from international competition.

73. The U.S. telecommunications market is open to foreign participation and is highly competitive. During the period under review, certain unbundling requirements were eliminated. The United States maintains several media ownership restrictions, with the objective of promoting competition, diversity, and "localism" in media production. The relaxation of one of these restrictions

was approved in late 2007, and rules have been adopted to facilitate entry into the video services market. The financial sector has been considerably affected by the sub-prime mortgage turmoil, suggesting the need for improvements in financial supervision. U.S. bank subsidiaries of foreign banks are granted national treatment. However, foreign-owned banks, unlike domestic banks, are required to establish an insured banking subsidiary to accept or maintain domestic retail deposits of less than US\$100,000. Branches and agencies of foreign banks have similar powers to banks but agencies may not accept deposits from U.S. citizens or residents. At the state level, there are limitations to the acquisition or establishment of a state-chartered bank, and for the establishment of branches or agencies. Insurance companies, agents, and brokers must be licensed under the law of the State in which the risk they intend to insure is located. Foreigners may acquire an insurance company licensed in all states, incorporate subsidiaries in 47 states, or operate as branches in 36 states and the District of Columbia. The Jones Act reserves cargo service between two points in the United States for ships that are registered and built in the United States and owned by a U.S. corporation, and on which 75% of the employees are U.S. citizens. Domestic passenger services are subject to similar requirements. However, waivers may be granted and foreign companies may establish shipping companies in the United States under certain conditions. In contrast, the U.S. international maritime transport market is generally open to foreign competition although some cargo preferences are in place. In air transport, foreign ownership in U.S. carriers is limited by statute to 25% of the voting shares. The provision of domestic air services is permitted only by U.S. carriers. The Fly America Act generally requires government-financed transportation to be on U.S.-flag air carriers, but foreign participation is possible under international agreements. The United States has bilateral aviation agreements with 97 countries, of which 79 are open skies agreements. States have responsibility for the regulation, licensing, and oversight of the professions practiced within their jurisdictions. Foreign market access in some states is affected by local presence, domicile, nationality, or legal form of entry requirements.

(ii) *The eighth TPR of the United States, 2006 (WT/TPR/S/160/Rev.1)*

74. The United States has undergone solid economic growth since its last Trade Policy Review in early 2004. This has been aided by the openness and transparency of its trade regime, which has supported the continuous drive for change and efficiency characteristic of the U.S. economy as a whole. During the period under review, the United States made incremental changes to its trade regime, including liberalization on an MFN and preferential bases. Trading partners benefited as the United States remained the world's largest single importer and a key engine of global growth. Nonetheless, market access barriers and other distorting measures, notably subsidies, persist in a few but important areas. Addressing these distortions would benefit U.S. consumers and taxpayers, and help strengthen the global economy.

(iii) *The seventh TPR of the United States, 2004 (WT/TPR/S/126)*

75. The United States has overcome several shocks since its last Trade Policy Review in 2001, helped by the contribution of its open and transparent trade regime to the highly efficient U.S. economy. Forceful counter-cyclical policies made a recession in 2001 short and shallow, and underpinned subsequent growth. However, barriers to market access persist in a few, but important, areas, which detracts from the market-based solutions that have promoted U.S. welfare so well. Assistance to selected activities such as agriculture and steel has burdened U.S. consumers and taxpayers, and affected global trade because of the importance of the U.S. economy.

76. Since 2001, the United States has taken further steps to liberalize its trade regime, both unilaterally and through negotiations; liberalization has been carried out on both MFN and preferential bases. Competition in many domestic markets has thus increased, and helped maintain the drive for structural change and efficient resource allocation, which characterizes the U.S. economy as a whole. Trading partners have benefited as well, as the United States remains the world's largest single importer and a main engine of growth. Deepening and securing such beneficial interdependency has historically played a central role in U.S. trade policy; achieving this through the

multilateral system offers the United States unique advantages in view of the distinctive global reach of its trade and investment interests. The United States thus has a major stake and a key role in bringing about a successful conclusion to the Doha Development Agenda, and thereby also contributing to the stability of international trade relations and to growth in the world economy.

*(iv) The sixth TPR of the United States, 2001 (WT/TPR/S/88)*

77. The United States maintains one of the world's most open and transparent trade and investment regimes, although in a few important areas significant barriers to market access persist. These directly affect global trade as the United States is both the world's largest single economy and trader. Reducing such remaining barriers would be in line with traditional U.S. support for liberalization and pro-competitive policies, further increasing the otherwise high efficiency of its economy, and benefiting domestic consumers and taxpayers. It would also lessen distortions in global markets, frictions with trading partners and strengthen the multilateral trading system. These considerations are particularly poignant in the face of the present global economic downturn and possible protectionist pressures that might result. Since the previous U.S. Review in July 1999, U.S. trade policies and practices have remained mostly unchanged. Modifications carried out during the period include market-access improvements granted to certain developing countries and the consolidation of domestic financial regulations. Also since 1999, government payments to agri-food producers have risen while the share of steel products in all anti-dumping, countervailing and safeguard measures has increased. Significant barriers to foreign competition have remained in areas like textiles and clothing, transport and some services sectors. The new Administration's response to these policy challenges will be important to global trade and welfare.

*(v) The fifth TPR of the United States, 1999 (WT/TPR/S/56)*

78. No major changes in the United States' trade policy regime have taken place since the last U.S. Trade Policy Review in 1996. The United States maintains liberal trading and investment regimes. Furthermore, policies, practices and measures relating to trade and investment are, by and large, transparent. In this regard, not only does the United States make information readily available on the objectives and nature of its policy measures, but various independent bodies, such as the U.S. International Trade Commission and the General Accounting Office, evaluate the economic effectiveness and welfare effects of such measures; reports of these bodies are made public.

*(vi) The fourth TPR of the United States, 1996 (WT/TPR/S/16)*

79. The U.S. economy has a high degree of allocative efficiency. One important element in maintaining productivity is the openness of the U.S. economy, which helps to keep economic actors under constant pressure to allocate resources efficiently.

80. The U.S. WTO Schedule on goods provides for bindings on all but two tariff lines, and commitments under the GATS are widespread. The URAA also implemented the recommendations of GATT Panels concerning Section 337 of the 1930 Tariff Act and m.f.n. treatment for non-rubber footwear imports from Brazil, and authorizes certain future tariff cuts that may be agreed under negotiations that started in the context of the Uruguay Round. The United States applies m.f.n. treatment to all but six countries.

81. Full tariff elimination on U.S. imports has been agreed for steel, pharmaceuticals, paper, furniture, medical equipment, farm equipment, construction equipment, beer and spirits; partial elimination for wood and scientific equipment; participation in tariff harmonization for chemicals and non-ferrous metals; and participation in "substantial" tariff reductions for electronics, ceramics, photographic and cinema goods. Quantitative import restrictions on agricultural products have been converted to tariffs and tariff quotas, while restrictions applied to textiles and clothing are to be eliminated over a ten year period. The United States administers a variety of trade preferences under the NAFTA, U.S.-Israel Free Trade Agreements, the Caribbean Basin Economic Recovery Act, the

Andean Trade Preference Act and the Generalized System of Preferences. Voluntary export restrictions administered by U.S. trading partners have been phased out under implementation of the Uruguay Round Agreement. In November 1995, Congress lifted the ban on exports of Alaskan oil.

82. The United States has a market-driven system of standards development, policed by product liability laws. Technical regulations are based on international norms and privately developed standards. Conformity assessment is tested by accredited firms in both the United States and abroad. There exists a limited number of mandatory environmental process standards enforced at the border; notable examples are dolphin-friendly tuna fishing methods and turtle-excluder devices used in harvesting shrimp. The United States has a well developed and enforced system of intellectual property protection, based on constitutional provisions. The Uruguay Round Agreements Act increased the duration of protection and resurrected protection for works that had fallen into the U.S. public domain. Parallel importation of patented or copyright goods may be prevented by the rightholder, but anti-trust law discourages unreasonable conduct in this area.

83. The Uruguay Round Agreements Act made significant changes in the method of calculation for anti-dumping and countervailing duties, injury assessment for these and safeguard measures, and in the procedures to obtain exclusion orders for imports that infringe intellectual property rights. The use of "Section 301" is now closely tied to multilateral dispute settlement, at least for WTO members and in areas subject to WTO rules and disciplines. Investigations may be triggered in the context of "Super" 301, "Special" 301, Title VII of the Omnibus Trade and Competitiveness Act of 1988, and Sections 1374 and 1377 of the Telecommunications Trade Act of 1988.

84. The agricultural provisions of the WTO and NAFTA Agreements were implemented and the Federal Agricultural Improvement Act (FAIR) Act of 1996 was enacted, converting domestic price support to direct income support; the overall level of support to agriculture has fallen. States maintains country specific import quotas under the WTO Agreement on Textiles and Clothing (ATC) and has issued 25 safeguard quota calls on WTO Members. Tariffs in most manufacturing sectors other than textile and clothing and a small number of other items such as trucks, are low by comparison to both historical and international levels. Quantitative trade measures, such as "voluntary export restrictions" by U.S. trading partners have been phased out since the last Review.

85. Recent developments in the telecommunications, financial and professional services sectors have enhanced the prospects for productivity growth in these sectors. Protective policies continue in maritime transport while air transport is subject to liberalization on a basis of bilateral reciprocity under "Open Skies Agreements". Within the general regulatory environment, some deviations from the principles of national treatment and m.f.n. exist. Legislation permitting such deviations, granting the authorities the powers of applying differential treatment to foreign suppliers or against foreign investment or ownership (amounting in some cases to absolute or conditional prohibitions) exists in certain areas of telecommunications, financial, air and maritime transport services sectors.

## **VI. CHILE**

Three TPRs of Chile have taken place since 1994 (in 1997, 2003 and 2003). The main points and conclusions of the reviews are summarized below.

(i) *The fourth TPR of Chile, 2009*<sup>7</sup>

86. Chile's trade and investment regime continues to be characterized by openness, transparency, predictability and inter-sectoral neutrality. Open trade and investment policies, together with sound macroeconomic management, underpin Chile's solid economic growth and its capacity to implement

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<sup>7</sup> WT/TPR/S/220, 2 September 2009.

counter-cyclical measures to respond to the current global financial crisis. Chile applies an almost uniform MFN tariff and grants national treatment to foreign investors in all but a few cases. Since its last Review in 2003, Chile has adopted measures to modernize customs and facilitate trade, abolished some import taxes and export subsidies, and introduced significant reforms to its competition policy, government procurement and intellectual property systems. Regional Trade Agreements (RTAs) have continued to play a central role in Chile's liberalization strategy, but Chile also remains strongly committed to the multilateral trading system, where it participates actively.

87. The Chilean economy grew at an annual average rate of 4.8% cent between 2003 and 2008, reflecting strong domestic demand and, to a lesser degree, export growth. Amidst the global economic crisis, the economy cooled off since mid-2008 and contracted in the first half of 2009. Sustained economic growth has allowed Chile to attain one of the highest per capita income in Latin America, of some US\$10,000 per person. Sustained growth and internal policies to ensure that the gains from trade are more broadly distributed have reduced the proportion of the population living in poverty from 21% in 2000 to 14% cent in 2008.

88. Chile maintains a floating exchange rate system. Monetary policy seeking to achieve an annual inflation target of 2% to 4% per cent has generally kept inflation under control. Sound fiscal policy aimed at obtaining a structural surplus, has allowed Chile to adopt an expansionary fiscal policy since 2008 to counter the effects of the present global crisis, using public assets accumulated when commodity prices were high. Sound macroeconomic policies and open trade have allowed Chile to profit from economic specialization. Chile's external current account posted a positive balance for much of the period under review, reflecting mainly a trade balance surplus since its services balance posts a traditional deficit. Merchandise exports consist mostly of primary products (some 87% of total exports in 2008). Chile's main trading partners are the EU and the United States. FDI inflows have traditionally played an important role in Chile's economy; they were equivalent to some 3% of GDP in 2008. The main recipient sectors were mining, electricity and communications.

89. Chile's trade policy continues to aim at furthering its integration into the world economy within a framework of predictable rules and under policies that promote social equity. Chile participates actively in the WTO and the DDA, and considers that the multilateral trading system should be further strengthened and that certain issues on the trade agenda, such as the elimination of agricultural subsidies, can only be resolved in the multilateral sphere. During the period under review, Chile has been involved in four dispute settlement cases as a defendant, in three as a complainant and in 11 as a third party. Chile is not a party to any of the WTO plurilateral agreements.

90. One of the most prominent features of Chile's trade policy regime is the central role it gives to RTAs. As at mid-2009 Chile had in force 21 RTAs with 57 trading partners; 13 of these agreements, with 18 partners, were concluded during the review period. As a result, just over 92% of Chile's total merchandise trade is carried out with preferential partners.

91. Chile considers foreign investment as an essential engine of growth and has in force a large number of bilateral agreements to promote and protect foreign investment, and to avoid double taxation. Chile grants national treatment to foreign investors, with a few exceptions in areas such as fisheries, air and maritime transport, and audiovisual services.

92. Since its last Review, Chile has continued to adopt measures to facilitate trade and to modernize customs, including new valuation regulations. Chile has applied, since 2003, a single MFN tariff rate of 6%, with a few exceptions. All tariff lines are bound, most at 25%. The MFN tariffs applied to wheat, wheat flour and sugar vary with international prices as a result of the price band system applied to these products; reflecting the high prices prevailing in recent years, the use of this system appears to have resulted in tariffs no higher than the general 6% cent rate. Two Panels have found the price band system WTO inconsistent; draft legislation under consideration aims to bring the system into conformity with WTO rules by introducing a fixed compound tariff.

93. Chile applies few non-tariff trade barriers. It does not apply quantitative import restrictions or import licenses. However, it prohibits the importation of most used motor vehicles, and used and retreaded tyres. During the period under review, Chile introduced two anti-dumping measures (on wheat flour) and three safeguard measures (on wheat flour and certain dairy products); by setting short application periods, Chile's legislation discourages the use of contingency measures. Moreover, Chile supports stricter multilateral disciplines on the use of contingency measures, and has agreed to the reciprocal non-application of these measures under some RTAs. Chile's legal and institutional framework governing the adoption and application of technical regulations or sanitary and phytosanitary measures (SPS) aims to ensure non-discrimination and transparency.

94. Chile maintains some export promotion programmes that offer administrative facilities for the payment and reimbursement of import duties and VAT. Financing and guarantee schemes are also offered to exporters, mainly to small- and medium-sized enterprises. Chile does not apply export taxes. Chile has in place other incentive programmes, but most eschew targeting particular sectors in favour of horizontal measures targeting small- and medium-sized enterprises, technological innovation or regional development. Incentives generally consist of fiscal benefits, investment and R&D financing, and support for the development of entrepreneurial skills.

95. Chile has introduced important reforms to its competition policy framework, most notably by establishing a competition tribunal. Further reforms to strengthen the investigative powers of the competition authority, in particular against cartels, were expected to come into force in late 2009. Chile is an observer to the WTO Agreement on Government Procurement. Since 2003, Chile has implemented significant reforms to increase the transparency and efficiency of public procurement, particularly through the adoption of new legislation and the use of electronic tendering. The reforms have led to greater participation in the public procurement market. There is no discrimination based on the origin of products, services or providers. Reforms have also been made to Chile's intellectual property system with the aim of strengthening and adapting it to Chile's international commitments. In some instances, Chilean law goes beyond the TRIPs Agreement.

96. Agriculture plays a major role in Chile's economic development; it enjoys a low level of support, mainly geared to small farmers and not including production-based measures. However, the price band system it applies to wheat, wheat flour and sugar results in tariff protection that can vary inversely with the world price of these products. Chile has managed to stabilize the production of its fishing sector. Aquaculture has gained importance and now accounts for two-thirds of fish exports.

97. The mining sector, Chile's main export revenue generator and foreign investment recipient, benefited from the high mineral prices that prevailed during much of the period since 2003. The State continues to play a fundamental role as an operator in the sector, mostly in the production of copper. During the review period, Chile introduced a new tax on mining activities. The manufacturing sector remains an important generator of value added and employment; the sector continues to be largely based on the processing of natural resources, thus reflecting Chile's comparative advantage.

98. Chile made specific commitments in five of the 12 sectors of the GATS. It adopted the Fifth Protocol on Financial Services and the Fourth Protocol on Basic Telecommunications. In telecommunications, concessions to operate public services are granted to companies established in Chile, independently of the origin of capital; prices are market determined, except in cases of dominant position where maximum prices are set. Chile's financial sector shows significant diversification and internationalization. Foreign banks and insurance companies may provide services in Chile through locally incorporated companies or branches with separate capital. The establishment of branches by foreign insurance companies is allowed since 2007; cross-border supply of international maritime and air transport insurance by foreign companies from countries with which Chile has a treaty is also permitted since that year. Chile practices an "open skies" air transport policy based on reciprocity. In maritime transport, cabotage is reserved to ships registered in Chile, with exceptions. To register a ship in Chile, at least 50% of the capital must be owned by Chilean persons

or companies. There are no restrictions on foreign participation in concessions for the administration of ports and airports.

(ii) *The third TPR of Chile, 2003*<sup>8</sup>

99. Since its last Review in 1997, Chile has continued to reform and liberalize its already open trade and investment regimes. Inter-sectoral neutrality has remained a key feature of Chile's policies, as witnessed by an almost uniform applied MFN tariff, the absence of significant programmes to assist specific activities, and the granting of national treatment in government procurement and to foreign investors, in all but a few cases.

100. Chile has continued to show a strong commitment to the multilateral trading system, while also maintaining vigorous involvement in free-trade agreements (FTAs). During the period under review, Chile signed seven new agreements.

101. Chile's GDP grew at an annual average rate of 2.4% between 1997 and 2002 due to a number of external shocks. Per capita GDP stood at some US\$4,340 in 2002. A major development since Chile's previous Review was the adoption of a flexible exchange rate system in 1999. Since 2001, monetary policy seeks to achieve an annual inflation target of 2% to 4%. Also since 2001, fiscal policy has aimed to ensure medium-term fiscal stability; the authorities have sought to maintain a "structural surplus" equivalent to 1% of GDP. Chile's external current account has been largely financed by FDI inflows; mining and services have been the main magnets.

102. Tariffs are Chile's main trade policy instrument. Chile grants at least MFN treatment to all its trading partners. The average applied MFN tariff has fallen from 11% at the time of Chile's previous Review, to 6% in 2003. Since June 2002, Chile applies a customs valuation system based on the WTO's Customs Valuation Agreement. The use of non-tariff barriers appears limited. No import licensing system exists. Chile maintains various import restrictions and prohibitions, which apply equally to all trading partners, for reasons of health and environmental protection. It makes modest use of contingency measures; currently it imposes no anti-dumping or countervailing duties. Chile adopted domestic safeguard legislation in 1999 and has imposed seven measures since.

103. Economic policy is largely sector-neutral, notwithstanding special border protection for some agricultural goods provided through the price band system. Agriculture, fisheries and forestry remain crucial for employment and the generation of foreign exchange. Chile's highly productive mining sector generates more than 42% of merchandise export revenues, copper being its most important single export product. Mining is also the most important recipient of foreign direct investment.

(iii) *The second TPR of Chile 1997*<sup>9</sup>

104. Chile has maintained a liberal, transparent trade regime for almost two decades, coupled with sound macroeconomic policies and structural reforms. The benefits, in terms of strong economic growth and reduced inflation, have become increasingly evident. Despite an increased emphasis on RTAs since 1990, the authorities plan to continue the process of unilateral liberalization by further reducing the MFN tariff rate and eliminating certain sectoral programmes.

105. Chile's uniform tariff stands at 11% (July 1997); a proposal for a reduction in the rate, is before Congress. The neutrality of the tariff is somewhat diminished by differential tariff treatment under regional agreements, and by a few specific sectoral non-tariff policies which benefit a few agricultural goods (a price band/variable levy system), the forestry sector (production subsidies), the automotive industry (local content and export performance requirements) non-traditional minor

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<sup>8</sup> WT/TPR/S/124, 4 November 2003.

<sup>9</sup> WT/TPR/S/28, 7 August 1997.

exports (export subsidies via "simplified" drawback), and imported capital goods (under the system of deferred payments of custom duties).

## VII. HONG KONG, CHINA

(i) *The fifth TPR of Hong Kong, China, 2006*<sup>10</sup>

106. Since the last Review of the Hong Kong Special Administrative Region (HKSAR) in December 2002, growth has rebounded. Underlying this performance is the openness of its economy to trade and foreign investment as well as the favourable external environment, judicious macroeconomic policies, structural reforms, strong growth in Mainland China, and the confidence-building effects of the Closer Economic Partnership Arrangement (CEPA) with China. As a result of its growing integration with Mainland China through CEPA and its participation in the Pan-Pearl River Delta (PRD) initiative, the HKSAR's structural transformation from a manufacturing- to a services-based economy has continued.

107. As from 2004, HKSAR's fiscal balance improved gradually from a deficit to surpluses, and sizeable fiscal reserves have been maintained; these reserves are a key to the HKSAR's pure currency board system, which, with the exchange rate of Hong Kong dollar fixed against the U.S. dollar, oversees the domestic money supply. Tax revenue as a percentage of GDP is only about 10%, one of the lowest ratios in the world. The Government is thus still heavily dependent on rather volatile non-tax income (notably sales of government-owned land and investment income) for revenue. The authorities are considering measures to broaden the tax base. As a result of its high level of saving in relation to gross domestic investment, the HKSAR's balance of payments has remained strong, characterized by a rising surpluses on the current account.

108. The HKSAR's economic rebound is due in large part to its continued openness to trade and foreign investment. It remains one of the most open economies in the world. The HKSAR, which successfully hosted the Sixth Ministerial Conference in December 2005, continues to participate actively in WTO work, including the ongoing negotiations. Attracting foreign investment is a priority of the Government. Consequently, HKSAR remains receptive to foreign investment and does not discriminate between foreign and domestic investors. The authorities continue to let open markets be the main determinant of the allocation of resources within the Territory.

109. All imports enter HKSAR duty free, but the scope of tariff bindings remains low, at 42.8% of all tariff lines (or 56.9% of the total value of imports in 2005); the HKSAR has indicated its willingness to negotiate the binding of more tariff lines in the context of the ongoing round of multilateral trade negotiations. All bound tariffs are at zero rate. Excise duties are levied on imports and domestic production of four categories of goods: tobacco, hydrocarbon oil, methyl alcohol, and alcoholic beverages. However, these taxes, as well as the "first registration tax of motor vehicles", fall mostly on imports as there is little, if any, domestic production of the taxable goods. Non-tariff border measures are almost absent; those in force (import and export licences and quotas) either stem from obligations under international undertakings or are applied for health, safety, security or environmental reasons. The Rice Control Scheme, a quota system in place for food security reasons, was eliminated in 2003.

110. Hong Kong, China has no legal instrument protecting domestic producers from perceived "unfair" foreign trading practices in the form of dumping or export subsidies. There are no government controls on exports, except those related to UN sanctions, the WTO Agreement on Textiles and Clothing (until its expiry at the end of 2004) and textiles exports to "sensitive" and "non-sensitive" markets (as from 2005). Licensing of textiles exports is, *inter alia*, aimed at avoiding

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<sup>10</sup> WT/TPR/S/173/Rev.1, 8 November 2006.

circumvention, by means of illegal transshipment or false declaration of origin, of safeguard measures in certain markets specific to Mainland China. Hong Kong, China, a signatory to the WTO Agreement on Government Procurement (GPA), treats all suppliers equally (i.e. no preferences on the basis of origin) and considers its procurement regime competitive.

111. During the period under review, the main instruments used to assist production and trade have been, *inter alia*, tax incentives (including accelerated depreciation) and financing for R&D, design and innovation and technology upgrading. Such assistance has been limited largely to the provision of public services and infrastructure that enable the private sector to develop within a business-friendly environment. The Government has attached priority to high-technology and information technology activities in allocating funds; it has also increased funds for small and medium-sized enterprises (SMEs).

112. Regarding competition policy, the HKSAR authorities applies a sector-specific approach, involving measures such as licensing, codes of practice, and legislation, when these are felt to be necessary to address anti-competitive practices. In July 2006, the authorities were considering the recommendations of a Competition Policy Review Committee (CPRC), made up mostly of non-Government stakeholders, for introducing a cross-sector competition law, targeting specific types of anti-competitive conduct.

113. The HKSAR remains primarily a service-based economy, with services accounting for 87.5% of GDP in 2004. The contribution of agriculture, fisheries, and mining to GDP (and employment) is negligible, and that of the manufacturing sector has declined progressively to 3.5%, from 4.2% in 2002.

114. Hong Kong, China, a net exporter of services, has continued to place emphasis on strengthening its legislative and institutional framework in order to maintain a competitive climate in the services sector, the driving force behind economic growth. Outward-oriented expansion of services activities is being driven by CEPA liberalization in 27 subsectors; depending on the subsector, the CEPA provides earlier and wider market access opportunities for HKSAR service suppliers than those contained in China's WTO commitments. Mergers and acquisitions were very important in the HKSAR's banking sector during the period under review; deregulation of interest rates seems to have encouraged more innovation and intensified competition in the banking sector, which, despite the large number of banks, maintains its quasi-oligopolistic structure. The local fixed telecommunications market was fully liberalized as of 1 January 2003. A Telecommunications (Amendment) Ordinance 2003 provided a comprehensive and clear legislative framework for completed mergers and acquisitions. Steps to maintain competitiveness in port services included the reduction in port fees and charges. All foreign lawyers, from common law and non-common law jurisdictions are allowed to take specified examinations to become solicitors and barristers in the HKSAR, which has the largest cluster of international lawyers in Asia; foreign law firms that wish to provide both foreign and domestic legal services may do so only by establishing associations with local law firms. Although healthcare services remain heavily subsidized, there do not seem to be any barriers to or discriminatory requirements on private or foreign investment in healthcare services.

(ii) *The fourth TPR of Hong Kong, China, 2002*<sup>11</sup>

115. During the period under review (1998-2002), the Hong Kong Special Administrative Region (HKSAR) has been faced with two successive external shocks; the Asian financial crisis in the early part of the period and the global economic slowdown in 2001. Hong Kong's reversion to the People's Republic of China in 1997 has not altered the Territory's trade and investment regime. However, the HKSAR has had to face considerable structural adjustment associated with its growing integration into the rest of China, particularly the Pearl River Delta region.

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<sup>11</sup> WT/TPR/S/109, 18 November 2002.

(iii) *The third TPR of Hong Kong, China, 1998*<sup>12</sup>

116. The period under review (1994-98) was marked by two main events. The first was Hong Kong's reversion to the People's Republic of China, on 1 July 1997, and its designation as a Special Administrative Region (SAR) with a high degree of autonomy with regard to economic (and most other) policies under the "one country, two systems" framework established in accordance with the Basic Law. This framework involves a 50-year commitment to allow the SAR to maintain its existing free and open market system, which has long been the hallmark of Hong Kong's economy, making it one of, if not the most liberal among WTO Members and has contributed to a level of GDP per capita that is among the highest in the world (over US\$26,000 in 1997). There is no indication that Hong Kong's traditional openness to trade and foreign investment has been affected by reunification, and as such, the present economic regime may be broadly characterized as "business as usual".

117. The second main event during the review period was the outbreak of the economic crisis in Thailand in July 1997 and its spread to other countries in and beyond South-East Asia. The crisis, and the associated drop in demand throughout the region, has seriously impaired Hong Kong's economic performance since the third quarter of 1997, causing a dramatic slow-down in economic activity. Despite the present extraordinary economic difficulties, Hong Kong has maintained its traditional openness to both trade and investment and has not taken any measures directly affecting imports or foreign direct investment.

## VIII. THE REPUBLIC OF KOREA

(i) *The fifth TPR of the Republic of Korea 2008*<sup>13</sup>

118. Since its previous Trade Policy Review in 2004, Korea's prudent macroeconomic policies together with ongoing structural reforms, including liberalization of its trade and investment regimes, have contributed to stable economic growth.

119. The 2008 customs tariff remains relatively complex, involving a multiplicity of rates (83 *ad valorem*, and 41 alternate duties) often having small rate differences and involving decimal points. No tariff cuts were undertaken during the period under review; the applied MFN rate averaged 12.6% in 2008, the same as in 2004. Peak *ad valorem* rates have also remained unchanged and concentrated in agricultural items (WTO definition); applied MFN tariff rates range from zero to 887.4% (manioc); some 86.6% of rates were 10% or below in 2008. Tariff rate quotas apply under Korea's multilateral agricultural market-access commitments, with in-quota rates ranging from zero to 50% (2007) compared with out-of-quota rates up to 800.3%, and with average fill rate of 68.3%.

120. Korea has bound 90.8% of its tariff lines: 98.7% of agricultural lines (excluding mainly rice) and 89.5% of its non-agricultural lines. The average gap of 4.3 percentage points between the average bound and applied MFN tariff rates still imparts a degree of unpredictability to the tariff regime and provides scope for the authorities to raise applied rates within the bindings. Korea has continued to use this gap to apply higher MFN duties (e.g. adjustment duties) termed as "flexible tariffs", which the authorities maintain are within WTO bindings; product coverage under "flexible tariffs" dropped from 203 (2004) to 101 (2007).

121. Rice remains the only item subject to import quotas. These are administered or allocated by state-trading entities or industry associations. Quantitative import restrictions for rice were relaxed (i.e. by progressively increasing the quota volume) and are to remain in force until 2014; by that date, rice imports are expected to double to cover 8% of domestic consumption. Korea has made use of the

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<sup>12</sup> WT/TPR/S/52, 13 November 1998.

<sup>13</sup> WT/TPR/S/204, 3 September 2008.

special safeguard provisions under the WTO Agreement on Agriculture. Import licensing requirements and prohibitions are maintained mostly for the protection of public morals, human health, hygiene and sanitation, animal and plant life, environmental conservation or essential security interests in compliance with domestic legislation requirements or international commitments. Korea has used anti-dumping provisions against imports involving mainly chemicals, machinery, wood articles, paper and paperboard; it initiated 47 cases and had final measures on imports from 10 countries.

122. Korea periodically restricts or monitors exports of certain products (e.g. rice) to ensure adequate domestic supplies, and thereby possibly assisting downstream processing of these products; quantitative export restrictions for rice have been in place since 2007.

123. Korea is a party to the WTO Government Procurement Agreement. Some government procurement is still not covered by Korea's multilateral commitments under the GPA; for example, procurement from SMEs, for which private (non-competitive) tendering prevailed until 2007.

124. During the period under review, Korea completed the implementation of its three-year Market Reform Roadmap by establishing and revising competition laws and regulations, and strengthening institutions in this area.

125. Net support for agriculture (3.3% of GDP) exceeds its contribution to GDP (3.2% in 2006). Domestic support distorts agricultural production and trade, and results in Korean consumers paying much higher prices (on average well over double world levels). Support through direct payments has increased significantly, especially since their introduction for paddy fields in 2005. The government purchasing system for rice was replaced by a public stockholding system in 2005.

126. The services sector remains characterized by relatively low labour productivity (little more than half the level in manufacturing) and declining growth in total factor productivity; this is due, *inter alia*, to insufficient competition as a result of unduly burdensome regulation, predominance of state-owned enterprises, and low foreign presence. Despite some decline, state-ownership persists in financial, telecommunications, and transport services. In addition, there are foreign ownership ceilings in several sectors, notably telecommunications, air transport, and coastal maritime services, and a prohibition in radio and television broadcasting. On the other hand, services have benefited from regulatory reforms, including progressive liberalization in line with Korea's existing GATS commitments. Moreover, in all Korea's FTAs its commitments in the services sector exceed those under the GATS. In telecommunications, Korea has unilaterally liberalized foreign ownership beyond its GATS commitments. Increased competition in banking, partly due to FDI, together with consolidation and restructuring have significantly improved banks' balance sheets (and thus reduced their non-performing loans) as well as their productivity and profitability; as a result, labour productivity in the banking sector is much higher than in most other services and is comparable to the national level.

127. With regards to foreign investment, three sectors remain completely closed to foreign investors and 26 are partially restricted.

(ii) *The fourth TPR of the Republic of Korea 2004*<sup>14</sup>

128. Since its previous Review in 2000, Korea has continued to liberalize its trade and investment policies to promote structural reform and thereby improve the economy's efficiency. While there have been no significant changes in the general legal or institutional framework, nor in the way in which trade policy is formulated or implemented, trade and business laws have been strengthened and transparency improved as part of the Government's goal of achieving a "fair and transparent market-

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<sup>14</sup> WT/TPR/S/137, 18 August 2004.

driven economy". Regulatory reform, driven by the Regulatory Reform Committee, remains a high priority; improved customs procedures were selected as a trade-related strategic goal in 2003.

(iii) *The third TPR of the Republic of Korea 2000*<sup>15</sup>

129. Notwithstanding the seriousness of the Asian financial crisis and the severity of the recession that followed, the Government of Korea has, by and large, resisted protectionist pressures, opting instead to undertake reforms in trade and related policies through the implementation of commitments undertaken in the context of the WTO, IMF and OECD as well as bilaterally agreed arrangements. In addition to its Uruguay Round undertakings, multilateral commitments on automobiles, information technology items, financial services, and basic telecommunications have been expanded and/or strengthened. These reforms have reinforced Korea's already outward-oriented trade regime and its increasingly liberal attitude to foreign investment and have also helped pave the way not only for the remarkable recovery of the economy during the past year or so, but for strong sustainable growth in the future.

(iv) *The second TPR of the Republic of Korea 1996*<sup>16</sup>

130. Trade liberalization and a commitment to WTO principles have been integral to Korea's economic policies in the 1990s. Based on pre-announced programmes, tariffs have been reduced and quantitative restrictions abolished across virtually all sectors. External liberalization has been accompanied by internal deregulation. The Government's Five-Year Plan for a New Economy (1993-97) calls for reduced State control, including the abolition of unnecessary regulations and restrictions, increased transparency of trade-related policies, and the alignment of domestic with international regulations. The Plan is focused on structural adjustment and competitiveness in agriculture; technology enhancement in small and medium-sized enterprises (SMEs); accelerated adjustment of declining industries; and expansion of high value-added export sectors.

131. Korea's undertakings in the Uruguay Round included tariff reductions, concessions in the agricultural sector, commitments in many services sectors, and accession to the Agreement on Government Procurement. Final bound tariffs will average 8.3 per cent (trade-weighted basis) and are being phased in over a ten-year period, until 2004, in line with developing-country provisions. All rates have been bound for farm items, as required under the WTO Agreement, while the level of tariff bindings for industrial products was increased from 10 to 90 per cent. This implies gains in predictability and security of access, although the relevant rates are in most cases higher than those currently applied.

132. Korea is committed to phasing out, or bringing into conformity with WTO provisions, a range of import restraints previously maintained for balance-of-payments reasons. Non-automatic licensing requirements were eliminated on 220 agricultural and fisheries products between 1992 and July 1996, and 73 additional items are to be liberalized in July 1997. The date for liberalization of eight categories of beef and cattle was extended in the Uruguay Round context to January 2001, compensated by increased quota levels and relatively low final tariffs. Restrictions on certain Japanese products, maintained under the Import Diversification Programme, are being phased out with a view to their full elimination by 1999. The current, comprehensive system of trade licensing, generally automatic, is to be replaced in 1997 by a system limiting licensing requirements to health, security and similar criteria.

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<sup>15</sup> WT/TPR/S/73, 28 August 2000.

<sup>16</sup> WT/TPR/S/19, 28 August 1996.

## **IX. MALAYSIA**

### *(i) The fifth TPR of Malaysia, 2010<sup>17</sup>*

133. Malaysia remained an open trade-dependent economy with trade in goods and services equal to 184% of GDP in 2008. Steady economic growth between 2005 and 2008 was interrupted in 2009 as the economy contracted due to the global financial crises that reduced demand for Malaysia's exports. The rapid response by the Government in relaxing rules for foreign investment in several services sectors helped to reduce the impact although FDI decreased all the same. At the same time, restrictions on foreign exchange have been liberalized and a fiscal stimulus package of about 9% of GDP was employed.

134. Since 2003, government policy has shifted to developing the services sector and improving the value of exports and away from reliance on exports of goods produced by semi-skilled and low-cost labour. Regional trade agreements are becoming increasingly important both through ASEAN and bilaterally with agreements with Japan and Pakistan entering into force since 2006 and negotiations with four other countries, including the United States, underway.

135. Although trade and investment policy has been gradually relaxed since the previous review in 2006, trade measures remain a major component of policy, particularly in automobile manufacturing and government procurement (Malaysia is not a party to the WTO Government Procurement Agreement). On average, applied MFN tariffs were 7.4% in 2009 although many tariff lines remain unbound and the average bound MFN tariff was about twice the applied rate. Despite the difference between applied tariffs and the bound rates, tariffs have only been increased on a few occasions. However, other measures are also used to regulate trade. These other measures include: non automatic import licensing; and preferential government procurement procedures which are used to promote domestic producers. Investment policy also uses trade measures, such as: import duty exemptions; export taxes; and tax incentives.

136. The legal framework for trade and investment continued to develop: a Safeguards Act was introduced in 2006 and supporting Regulations in 2007; a Code of Corporate Governance entered into force in 2007; and intellectual property courts were established; but, as of early 2010, there was no comprehensive competition law in Malaysia.

137. The state remains heavily involved in certain sectors considered of strategic importance to the country through Government Linked Companies and other measures. Tariff quotas were introduced for several agriculture products in 2008 and rice can only be imported through BERNAS. On the manufacturing side, the automotive sector remains protected from foreign competition and cash rebates were introduced for consumers who replaced their old car with domestically produced ones.

### *(ii) The fourth TPR of Malaysia, 2006<sup>18</sup>*

138. Malaysia continued to steadily liberalise trade and investment and completed its recovery from the Asian financial crises of 1997-98. Economic growth accelerated throughout the 2001-05 period reaching over 7% in 2004 while inflation and unemployment remained low. A large trade surplus helped deliver a large current account surplus which reached nearly 13% of GDP in 2004 and, in July 2005, Malaysia abandoned its currency peg against the US dollar, replacing it with a managed float system.

139. After 2003, Malaysia increased the emphasis on bilateral free-trade agreements with investment components, and, through ASEAN, it participated in regional free-trade and investment negotiations with several countries.

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<sup>17</sup> WT/TPR/S/225/Rev.1, 15 February 2010.

<sup>18</sup> WT/TPR/S/156/Rev.1 of 9 March 2006

140. Investment regulations continued to be liberalised, with foreign investors able to take full equity holdings in all new manufacturing projects and the only restriction remaining on investment in local firms being the requirement to maintain a minimum of 30% *bumiputera* equity. The only exceptions being broadcasting, water, energy supply, banks and health which were limited to 30% foreign equity participation.

141. The State had, and still has, a strong presence in many sectors of the economy with 40 Government-Linked Companies (with assets valued at more than half of GDP) although steps were being taken to ensure the independence of these business entities.

142. The impact of the growing number of free-trade agreements increased competition within Malaysia and prompted a push to increase productivity and to move into the production of higher value goods, as emphasised in the Third Outline Perspective Plan and the Eighth Malaysia Plan.

(iii) *The third TPR of Malaysia, 2001*<sup>19</sup>

143. The period under review, 1997-2001, was overshadowed by the Asian financial crisis which severely hit economic growth in 1998 as GDP contracted by 7.4% due to a fall in domestic demand and investment. The government responded by reducing interest rates, increasing government spending, introducing temporary controls on some capital account transactions, and pegging the currency to the U.S. dollar. Whether these measures helped is difficult to say but the economy did recover rapidly and grew strongly from 1999 onwards, helped by exports, investment and domestic consumption.

144. In general, Malaysia's trade policies, and those of its trading partners, remained open throughout and after the Asian financial crises which contributed to helping trade flows. However, it continued to support the automobile sector through several trade related measures including local content requirements (which were abolished for other sectors).

145. Export duties remained on a number of products, particularly forestry products, crude oil, and palm oil while exports of other products was supported through tax concessions, export processing zones, concessionary credits, insurance and guarantees.

(iv) *The second TPR of Malaysia, 1997*<sup>20</sup>

146. The Asian financial crises broke just as the Trade Policy Review report was being finished. At that time the report noted that the underlying strength of the economy would help to mitigate the impact, although it would still be severe. The crises came after a prolonged period of economic growth characterised by high levels of investment and liberalisation.

147. At that stage, structural problems arising from rapid economic growth had begun to emerge. In particular, shortages of skilled labour (and the accompanying need to invest in human capital) and the efficient use of capital in general as total factor productivity growth had stagnated.

148. The period covered by the Review coincided with the beginning of implementation of the Uruguay Round Agreements. Tariffs were reduced, with the average MFN applied tariff cut to 8% from over 15%, and commitments under the GATS were introduced. However, at that time, substantial number of tariff peaks remained and import licensing also used to regulate imports.

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<sup>19</sup> WT/TPR/S/92, 5 November 2001

<sup>20</sup> WT/TPR/S/31, 3 November 1997.

## **X. MEXICO**

(i) *The fourth TPR of Mexico, 2008*<sup>21</sup>

149. The fourth Trade Policy Review of Mexico was held on 11 and 13 February 2008. During the review meeting, Members urged Mexico to carry out the needed structural reforms to enhance competitiveness and improve economic performance. Mexico provided details on its reform agenda, and how it aims to raise productivity and economic growth in a sustainable manner.

150. Members commended Mexico's commitment to trade liberalization, as demonstrated by its unilateral reduction of tariffs in 2006. However, Mexico was urged to continue simplifying its trade regulations and to reduce the gap between bound and applied tariffs. Concerns were expressed regarding issues such as customs fees, the estimated price mechanism, certification requirements, anti-dumping, and SPS and TBT measures. Mexico pointed out that customs modernization and transparency were key components of its reform efforts.

151. Responding to questions on the incentive schemes it maintains, Mexico clarified that none of them is contingent upon exportation. On competition policy, Mexico was congratulated for the improvements it had made although implementation problems persist. Some Members called for the elimination of domestic preferences in government procurement and for Mexico to join the GPA, which Mexico indicated it was not considering.

152. Foreign investment has played an important role in Mexico's development strategy but restrictions apply in different areas of the all-important services sector, including telecommunications and transport. Members encouraged Mexico to reduce such restrictions, and to improve its GATS commitments with a view to closing the gap between these and Mexico's legal framework. Questions were raised about the effectiveness of the support given to the agriculture sector, and the transparency of tariff-quota administration. Mexico acknowledged the need for reform in the energy sector, and indicated that, while changes were under consideration, the liberalization of existing investment restrictions was not.

153. On its part, the report prepared by the Secretariat for the fourth Review of Mexico noted that no limits are set for foreign investment in activities not reserved or subject to specific regulations. However, some sectors are still reserved for the State, while others are reserved for Mexican capital, require a majority of Mexican capital, or prior approval before foreign participation may exceed 49% of the total equity.

154. Mexico has 12 preferential agreements with 44 countries, and conducted 85% of its trade with preferential partners. It has lowered its simple average MFN tariff, from 16.5% in 2001 to 11.2% in 2007. Agricultural goods still receive higher tariff protection (23%) than other products (9.9%). The applied tariff is complex and tariff dispersion has increased. Mexico has bound all its tariffs, at an average rate of 36%. Tariff quota administration is complex and lacks transparency.

155. Mexico has adopted several measures to streamline foreign trade procedures but some procedures remain complex. Customs valuation still involves the application of an estimated price mechanism to certain products. Mexico uses both preferential and non-preferential rules of origin; the latter are aimed at preventing circumvention of contingency measures. In June 2007, 70 anti-dumping duties were in effect. In general, the procedures for adopting technical regulations (NOMs) are clearly defined, but goods subject to sanitary and phytosanitary measures must comply with NOMs, phytosanitary or animal health information sheets, and/or inspection requirements.

156. Mexico promotes exports by granting tariff and fiscal concessions as well as administrative facilities. The major promotion programme grants fiscal benefits subject to compliance with

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<sup>21</sup> WT/TPR/S/195/Rev.1, 2 May 2008 and WT/TPR/M/195, 14 April 2008.

minimum export requirements, unless preferential agreements provide otherwise. Mexico also provides several export financing and guarantee schemes through development banks. There are many other government support programmes in specific areas. In Agriculture, there has been a reduction in the most distorting interventions and the efficiency of transfers to producers has been improved, but market price support and output-based payments still account for over half the support given to producers.

157. Mexico has strengthened its competition legislation and competition authority. Nevertheless, there are still monopolies and/or insufficient levels of competition in industries such as electricity, hydrocarbons, and telephony. Mexico is neither a signatory to nor an observer in the WTO Agreement on Government Procurement. Most government procurement takes place through tenders only open to Mexican persons and goods, or to Mexicans and foreigners from countries with which Mexico has signed relevant agreements. In several areas, Mexico grants protection that exceeds the minimum periods laid down in the TRIPS Agreement.

158. In the services sector, Mexico made specific commitments in ten of the 12 sectors of the GATS. It adopted the Fifth Protocol on Financial Services and the Fourth Protocol on Basic Telecommunications. In the context of the DDA negotiations, Mexico submitted an initial offer in 2003 and a revised offer in 2005. In many cases, the market access provisions in Mexico's legislation and preferential agreements are more liberal than the commitments it undertook under the GATS.

(ii) *The third TPR of Mexico, 2002*<sup>22</sup>

159. The third Trade Policy Review of Mexico was held on 15 and 16 April 2002. During the review meeting, Members commended Mexico for its economic performance in recent years. Mexico's trade and investment liberalization efforts have been key elements in its economic advancement and prospects. However, much of Mexico's recent liberalization has taken place under preferential arrangements. Falling applied preferential tariffs contrast sharply with the three-percentage-points increase in Mexico's average MFN tariff since its previous Review. Other recent tariff increases were also questioned, notably those affecting steel products.

160. Members commended Mexico's various initiatives to streamline and increase transparency in many administrative areas, but they were also concerned about Mexico's customs procedures and practices. Although transparency in the use of technical and SPS regulations has improved, some concerns were raised with respect to measures on certain products. Some Members noted Mexico's use of anti-dumping measures, which although falling in number were still many, and encouraged Mexico to align its contingency legislation with multilateral rules. Members also sought further clarification on a number of specific areas, including: tariff quotas maintained for agricultural products; WTO-consistency of special import regimes (including maquila); local-content requirements in the automotive industry; and protection of intellectual property rights.

161. On sectoral policies, several questions were asked about assistance to the sugar industry. Members expressed interest in developments in the energy sector, air and maritime transport services and telecommunication services, notably with respect to foreign participation, competition and liberalization.

162. On its part, the report prepared by the Secretariat for the third Review of Mexico noted that significant improvements have been made since 1997 in terms of transparency. Since its previous Review, Mexico had implemented MFN tariff increases that raised the simple average applied rate by some three percentage points, to 16.5% in 2001. Tariff protection for agricultural products was substantially higher than for other products, with applied MFN rates on a small number of products slightly exceeding bound rates. The number of different tariff-quota schemes adds complexity to Mexico's import regime. Mexico maintains import permits for sensitive products for reasons of

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<sup>22</sup> WT/TPR/M/97, 11 June 2002 and WT/TPR/S/97, 15 March 2002.

protection of domestic industries. For used vehicles and machines, permits are issued only when the foreign product has no domestically produced substitute. Mexico is an active user of contingency measures, mainly anti-dumping. As at March 2001, there were 90 anti-dumping duties applied on a wide range of products, mainly of Chinese origin.

163. In part to offset the anti-export bias resulting from trade barriers on imports, Mexico promotes exports through various duty and tax concessions, one of which has been notified to the WTO as an export subsidy. Mexico also operates numerous programmes in support of selected activities. Certain tax concessions are contingent on meeting national-content requirements, or are granted only if no domestic substitute is available.

164. In the services sector, important changes have been made to the legal and institutional framework, often secured or otherwise linked to Mexico's multilateral and preferential liberalization initiatives. However, competition policy concerns have arisen in recent years in the telecommunications market, and in domestic transport, which remains largely closed to foreign participation.

(iii) *The second TPR of Mexico, 1997*<sup>23</sup>

165. The second Trade Policy Review of Mexico was conducted on 7-8 October 1997. During the review meeting, Members praised Mexico's active and positive role in the WTO. They also took note of Mexico's growing participation in regional trade agreements, highlighting in particular NAFTA's major role in Mexico's trade policy reforms. Members appreciated Mexico's autonomous tariff reductions and the decline in other restrictions since the 1980s.

166. Some Members noted Mexico's intensive use of anti-dumping measures. Potential problem also included the increased use of technical and labelling requirements. Members recognized the considerable economic importance of the maquiladora industry, but some stressed the need to encourage its closer integration in the domestic economy. Mexico's policies to promote the automotive sector were seen as contradicting the country's general thrust towards a more liberal trade regime. Members asked about the elimination of remaining restrictions on private and foreign participation in a number of sectors. Mexico was also asked about its recent experience with the Federal Competition Commission. Several members expressed appreciation for the introduction of improved legislation on intellectual property, but raised questions on various related issues.

167. On its part, the report prepared by the Secretariat for the second Review noted that Mexico had continued the process of economic reform initiated in the mid-1980s. The efficiency gains achieved since then, the greater openness of the investment framework and closer integration in the world economy, together with the support of the international financial community, have assisted recovery from the 1995 recession. Modernization of the institutional and legal framework is continuing. While unilateral trade liberalization on an MFN basis has been carried forward, trade policy changes have been dominated by regional liberalization under NAFTA and other agreements. Moreover, remnants of the earlier import-substitution policy still affect the automotive industry, while selective tariff increases (within bound levels) have been introduced to support other activities. The active use of anti-dumping measures makes them a potential trade barrier.

168. The first Trade Policy Review of Mexico was conducted on 19-20 April 1993.

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<sup>23</sup> WT/TPR/M/29, 16 December 1997 and WT/TPR/S/29, 2 September 1997.

## **XI. PERU**

(i) *The third TPR of Peru, 2007*<sup>24</sup>

169. Peru has continued to liberalize its trade regime since 2000, mostly unilaterally.

170. The constitution guarantees equal treatment to national and foreign investment, except within 50 km of international borders. However, there are laws that impose restrictions on foreign participation in maritime services, air transport, and broadcasting services. Under the constitution, natural resources are inalienable State property, but private investors may be granted concessions to exploit them.

171. Under a unilateral tariff reduction programme, the average applied MFN tariff rate decreased from 13.6% in 1999 to 8.2% in April 2007, reflecting tariff reductions on capital goods and inputs not produced in Peru. The average MFN tariff rate applied on agriculture (WTO definition) is almost 15%, compared with 7.2% for non-agriculture. In reducing tariffs, Peru has moved away from the relatively uniform tariff structure it maintained during the 1990s, increasing the level of effective tariff protection in some sectors. All tariffs are *ad valorem*; those applied on 46 tariff agricultural lines are subject to reductions or surcharges linked to variations in world prices. Peru has bound its entire tariff schedule, mostly at 30%. Peru grants duty-free treatment to all products originating in the Andean Community. Peru also grants tariff preferences to Chile, Cuba, MERCOSUR, and Mexico, although their scope varies greatly. In general, imports receive national treatment in the application of internal taxes. However, the beverage Pisco is subject to an excise tax at a specific rate of S/. 1.50 per litre (some US\$0.47 per litre) while the minimum rate applied on other alcoholic beverages is 20%. Used vehicles are subject to excise tax at a rate of 30%, but are zero rated if they are imported for repair and conversion in certain zones, and subsequently introduced into Peruvian territory. Certain services rendered to domestic flag vessels are exempt from value-added tax.

172. Peru prohibits the importation of beverages manufactured abroad under the name "Pisco", used clothing and footwear for commercial purposes, and used motors and parts for road vehicles. Since Peru's last review, there has been a significant increase in the number of anti-dumping investigations, which have focused mostly on a handful of products and exporters. As at end 2006, 34 anti-dumping measures and one countervailing duty were in force. Peru has applied two provisional safeguard measures to WTO Members during the review period. All of Peru's SPS measures are based on international standards. Few technical regulations are in force. Peru has established a system to ensure that new and existing regulations are not more trade restrictive than necessary.

173. Peru does not apply charges or taxes on exports. A few export prohibitions on wood and plants and plant products are in place, mostly to promote local processing and investment, control access to genetic resources, or protect the environment.

174. Peru maintains a "simplified" duty drawback scheme, under which exporters receive 5% of the f.o.b. value of their exports or half of their production cost, whichever is less. This simplified regime provides no mechanism to ensure that the amount given back to exporters does not exceed the actual value of duties paid. In mid-2005, Peru eliminated all export requirements to obtain benefits under certain free-zone programmes

175. Peru continues to maintain a number of incentives, many in the form of fiscal exemptions, to promote business activity and investment. At the beginning of 2007, Peru established a general framework that regulates the granting and the renewal of fiscal incentives.

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<sup>24</sup> WT/TPR/S/189/Rev.1 of 12 September 2007.

176. Since 2000, important changes have been made to the regulatory framework on government procurement. Peruvian legislation grants a 20% preference margin to bidders that use Peruvian goods; certain programmes (e.g. food aid) require that only domestic food products be acquired.

177. A 50% reduction in income tax is available to some agricultural producers that use domestic inputs. Official support to agriculture also consists of measures to facilitate access to credit and debt reduction programmes. The legal limits on the use of imported inputs for the production of liquid milk and derived products are not applied in practice. Foreign flag vessels may be granted fishing permits only to the extent that this supplements the activity of the Peruvian fleet. Certain tax benefits and reductions in the fees for fishing permits are contingent upon unloading the catch in Peru. Peru introduced mining royalties in 2004. Holders of mining concessions have benefited from sector-specific tax stability contracts. Exports of natural gas from the proven reserves of Peru's Camisea field are subject to ability to meet forecast demand for 20 years.

178. The liberalization process in the telecommunications sector has continued since Peru's previous Review, and the sector's legal framework has undergone substantial changes to facilitate entry for new operators. Foreign participation in radio broadcasting services may not exceed 40% of the capital stock or of stakeholders. Consolidation of the banking sector continued during the period under review, particularly as a result of problems that affected the sector in 2003. Peru maintains a tax on financial transactions at a rate of 0.08% of the value of each deposit and withdrawal from a bank account; the tax is set to be reduced according to an established schedule. In the transport sector, important regulatory progress has been made since 2000, but problems related to infrastructure persist in certain activities. In maritime transport, cabotage services are reserved to national flag vessels with majority Peruvian ownership. A minimum of 25% of the volume of hydrocarbons transported in national routes is reserved for Peru's navy. In 2005, Peru adopted a law to grant incentives for the development of the national merchant marine; however, this is awaiting the adoption of regulations. In air transport, up to 49% foreign participation is allowed at the start of operations by firms established in Peru, which may be increased to 70% after six months.

(ii) *The second TPR of Peru, 2000*<sup>25</sup>

179. Peru's generally open trade and investment regimes have remained relatively stable since 1994. The continued consolidation of earlier, far-reaching reforms has paid off during the last six years in the form of significant growth in GDP, employment, trade, and foreign investment, as well as in improved social welfare indicators. In the context of the Uruguay Round, Peru consolidated within the WTO many of its unilateral liberalization and economic reforms, and has subsequently enacted or amended domestic regulations to ensure implementation of its multilateral obligations.

180. The sectoral regulatory framework has remained relatively stable, after earlier, wide-ranging reforms led to the comprehensive liberalization of sectoral investment rules and an ambitious privatization programme that saw the State withdraw from many production activities, particularly during 1994-96. Investors are offered additional incentives through "law stability agreements", conditional on meeting minimum investment, job creation or export performance criteria.

181. Peru uses tariffs as its main instrument of border protection. The average applied MFN rate was 13.6% in 1999, down from some 16% in 1993. Some 330 tariff items involving agricultural products receive additional protection through a 5% or 10% tariff surcharge. Of these, 23 items are also subject to variable specific duties intended as a price stabilization and protection mechanism. In early 2000, these duties affected five product groups: milk, maize, sorghum, rice, and sugar (also wheat products until 1998). Non-tariff barriers to trade appear generally low. Anti-dumping measures have been used sparingly, with only nine measures in force in early 2000; there are no countervailing or safeguard measures in force. Peru maintains local-content requirements in relation to various government nutrition programmes, as well as a trade-related investment measure in dairy.

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<sup>25</sup> WT/TPR/S/69 of 28 April 2000.

182. Export restrictions apply on guano, rough wood, and certain animals. Visas are required for textile exports to the United States, with export restraints on cotton towels. Peruvian exports appear to receive limited direct government support. Peru's drawback regime refunds 5% of the f.o.b. value of the good exported regardless of the actual amount of duties paid on imported inputs. Regional, sectoral, and social policies make use of fiscal incentives. Fiscal exemptions provided under the CETICOS scheme established in late 1996 are conditional on export performance.

183. A number of provisions favour domestic suppliers in government procurement, which is governed by a more transparent regulatory framework introduced in 1997. The competition policy framework continues to be developed; aware of the interlinkages and the need for consistency between competition policy and protection of intellectual property rights and the use of contingency measures, responsibility for all three areas has been given to a single agency, INDECOPI.

184. Since its last Review, Peru has continued to pursue a sectoral policy approach that emphasizes neutrality of incentives across activities. Nevertheless, a small number of activities are still favoured through special fiscal incentives or tariffs. For example, Peru maintains various border and internal support measures for certain crops and dairy products. The State used to be a major supplier of services, including in financial, transport, and telecommunications activities, but such involvement has decreased dramatically since the mid 1990s. In parallel, foreign access to Peru's services market has improved markedly.

## **XII. SINGAPORE**

(i) *The fifth TPR of Singapore, 2008*<sup>26</sup>

185. Singapore continued to have one of the most open and competitive in the world. Merchandise trade is nearly four times GDP. Economic growth from 2004 to 2007 averaged nearly 8% per year and inflation was low until later 2007 when it increased and prompted the Monetary Authority of Singapore to tighten monetary policy and let the currency appreciate. Singapore remains an attractive investment location and FDI inflows were about one-sixth of GDP but Singapore also invests abroad as savings exceeded domestic investment by 21% of GDP.

186. With its tariffs bound at zero, Singapore's trade and investment policy instruments continued to promote higher value added in both services and manufacturing and higher productivity. In addition, income and corporate taxes were reduced while consumption taxes were increased.

187. Increasing value added and improving productivity require further structural change. In particular to shift from using technology to generating it. Investment in research and development has increased steadily from less than 2% of GDP in 2000 to 2.4% in 2005 and the expectation that this would increase further to 3% by 2010.

188. As a member of ASEAN, Singapore participates in negotiations with other countries on regional trade agreements while pursuing its own negotiating agenda either on its own (with agreements concluded with India, Jordan, Korea separately and with Brunei, Chile and New Zealand in the Trans-Pacific Strategic Economic Partnership Agreement). In addition, it is actively negotiating several other bilateral free-trade agreements as well. Domestically, a comprehensive competition law was enacted in 2005 and the Competition Commission of Singapore was established.

189. Applied tariffs are nearly all zero except for a few alcoholic beverage products. Although, nearly one-third of tariff lines are not bound and the average bound rate on the remainder is nearly 7%, Singapore did not actually increase applied tariffs on any tariff line. The only restrictions to imports

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<sup>26</sup> WT/TPR/S/202/Rev.1 26 September 2008.

and exports are for environmental, health, and public security reasons. The only exception is rice which is subject to import licensing. As a general policy Singapore uses international standards where applicable.

190. Although Government Linked Companies are still common in Singapore, they act increasingly like pure commercial enterprises as Temasek continued to divest itself of its holdings, corporate governance regulations are strictly enforced, and the new competition law applies to all enterprises. As Singapore finds itself developing and not just using technology and to attract further investment in R&D, legislation on intellectual property has been improved.

191. Trade in goods has been very open for a long time in Singapore and became more open for utilities and services between 2003 and 2008. The gas sector and the postal service were liberalized and the three main electricity power stations were to be divested by Temasek in 2008/09. In 2005, the Government also removed the prohibition on gambling with the intention of improving Singapore's tourism potential.

(ii) *The fourth TPR of Singapore, 2004*<sup>27</sup>

192. As a result of several external factors, Singapore's economic growth fluctuated considerably between 2000 and 2004. First, it completed its rapid recovery from the Asian financial crises and grew strongly in 1999 and 2000, but then suffered in the general downturn and the economy contracted in 2001 and recovery was muffled by the SARS and other external events in 2003. Another reason for the relatively modest economic performance in the early 2000s, was poor improvement in total factor productivity while competition from low-cost producers elsewhere in Asia increased.

193. To address the challenges to improving productivity, the Economic Review Committee was established by the Government. The ERC recommended reducing corporate tax, increasing the goods and services tax and reducing pension contributions.

194. During the period of this TPR, Singapore started to actively pursue bilateral free-trade agreements. By March 2004 it has signed Agreements with New Zealand, Japan, EFTA, Australia, and the United States and was in negotiations with several others. In addition, through ASEAN, it was involved in negotiations with China, India, and Japan.

195. In line with the broader view taken on trade and investment, the Singapore Trade Development Board was transformed into International Enterprise Singapore as a statutory body under the Ministry of Trade and Industry. IE Singapore's role is to assist companies based in Singapore in grow and become more international. Foreign investment was liberalised as foreign ownership restrictions on local banks, members of the Stock Exchange of Singapore and telecommunications were all removed. However, limits remained on broadcasting, newspaper services, foreign law firms, and in some sectors where GLCs are dominant.

196. Singapore continued to make little use of contingency measures. Its remaining anti-dumping measures on steel reinforcement bars from Malaysia and Turkey were removed and no countervailing measures were applied. It has no legislation on safeguards.

197. Industrial policy continued to be to encourage investment in certain sectors though tax and non-tax incentives and with the support of GLCs which, in Singapore, are owned by Temasek, the Government's holding company. GLCs are active in many sectors and accounted for about 13% of GDP but they do not receive any assistance from the State. Nevertheless, the Government declared that it would Temasek would divest itself of all GLCs except for those considered to be of strategic importance.

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<sup>27</sup> WT/TPR/S/130 of 17 May 2004.

198. Legislation on intellectual property rights was improved by extending the period of copyright protection for authors, improved enforcement and an extension in the patent term for pharmaceuticals. In addition, Singapore acceded to the Madrid Protocol on registration of marks.

(iii) *The third TPR of Singapore, 2000*<sup>28</sup>

199. Since the previous TPR in 1996, Singapore was badly hit by the Asian financial crises as real GDP growth fell from an annual rate of 8% for 1995-97 to 0.3% in 1998. With ample reserves and a history of prudent fiscal and monetary policies, the Government was able to respond rapidly with temporary tax cuts, and looser monetary policy by allowing the currency to fluctuate more. As a result the Singapore dollar fell against the U.S. dollar, but it appreciated relative to other Asian countries affected by the crises.

200. The relatively greater depreciation in other currencies in the region also undermined the competitiveness of those industries in Singapore involved in low-value-added manufacturing. The government responded with several programmes, such as Industry 21, Information Technology 21, and Manpower 21 aimed at increasing value added in both manufacturing and services.

201. Singapore joined the WTO Government Procurement Agreement in 1997.

202. During the period of this review, Singapore began to relax the restrictions on foreign ownership by increasing the limits which then applied in several areas such as companies listed on the SES. It also reduced the number of products subject to import prohibitions from 0.7% of tariff lines to 0.5% and subject to non-automatic licensing from 19.7% of lines to 1.2%. However, import licenses for rice continued to be required and imports of motor vehicles over three years old was forbidden on environmental grounds, even if they meet Singapore's strict environmental and roadworthiness standards.

(iv) *The second TPR of Singapore, 1996*<sup>29</sup>

203. Singapore was already a very open economy in 1996 with applied tariffs on most products set at zero. The Singapore Trade Development Board within the Ministry of Trade and Industry was responsible for implementation of trade policies.

204. As a result of the Uruguay Round, Singapore had increased the proportion of bound tariffs from a very small portion to nearly 70% of tariff lines. Although it had bound them at an average of 7.4%, the applied tariff was already at zero for most lines. There were no restrictions on imports or exports apart from those deemed necessary for environmental, health and public security reasons. There were no export incentive, insurance or guarantee schemes.

205. Manufacturing performed strongly throughout the early 1990s and its share of GDP increased to 25%. At this stage, Singapore was shifting out of low-cost labour-intensive production to higher value-added operations. The State remained involved in industrial development through planning, investment through GLCs and investment through statutory bodies. In addition, tax incentives were used to encourage private investment in new projects in sectors identified as providing technological development or improving value-added.

206. As a relatively advanced economy, although still classed as a developing country in the WTO, Singapore already had an extensive system of legislation on intellectual property and avenues for enforcement.

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<sup>28</sup> WT/TPR/S/67 of 29 February 2000.

<sup>29</sup> WT/TPR/S/14 of 7 May 1996.

### **XIII. CHINESE TAIPEI**

(i) *The second TPR of Chinese Taipei, 2010*<sup>30</sup>

207. The second TPR report of the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu (Chinese Taipei) will be distributed to WTO Members at the end of May 2010. The TPRB will discuss the report at its meeting of 5 and 7 July 2010.

(ii) *The first TPR of Chinese Taipei, 2006*<sup>31</sup>

208. The economy of Chinese Taipei grew at an average annual rate of 4.0% during the period 2001-2005. As a result, per capita GDP increased from US\$13,090 in 2001 to US\$15,270 in 2005. The unemployment rate was 4.1% in 2005, down from 5.2% in 2002.

209. Trade has traditionally played an important role in the economy. In 2005, the shares of imports and exports were 62% and 59% of GDP, respectively. Chinese Taipei's surplus on merchandise trade narrowed from over 8% in 2002 and 2003 to around 5% of GDP in 2004 and 2005, while the deficit on the services balance increased to almost 2%, compared to around 1.2% on average in the previous three years. Foreign exchange reserves increased during the review period, to US\$253.3 billion at the end of 2005 (equivalent to some 15 months of merchandise imports).

210. Chinese Taipei's major trading partners are China; Hong Kong, China; Japan; the United States and the European Communities. The share of China in Chinese Taipei's trade has increased steadily during the period under review, accounting for 20% of total exports and 10% of total imports in 2004.

211. Most economic sectors are open to inbound direct investment, if approved by the Ministry of Economic Affairs. However, inbound direct investment is prohibited in several major sectors (notably, certain toxic chemicals, and television and broadcasting) for reasons of security and public health. In certain other sectors, inbound direct investment requires approval by authorities other than the Ministry of Economic Affairs. As regards cross-strait direct investment, little inbound investment has been allowed, and outbound investment, if not prohibited, requires the approval of the relevant Chinese Taipei authorities. Various incentives, including tax incentives, are provided to encourage investment, including inbound direct investment.

212. Underpinned by its accession to the WTO (2002), Chinese Taipei substantially liberalized its trade and related regimes in the goods and services sectors during the review period. Liberalization involved tariffs as well as non-tariff measures, such as import prohibitions and licensing, which were significantly reduced between 2002 and 2005.

213. The tariff is Chinese Taipei's main trade policy instrument and a significant source of tax revenue (5.8% of total taxes collected in 2004). Most products are subject to applied MFN tariffs not higher than 10%, and about 31% of all tariff lines are duty free. In 2005, the simple average applied MFN tariff rate was 7.8%, down from 9.5% in 2002. All tariff lines are bound and most applied rates coincide with bound rates. *Non-ad valorem* duties account for 1.8% of all tariff lines and apply particularly in agriculture; they tend to involve high *ad valorem* equivalents. About 130 tariff lines, including certain agricultural products, passenger cars and chassis, were subject to tariff rate quotas in 2005. Harbour-service dues on domestic trade were 60% lower than those for overseas routes.

214. Between 2002 and 2006, Chinese Taipei substantially reduced the number of products subject to non-tariff measures. In 2006, 56 tariff lines were subject to import prohibition, and 24 lines to import licensing. There were no quantitative import restrictions. Since its accession to the WTO;

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<sup>30</sup> WT/TPR/S/232 to be issued end of May 2010.

<sup>31</sup> WT/TPR/S/165/Rev.1, 10 October 2006.

Chinese Taipei has not used countervailing or safeguard measures; however, it does maintain anti-dumping measures on two products, and applies special safeguards in agriculture.

215. In government procurement the relevant legislation allows a margin of preference to local suppliers of up to 3% and procuring entities may request tenderers to purchase locally-produced goods. However, these preferences appear to be little used. Non-Chinese-Taipei suppliers accounted for around 17% of the total value of government procurement in 2004.

216. Prohibitions and licensing requirements apply on some exports, mainly for security and public health reasons. Exports of some fish, including trout and salmon, are prohibited. Chinese Taipei has not notified any export subsidies to the WTO. Nonetheless, various forms of assistance, including subsidies, are provided for agriculture, fisheries and industrial products and activities.

217. During the review period, Chinese Taipei adopted various laws and regulations to ensure the protection of intellectual property rights, and intensified efforts to enforce laws and regulations in this regard. Competition policy, by and large, remained unchanged. Statutory monopolies exist in the petroleum, electricity, sugar, steel, and water supply industries. Export and import cartels may be exempted from the application of the Fair Trade Law, if approved by the Fair Trade Commission. Engaging in prohibited anti-competitive practices incurs penalties including imprisonment.

218. Since its accession to the WTO, Chinese Taipei has continued to pursue trade liberalization and structural reform, especially in the services sector, where shares in GDP and employment have continued to increase and labour productivity is substantially higher than the rest of the economy. By contrast, there has been a relative decline in the contributions of agriculture to GDP and employment.

219. Agriculture's contribution to GDP is small and its labour productivity is substantially lower than elsewhere in the economy, however, it receives relatively high border protection and domestic support compared with other sectors. Support and adjustment programmes for agriculture include price stabilization measures for rice and sugar, and income support programmes for elderly farmers.

220. In manufacturing, the government provides tax incentives and subsidies for R&D and "newly emerging, important and strategic" industries, which mostly include machinery and electronics, the country's main foreign exchange earners.

221. In the services sector, the government has pursued various liberalization measures to facilitate domestic structural reform and provide better market access for non-Chinese-Taipei firms; such measures include the privatization of the dominant carrier in telecommunications. On the other hand, postal and railway transportation services continue to be fully government-owned. The authorities intend to proceed with further reforms, such as the privatization of state-owned banks, which retain a dominant position in the banking system.

222. The government recognizes the need to continue with trade liberalization and structural reform, and attract inbound direct investment, which remains substantially lower than outbound direct investment, by further improving Chinese Taipei's investment environment. The growing importance of cross-strait movement of goods in Chinese Taipei's economy would seem to indicate the need for further liberalization of cross-strait traffic; such liberalization would contribute to improving the efficiency of Chinese Taipei's economy and its attractiveness to inbound direct investment. Of great importance to Chinese Taipei's longer-term growth prospects will be its efforts to implement structural and other economic reforms to boost competition; these reforms would include continued tax and financial reform, strengthening of corporate governance, and trade liberalization, particularly in agriculture.