



DEPARTMENT OF TRADE AND INDUSTRY

The Uruguay Round of Multilateral Trade Negotiations 1986–94

*Presented to Parliament by the President of the Board of Trade
by Command of Her Majesty
May 1994*



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CONTENTS

<i>Chapter 1</i>	Introduction	1
<i>Chapter 2</i>	Background	3
<i>Chapter 3</i>	The negotiating process	5
<i>Chapter 4</i>	Implementation	7
<i>Chapter 5</i>	Results of the multilateral negotiations	8
	<i>Market access: industrial goods</i>	8
	<i>Textiles and clothing</i>	10
	<i>Agriculture</i>	12
	<i>Services</i>	14
	<i>Intellectual property</i>	15
	<i>Subsidies and countervailing measures</i>	18
	<i>Safeguards</i>	19
	<i>Anti-dumping</i>	20
	<i>Trade related investment measures</i>	21
	<i>Technical barriers to trade</i>	21
	<i>Sanitary and phytosanitary measures</i>	22
	<i>Import licensing procedures</i>	23
	<i>Customs valuation</i>	23
	<i>Pre-shipment inspection</i>	24
	<i>Rules of origin</i>	24
	<i>GATT 1994 - understandings on interpretation</i>	25
<i>Chapter 6</i>	Results of the plurilateral negotiations	27
	<i>Civil aircraft</i>	27
	<i>Government Procurement</i>	28
<i>Chapter 7</i>	The World Trade Organisation	29
	<i>The role of the WTO</i>	29
	<i>The effect of the WTO agreement on national laws</i>	30
	<i>The dispute settlement system</i>	30
	<i>The Trade Policy Review Mechanism</i>	32
	<i>Relations with other international organisations</i>	32
	<i>Trade and the environment</i>	32
	<i>Other new trade issues</i>	33
<i>Chapter 8</i>	Implications for developing countries	34
<i>Chapter 9</i>	Conclusion	36

ANNEXES

1	Uruguay Round agreements published by HMSO	37
2	Libraries holding copies of market access schedules	39
	<i>List of abbreviations used</i>	40

CHAPTER 1

INTRODUCTION

1.1 The Uruguay Round was the largest ever international trade negotiation. It took place within the framework of the General Agreement on Tariffs and Trade (GATT) and was launched at Punta del Este, Uruguay on 20 September 1986 and formally concluded at Marrakesh, Morocco, on 15 April 1994. By the end, the Round had 125 participants.

1.2 The Uruguay Round marks an important step forward in the liberalisation of world trade. It will lead to substantial reductions in tariffs on a wide range of industrial goods. It brings services and intellectual property within the framework of multilateral trade rules for the first time and integrates trade in textiles and agricultural goods into the multilateral trading system. GATT rules will be strengthened and placed on a firmer institutional footing by the creation of a new World Trade Organisation (WTO), expected to enter into force in 1995.

1.3 The Round should provide a substantial boost to world trade and international prosperity. It reduces the risk of protectionism and trade wars and introduces more effective means for the settlement of trade disputes. It should bring new opportunities for exporters, expand choice for consumers and act as a spur to economic efficiency worldwide. Any estimates of the total economic effects of the Round are subject to a wide degree of uncertainty but a study for the World Bank and Organisation for Economic Co-operation and Development (OECD) in 1993 calculated that the successful conclusion of the Round would boost annual world income by \$270 billion once fully brought into effect.

1.4 The Uruguay Round will help UK industry by bringing down barriers to exports of manufactured goods and services. It will give manufacturers greater protection against piracy of their copyrights, patents and designs. It should bring down prices for consumers - particularly of food, electronics and other manufactured goods; and it will strengthen the world trading system against unfair practices by individual countries. The UK is the fifth largest exporter in the world of goods and commercial services, and our markets are already among the most open. The UK therefore stands to be one of the biggest gainers from cuts in worldwide tariffs, quotas and other restrictions.

1.5 The Government were among those who argued for the launch of the Uruguay Round, which took place during a UK Presidency of the European Community (EC). The Government fought consistently to keep the negotiations going. In 1992, when there was the prospect of a trade war between the EC and the United States (US), the Government used the UK Presidency of the EC to get both sides back to the negotiating table and reach agreement on agricultural trade. In 1993, the Government encouraged the new US administration to extend Congressional authority in order to permit the GATT Round to be concluded. The Government also pressed for agreement on tariffs at the 1993 Tokyo Summit. At the 1993 Commonwealth Heads of Government meeting, the UK helped to launch a mission to the key Governments of the developed world, and thus signal that free trade was a prize for developing countries too.

1.6 This White Paper explains the background to the Round, its conduct and its results. The full texts of the Round agreements can be obtained from HMSO and are listed in Annex 1. Individual countries' schedules of tariff and services commitments may be consulted at the DTI libraries listed in Annex 2.

CHAPTER 2

BACKGROUND

The GATT

2.1 The General Agreement on Tariffs and Trade (GATT) provides a framework of agreed multilateral rules for world trade. It also functions as the principal institutional body concerned with negotiating the multilateral reduction of trade barriers and with international trade relations more generally.

2.2 The GATT entered into force in January 1948, with 23 countries signing. There are now well over 100 contracting parties, including most of the world's major trading nations. Procedures are well advanced for the accession of several more countries, including China and Saudi Arabia.

2.3 At the heart of the GATT are two basic rules of non-discrimination: the most favoured nation (MFN) principle and national treatment. The MFN rule requires that

any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties. (GATT Article I)

The national treatment rule prevents countries from applying internal taxes or regulations in a different way to imported and domestically produced goods so as to afford protection to domestic production. These principles have been elaborated and clarified over the 46 years of GATT's existence, but remain the basis of the open multilateral trading system.

2.4 The GATT's work in reducing trade barriers has taken place largely through a series of "rounds" of multilateral negotiations beginning in 1947. The most recent round before the Uruguay Round was launched in Tokyo in 1973 and completed in Geneva, where the GATT has its headquarters, in 1979. These rounds of negotiations have resulted in very substantial progressive improvements in market access for goods - average tariffs in industrial countries fell from around 40% in the late 1940s to around 5% at the start of the Uruguay Round. The more recent rounds have also clarified and elaborated GATT rules to deal more effectively with various non-tariff barriers and other measures which distort trade.

The objectives of the Uruguay Round

2.5 The Uruguay Round was initiated in order to take this process further, and to respond to changes in the world trading environment, strengthening GATT disciplines and extending them to new areas of trade as well as producing further reductions in tariff and non-tariff barriers. The formal objectives of the Round were set by a Declaration of the Ministers meeting at Punta del Este in September 1986. The broad aims set for the negotiations were:

- (a) to bring about further liberalisation and expansion of world trade;
- (b) to strengthen the role of GATT, improve the multilateral trading system and bring about a wider coverage of world trade under agreed, effective and enforceable multilateral disciplines;
- (c) to increase the responsiveness of the GATT system to the evolving international economic environment; and
- (d) to foster concurrent co-operative action at the national and international levels to strengthen the inter-relationship between trade policies and other economic policies affecting growth and development.

2.6 To these ends, the participants agreed to aim:

- (a) to reduce or eliminate tariff and non-tariff barriers;
- (b) to achieve the fullest possible liberalisation of trade in tropical products and natural resource-based products;
- (c) to integrate trade in textiles and clothing into GATT rules;
- (d) to achieve greater liberalization of trade in agriculture and bring such trade within strengthened and more effective GATT rules;
- (e) to review existing GATT Articles as requested and improve or clarify as appropriate Agreements and Arrangements negotiated in the Tokyo Round;
- (f) in particular, to negotiate new agreements on safeguards, subsidies and countervailing measures, trade related aspects of intellectual property rights, including trade in counterfeit goods, and trade related investment measures;
- (g) to improve dispute settlement procedures;
- (h) to establish a multilateral framework of principles and rules for trade in services, including elaboration of possible disciplines for individual sectors, with a view to expansion of such trade under conditions of transparency and progressive liberalisation.

CHAPTER 3

THE NEGOTIATING PROCESS

3.1 The Punta del Este Declaration provided for a Trade Negotiations Committee to supervise the negotiations. This consisted of representatives of all the countries and territories participating in the Round. Most of the Committee's meetings took place in Geneva at official level, but there were also meetings elsewhere at Ministerial level to mark key stages of the Round. A mid-term review meeting was held in Montreal in December 1988 (completed in Geneva in April 1989) and a conference took place in Brussels in December 1990, which was intended to bring the negotiations to a conclusion, but in the event failed to do so. A further conference was held in Marrakesh in April this year, formally bringing the Round to an end.

3.2 A Group of Negotiations on Goods and parallel Group of Negotiations on Services were also set up in Punta del Este, providing umbrellas for specific negotiating groups which supervised negotiations in individual areas. Much negotiation in practice took place in smaller informal groups, and the negotiation of individual countries' commitments on market access for both goods and services was largely conducted on a bilateral basis.

3.3 Certain ground rules for the conduct of the negotiations were established at Punta del Este and were observed throughout the negotiations. Of these, perhaps the most important was the principle that the conduct of the negotiations and the implementation of the outcome were to be treated as parts of a single undertaking. This was important in ensuring that countries could not pick and choose which elements of the outcome to apply. It also enabled participants to establish linkages between different aspects of the negotiations, which at times assisted progress. Parties also committed themselves at Punta del Este not to introduce any new trade restrictive or trade distorting measures, inconsistent with the GATT, during the negotiations. A surveillance body was set up to monitor the implementation of these commitments.

3.4 The Government were active throughout the negotiations in pursuing a positive outcome, both in discussions within the EC and in bilateral contacts with other participants. The negotiating process was not continuous, with several periods during which little progress was made as a result of conflicting political priorities in one or more of the major participants. The mid-term review marked an important step forward, in particular establishing a methodology for the conduct of the services negotiations. The production of a Draft Final Act of the Round in December 1991, under the supervision of the then Director General of the GATT, Arthur Dunkel, was a further important staging post, incorporating the results of the negotiations on the new GATT agreements into complete draft texts. These were changed relatively little in the following two years. Disagreements between the US and the EC over aspects of the agriculture negotiations, however, then reduced the momentum of the negotiations. During the UK Presidency of the EC in the second half of 1992, the UK pushed hard for a solution to these outstanding differences, and they were finally resolved, subject to some minor subsequent adjustment, at a meeting between the Commission and the US at Blair House, Washington DC, in November 1992.

3.5 The final stimulus to the conclusion of the Round was the submission to leaders of the Group of Seven industrialised nations meeting in Tokyo in July 1993 of an outline package of tariff cuts agreed by the EC, Canada, Japan and the US (see paragraph 5.5 below) and the renewal by the US Congress of President Clinton's negotiating authority with a firm deadline of 15 December for the conclusion of the substantive negotiations. The EC and other participants joined together in accepting this deadline. As a result, Autumn 1993 saw a period of intensive negotiations in Geneva, which resulted in the final resolution of the various outstanding points relating to the texts of the new agreements and the negotiation of substantial commitments on goods and services by all but the least developed participating countries. The period between the conclusion of these negotiations and the Marrakesh conference was devoted to legal verification of the texts of the agreements and of individual countries' schedules of commitments on goods and services.

3.6 In line with the conclusions of the European Council held in Punta del Este on 20 September 1986, the European Commission conducted the negotiations on behalf of the EC and the Member States, under the direction of the Council and in consultation with the Member States.

CHAPTER 4

IMPLEMENTATION

4.1 The Uruguay Round was brought formally to an end by the signature of the Final Act of the Round at Marrakesh on 15 April 1994 by 111 of the participants. (The remaining 14 mostly small countries which did not sign in Marrakesh can do so subsequently in Geneva.) Signing the Final Act signified:

- (a) agreement that the texts attached to the Final Act, including all the individual agreements and individual countries' commitments discussed in Chapter 5, embodied the results of the negotiations, and
- (b) a commitment to submit the results of the Round to domestic authorities for their approval.

There were also a number of procedural decisions on such matters as further negotiations to take place before the WTO comes into effect.

4.2 The Final Act also recorded the agreement of signatories on the desirability of the WTO entering into force by 1 January 1995 or as early as possible thereafter. An implementation conference will meet, probably in late 1994, to decide on the arrangements for the international implementation of the results, including the timing of their entry into force. This will in turn depend on the timing of the completion of necessary domestic ratification procedures.

4.3 The legal vehicle for bringing the results of the Round into force is the Agreement establishing the WTO. The individual Uruguay Round trade agreements form annexes to it. The provisions of the existing GATT covering trade in goods are re-enacted as the "GATT 1994", also in the form of an annex to the WTO Agreement. Existing contracting parties to the GATT will become Members of the WTO by means of their acceptance of the WTO Agreement and the deposition of schedules of tariff concessions and services commitments. It is anticipated that when they do so they will at the same time withdraw from the existing GATT.

4.4 Within the EC, the European Commission has now put forward a draft Council decision to accept both the WTO Agreement and the various plurilateral agreements. This will require the assent of the European Parliament. No changes to primary legislation are expected to be required in the UK.

CHAPTER 5

RESULTS OF THE MULTILATERAL NEGOTIATIONS

5.1 This chapter sets out briefly the results of the Round in the main areas of multilateral negotiation, both in terms of the changes, additions and amplification to GATT rules which are legally embodied in the WTO Agreement and its annexes and the specific commitments made by participating countries. The full legal texts run to several hundred pages, and the schedules of commitments on goods and services to several thousand. This chapter cannot therefore provide a full account, and the legal texts themselves should be consulted for an authoritative account of the results. They are listed in Annex 1 and can be obtained from HMSO.

Market Access: industrial goods

5.2 Lowering tariff barriers has been the central element of eight rounds of GATT negotiations since 1947. At that time, average tariff levels in the industrial countries were around 40%. At the start of the Uruguay Round developed countries' tariffs on industrial goods averaged 5%, although this covered a very wide range of duties from zero to over 50%. The Uruguay Round continued this downward trend, with substantial improvements in market access for industrial goods a key part of the Round's outcome.

5.3 In the early stages of the negotiations, the EC and other countries, including Japan, Canada, Australia and New Zealand, sought the adoption of a mathematical formula to determine the reductions to be made in each tariff as a result of the Round. The EC proposed a harmonising formula which bore more on high tariffs than low ones to achieve the objective of substantial reductions in high and peak tariffs. The US insisted, however, on a complex line-by-line "request and offer" negotiation with each of the significant participating countries in order to ensure wherever possible that concessions in one sector were reciprocated or matched in another to produce a balanced package. The outcome was a complex series of bilateral negotiations within a multilateral framework.

5.4 At the mid-term review of the Round held in Montreal in December 1988, an agreed target was set of eliminating or substantially reducing tariffs so as to achieve:

- (a) an average reduction in tariffs of at least one-third;
- (b) the reduction or elimination of high tariffs and tariff peaks;
- (c) an increase in the scope of bindings (agreement under the GATT not to raise a particular tariff above a designated level);
- (d) the elimination or reduction of non-tariff barriers to trade including quantitative restrictions on imports.

5.5 These aims were further refined by the Quad group of countries (the EC, US,

Japan and Canada) prior to the Group of Seven Summit meeting in Tokyo in July 1993. The elements of a deal comprising four key elements were identified:

- (a) the elimination of all tariff and non-tariff barriers on agricultural equipment, beer, construction equipment, furniture, medical equipment, paper, pharmaceuticals, some spirit drinks (whisky and brandy), some steel products, and toys;
- (b) harmonisation of tariffs in the chemicals sector at rates of zero, 5.5% or 6.5%;
- (c) halving tariffs of 15% and above;
- (d) an average cut of at least one-third in all other tariffs.

5.6 These objectives were fully achieved by the Quad countries. Some other countries have also agreed to apply the terms of the various elements of the Quad agreement in whole or in part. More widely, the final results of the tariff negotiations have comfortably surpassed the target of at least a one third cut set in Montreal.

5.7 Tariff reductions by the EC average 37% on tariffs on industrial goods, with similar average reductions to be made by the other Quad countries. More important, the value of the average tariff cuts made by the US, Japan and Canada on all imports from the EC will be approximately 50% on a trade weighted basis. Some 10% of tariffs on imports into the EC will be set at zero as a result of the Round, with similar results in other major countries.

5.8 Non-OECD countries have also made significant cuts in tariffs, for example an average 40% cut in the case of South Korea. The scope of tariff bindings has also been increased considerably, to 90% in most countries in Latin America and to 60% in the more advanced developing countries such as the Association of South East Asian Nations. This means that UK exports to these countries will not be subject to tariff increases above the bound rates on the goods covered by these bindings.

Sectoral results

5.9 The market access schedules deposited by the countries participating in the Round set out the cuts to be made line by line for individual goods. The major countries' schedules are therefore immensely detailed - the EC's schedule for industrial tariffs, for example, runs to 550 pages - and it is not possible to provide here a comprehensive summary of the results. Details of how to obtain copies of the schedules themselves are given in Annex 2. The broad results in some of the major sectors are, however, set out below, to provide an indication of the sort of improvements in market access in individual sectors which have been negotiated.

5.10 The **pharmaceutical** industry will be the first to enjoy the full benefits of the tariff reductions agreed in the Round, as the Quad countries and a number of other developed countries have agreed to eliminate tariffs in full immediately, the WTO enters

into force.

5.11 In the **chemicals** sector, tariffs will be reduced substantially, and for some products eliminated, in major UK export markets such as the US and Japan. Products on which tariffs will be eliminated include cosmetics, soaps and perfumes. Harmonisation at low rates will result in more than 50% cuts in peak duties maintained by the US. In the US market as a whole, where UK exports of chemical products were in excess of £1.2 billion in 1992, large duty savings will ensue.

5.12 Similarly, UK exports of **Scotch Whisky**, which currently stand at £2 billion a year, will be given a boost by the elimination of high tariffs, typically 30% in Japan and 20% in New Zealand, for example.

5.13 In the industrial **electronics** sector, tariffs will be substantially reduced on imports, to the benefit of the competitiveness of users of semiconductors and other microelectronic devices. Conversely, exporters will gain from tariff reductions in principal markets, such as the 78.5% reduction in the US tariff. On consumer electronics, the parallel US reduction will be 63%. Significant benefits will also accrue to UK producers of **medical equipment**, which had exports of £390 million in 1992, as a result of the elimination of tariffs agreed by the Quad countries. **Scientific instrument** makers will also gain from large reductions such as the 66.5% in US rates.

5.14 In the **textile and clothing** sector, some parts of the US offer were disappointing, particularly on clothing made from woollen fabrics, as were the offers of some other major textile exporters such as India and Pakistan. Tariffs on textiles will nonetheless be substantially reduced in many countries. High US tariffs of up to 40% on wool cloth will, for example, be reduced to 26%, and US tariffs of up to 16% on non-woven fabric will be eliminated.

Implementation

5.15 Tariff reductions will start to take effect as soon as the WTO Agreement enters into force. With the exception of pharmaceuticals, which will become duty free on the commencement date, tariff reductions will generally be phased in over 5 years. Exceptions include beer (8 years), and some chemicals, paper, steel and textiles (all 10 years).

Textiles and clothing

5.16 The GATT Agreement on Textiles and Clothing is concerned with the future operation of the Multi-Fibre Arrangement (MFA). The MFA currently imposes restrictions on the textile and clothing exports of 27 countries. As a result of the Round all quota restrictions established under the MFA will be phased out in four stages over ten years. The effect will be to restore trade in textiles and clothing to coverage by normal GATT rules.

5.17 The MFA phase-out will be calculated according to 1990 trade levels. Each

participant in the Round which wishes to maintain quotas will examine 1990 trade and eliminate any quotas on a proportion of products over the ten year period as follows:

- Year 1:** 16% of total trade is to be returned to normal GATT rules and any quota restrictions in force on the products covered are to be eliminated. On products for which quotas have not been eliminated, levels of quota are to be increased annually by not less than the growth rate specified in the MFA increased by 16%.
- Year 4:** A further 17% of total trade is to be returned to normal GATT rules and any quota restrictions in force on the products covered are to be eliminated. On products where quotas remain, levels of quota are to be increased annually by the growth rate specified in the MFA increased by 25%.
- Year 7:** A further 18% of total trade will be returned to normal GATT rules and any quota restrictions in force on the products covered will be eliminated. On products where quotas remain, the level of quota will be increased annually by the growth rate specified in the MFA increased by 27%.
- Year 10:** All remaining quotas are to be abolished.

5.18 Small textile exporting countries (defined as those accounting for 1.2% per cent or less of the restrictions applied by the importing country concerned) will receive enhanced treatment involving an acceleration of growth rates by one stage. For example, in Year 1 of the phase-out, the growth rate applied to small countries will be 125% of the MFA rate not 116%.

5.19 It will be possible for GATT members to establish new quota restrictions in cases of severe injury to domestic textile industries. These can be maintained for three years or until any quotas on the product in question under the MFA are phased out.

5.20 A Textile Monitoring Body (TMB) will be created to supervise the MFA phase-out and will have the authority to make recommendations or observations to resolve disputes. The TMB will submit a comprehensive report on the implementation of each stage of the phase-out. Reports will be required to be submitted at least five months before the end of each stage. These may include recommendations for future action.

5.21 The Government recognise that the phasing out of the MFA will present the UK textile and clothing industries with difficult challenges as they adjust to a more open trading system. However, together with the obligation imposed by the agreement on all WTO members to achieve improved market access for textile and clothing products, and the stronger rules and disciplines which will be provided by the revised anti-dumping, subsidies and safeguards agreements, the MFA phase-out should provide a stable basis for future trade in textiles and clothing.

Agriculture

5.22 The WTO Agreement will, for the first time, bring agriculture fully within multilateral trade rules established under the GATT. It sets the framework for domestic support policies as well as laying down specific requirements on trade in food and agricultural products. The overall aim of the Agreement on Agriculture is to promote more market-orientated agricultural policies with less reliance on the uncontrolled use of subsidies and on protection against imports.

5.23 The agreement will entail cuts in tariffs and the opening of new access opportunities; reductions in support for agriculture when it is defined as trade distorting; and a lowering of subsidies on agricultural exports.

Imports

5.24 The agreement requires cuts in tariffs of 36% on average over six years from the level in place in 1986-88. In addition, other frontier measures applied at that period which had the effect of reducing imports or increasing the price at which they were brought in are to be replaced by tariffs having equivalent protective effect to those measures. These tariff equivalents must also be reduced by an average of 36% over six years. The minimum reduction for any individual tariff is 15% but none of the cuts in the EC's tariffs and tariff equivalents will be less than 20%. Because of the risk that conversion to tariff equivalents might destabilise domestic markets, the agreement allows Contracting Parties to introduce extra safeguard charges where the price or volume of imports causes disruption. The rules for taking safeguard action are tightly defined.

5.25 In addition to progressive reductions in tariffs, the agreement requires participants to maintain the concessionary import quotas in place in 1986-88 and to introduce new reduced tariff quotas in those sectors where imports have previously been low. These new quotas start at 3% of domestic consumption rising in equal instalments to 5% by the end of the 6 year implementation period. In principle, this obligation applies to each agricultural product separately, but the EC has been allowed some aggregation (for example, meat has been treated as a single commodity).

Domestic Support

5.26 The agreement requires all Contracting Parties to reduce their support for agriculture by 20% by comparison with its level in 1986-88. A method of assessing support for this purpose, known as the Aggregate Measure of Support (AMS), is prescribed. It excludes payments to farmers which are considered to be non-trade distorting. Examples of these are research, technical advice, environmental payments, extra payments in the Less Favoured Areas, set-aside, early retirement incentives and so on. These are all classed as "Green Box" and are unconstrained. In addition, payments to farmers made in the crops sector on a fixed area of land calculated on historic yields, and in the livestock sector on a fixed number of animals, are similarly excluded from the calculation. This exclusion covers deficiency payments on crops in the US as well as crop area payments and livestock payments decided as part of the

reform of the common agricultural policy (CAP) in 1992.

5.27 The AMS is calculated for the total amount of agricultural support, not for each product separately. As a result, the reductions in support prices, particularly for cereals, which the EC decided in 1992 and which are being progressively introduced, will meet the 20% reduction requirement.

Exports

5.28 WTO members which subsidise agricultural exports, such as the EC and the US, will be required to reduce the volume of products exported with subsidy, on a product by product basis, to a level 21% below their 1986-90 average. The expenditure on subsidies must similarly fall by 36%. The reductions are to be made in roughly equal steps over the 6 year implementation period. Where subsidised exports of a given product have increased since 1986-90, the starting point for the reductions may be the average 1991-92 level (1986-92 in the case of beef), but the end point must still be based on 1986-90.

5.29 A different requirement applies to what are known as incorporated products. These are foodstuffs like biscuits which include more than one commodity. Only the expenditure cut of 36% applies to them.

The Peace Clause

5.30 Following separate negotiations between the EC and the US, the agreement includes specific provisions which protect the CAP from a range of challenges in the GATT. This so-called Peace Clause lasts for nine years. Freedom from challenge is, of course, dependent on the CAP observing the various requirements of the Agriculture Agreement and some extra conditions of which the most important is that support for individual commodities should not exceed that decided in the 1992 marketing year.

Timing

5.31 The EC's commitments on agriculture are expected to start taking effect from 1 July 1995. They will be implemented over six years in equal annual stages, although a little flexibility is allowed on the timing of the export cuts.

The implications of the agreement for EC and UK Agriculture

5.32 The European Commission considers that the EC should be able to meet most of its new GATT commitments on the basis of the CAP reforms already agreed and now being implemented. The Government's own economic analysis broadly supports that conclusion. This does not mean that the process of CAP reform will stop. The need to complete changes in the beef sector and start reforming support arrangements for sugar and Mediterranean products, for example, is reinforced by the GATT agreement but would have been apparent even without it.

Services

5.33 The results of the negotiations on services during the Round have two elements: the agreement of a new framework of multilateral rules to govern trade in services and the specific liberalisation commitments made by participants. Both the new rules - the General Agreement on Trade in Services (GATS) - and individual commitments will come into effect at the same time as the WTO Agreement.

The GATS

5.34 The GATS covers all measures applied by members of the WTO affecting trade in services. All service sectors are covered. The GATS rules include a requirement that regulations and agreements affecting trade in services should be transparent (that is published and generally available). There are also a number of measures relating to regional integration, recognition of standards, monopolies and various safeguard measures. The ability of members to apply systems of prudential regulation is safeguarded. A Council for Trade in Services is to be set up to facilitate the operation of the agreement and services will be covered by the general dispute settlement arrangements described in paragraphs 7.9 to 7.12 below. Perhaps most importantly, the GATS introduces MFN and national treatment non-discrimination principles to trade in services for the first time. The GATS rules will provide valuable increased security and stability to UK exporters of services.

5.35 The GATS rules recognise that the process of liberalisation of trade in services will be a progressive one. The MFN and national treatment principles are therefore not applied unconditionally in all circumstances. Countries are allowed to take derogations from the MFN principle for specific measures contained in a list submitted to other participants. Most countries have taken MFN derogations for some measures - the EC, for example, has taken derogations which will enable it to continue to apply discriminatory measures relating to broadcasting services under the 1989 Broadcasting Directive. Similarly, the obligation to provide national treatment to foreign service suppliers applies only in relation to those service sectors which countries have listed in the schedules of commitments negotiated with other parties during the Round, and is subject to the limitations described in those schedules.

Results by sector

5.36 Participants in the Round have set out their commitments on services in detailed schedules (details of how to obtain copies are given in Annex 2). These list the restrictions on market access and national treatment which each participant intends to maintain. These restrictions are "bound" under the GATS so that service exporters have a guarantee that restrictions will not subsequently be tightened. In most cases these commitments broadly amount to a "standstill" at existing levels of regulation, but there have also been some useful examples of restrictions being reduced. In a number of sectors there is provision for further negotiations to begin this year with a view to improving levels of commitments. The broad results for the most important sectors are set out below.

5.37 Most participants have made liberalisation commitments in **financial services**. Many are based on a standstill of the existing regulatory regime and constitute a guarantee that current levels of access for foreign service providers will be maintained. A number of developed countries, and one or two developing countries, made their specific commitments in accordance with an Understanding on Commitments in Financial Services which contains specific requirements in relation, for example, to the purchase of financial services by public bodies and to rights of establishment. There is provision for a further six month period of negotiation after the WTO comes into being, after which countries will be able to adjust their level of commitments and decide whether they wish to take MFN derogations. It is not yet clear precisely how these negotiations are to be organised, but the UK's aim will be to use them to pursue further MFN-based liberalisation.

5.38 There are also to be further negotiations on **maritime transport services**, conducted in a formal Negotiating Group meeting in Geneva. Negotiations will be concluded by June 1996. In **telecommunications services** there are some useful offers from both developed and developing countries on value-added services. Further negotiations on basic telecommunications services are also being conducted and are due to conclude by April 1996.

5.39 Liberalisation commitments in **professional services** vary according to the sub-sector involved. Most of the major developed countries have covered accountancy services. The offers on legal services are, however, more limited and outside the major developed countries, offers in other professional services are patchy. Work in this area will be pursued by means of a Working Party on Professional Services which will take forward a work programme on professional qualifications, technical standards and licensing. Accountancy is highlighted as a priority area for such work.

5.40 **Audiovisual services** (films and television) are covered by the GATS and there are no provisions included in the agreement according the sector any special status. The EC, however, made no liberalisation offer in the sector and lodged extensive MFN derogations for existing and future measures. A number of developed countries followed suit, but the US and Japan retained their offers.

5.41 The process of negotiating specific commitments in the various services sectors was a key part of the Round. The coverage achieved varies greatly between countries, with most developed countries covering all the major service sectors and some smaller developing countries' schedules covering no more than hotels and tourism. The GATS provides, however, for further negotiations on all schedules to take place no later than five years after it enters into force with a view to achieving a progressively higher level of liberalisation. This will enable barriers to exports of services to be reduced progressively over a number of years in the same way that the GATT has reduced barriers to trade in goods in the decades since its inception.

Intellectual Property

5.42 The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

establishes a fully elaborated set of rules requiring WTO signatories to provide minimum levels of protection and enforcement for intellectual property rights. These rules are based on existing internationally accepted norms, but improve on these in several important respects, including a requirement to establish or maintain effective civil and criminal remedies. This should provide significant benefits for UK businesses which have often found in the past that, even when intellectual property rights existed, they have frequently been impossible to enforce in some countries. More generally, the agreement should help to reduce growing tensions over trade in counterfeit goods.

5.43 The TRIPS agreement applies national treatment and MFN principles to intellectual property. In future, signatories of the WTO will have to provide foreign companies with the same level of intellectual property protection as they provide to their own nationals and will not be able to discriminate between foreign countries in the extent of protection offered. Some of the existing international intellectual property conventions have national treatment clauses but the inclusion of the TRIPs agreement within the WTO system will provide more effective dispute settlement procedures (see paragraphs 7.9 to 7.12 below). In particular, it will be possible as a last resort to retaliate in other areas in response to failure to provide the required levels of intellectual property protection and enforcement.

5.44 The other main elements of the TRIPS agreement are described below.

Patents

5.45 The TRIPS agreement imposes a general obligation to comply with the provisions of the Paris Convention (1967). It requires that a patent term of protection of at least 20 years for all inventions must be given. The agreement will also require that patent protection must be provided for pharmaceutical products. Under the agreement agrochemicals, microbiological processes and micro-organisms must also become patentable where this is not already the case. Compulsory licensing or governmental use of patents will be restricted by detailed conditions laid down in the agreement. The Government are considering what changes may be needed to UK practice to implement these provisions.

Copyright

5.46 The TRIPS agreement obliges signatories to observe the requirements of the Berne Copyright Convention (1971) in virtually all respects. Software and databases must receive full protection under copyright law, which is an improvement of the current unclear position under the Berne Convention. Record and software producers will be able to authorise or prohibit the renting out of copies of their work in most WTO members, and to claim remuneration for rental in the remainder. At present, rental rights are established in only a small minority of countries outside the EC and the record industry fears that uncontrolled rental, particularly of compact discs, leads to copying and reduced sales. Moreover, the record industry will also benefit from an increased length of protection in some countries. Protection must last for at least 50 years compared with the existing international minimum of 20 years. The 50 year term must also apply to performing artists and broadcasts.

Trade marks and service marks

5.47 The TRIPS agreement's requirement that WTO signatories adhere to the Paris Convention (1967) will provide a minimum level of protection for trade marks and service marks. In addition, the agreement defines what is eligible for protection as a trade or service mark and what the minimum rights conferred on owners of such marks must be. Additional protection is given to marks which have become well known in a particular country.

Geographical indications

5.48 The TRIPS agreement in general outlaws indications which mislead the consumer as to the geographical origin of goods or which amount to unfair competition. Geographical indications for wines and spirits must be protected even where there is no danger of the public being misled as to the true origin. Countries may, however, make limited exceptions for indications which have become generic.

Industrial designs

5.49 All WTO signatories must provide protection for industrial designs for a period of at least ten years. Layout-designs or topographies of integrated circuits must receive protection on the basis of enhancements to the Washington Treaty on Intellectual Property in Respect of Integrated Circuits. Protection must extend for at least ten years and compulsory licensing and government use are strictly circumscribed.

Trade secrets and know-how

5.50 The TRIPS agreement also requires the protection of trade secrets and know-how, both of which are often as commercially valuable as the intellectual property rights with which they may be associated. This will, for example, help protect UK pharmaceutical and agrochemical manufacturers against unfair commercial use of the test data they provide to governments in order to obtain marketing approval.

Procedures and remedies

5.51 One of the most significant benefits of the TRIPS agreement is the obligation on member governments to provide procedures and remedies under their domestic law to ensure that intellectual property rights can be effectively enforced by foreign rights holders. There is a series of obligations to ensure that these procedures are fair and equitable, not unnecessarily complicated or costly, and do not entail unreasonable time limits or unwarranted delays. Measures on the seizure of counterfeit and pirate goods by customs authorities at the border are permitted. Additionally, criminal procedures which can result in imprisonment and fines sufficient to act as a deterrent must be provided for in cases of wilful trade mark counterfeiting or copyright piracy on a commercial scale.

5.52 A special body is to be set up to monitor the operation of the TRIPS agreement. Although the agreement will enter into force at the same time as the WTO Agreement,

developed countries will have one year to bring their legislation and practices into conformity with the rules. Developing countries and former centrally-planned economies will have five years and least-developed countries eleven years. All countries must, however, accept the filing of patent applications for pharmaceuticals and agrochemicals as soon as the agreement comes into force.

Subsidies and countervailing measures

5.53 The Agreement on Subsidies and Countervailing Measures develops the rules contained in the existing GATT Article XVI and the Subsidies Code which was agreed as part of the Tokyo Round, but applied only by a minority of contracting parties.

5.54 The new agreement defines subsidies in three categories according to their potential to distort trade. These three categories are:

- (a) the prohibited group, which covers export subsidies and subsidies which are contingent on the use of domestic rather than imported goods.
- (b) Actionable subsidies, which seriously prejudice the interests of another WTO member, impair its GATT benefits or cause material injury to a domestic manufacturer of like products. Where material injury or serious prejudice is established, the remedy may lie either in the withdrawal of the subsidy or in ending its adverse effects. The general WTO dispute settlement procedures will apply in such cases, but time limits will be somewhat longer than for other types of cases.
- (c) Non-actionable subsidies, which include
 - (i) subsidies covering up to 75 per cent of the costs of industrial research or 50 per cent of the costs of pre-competitive development activity;
 - (ii) regional development assistance;
 - (iii) assistance for up to 20 per cent of the costs of meeting new environmental measures.

Non-actionable subsidies may, however, be challenged, and must if necessary be amended if they are found to cause serious adverse effects to the domestic industry of another member.

5.55 If subsidised imports cause material injury to a WTO member's industry, countervailing duties may be imposed. For a subsidy to be actionable or countervailable it must be "specific", that is limited to only some enterprises within the territory of the government granting the subsidy. Many of the provisions relating to countervailing duties are identical to those in the Anti-Dumping Agreement, including the establishment of a "sunset clause" setting time limits for any measures applied. There

are, however, some specific differences, such as the exclusion of subsidies of 1 per cent or less of the cost of the subsidised activity.

5.56 WTO members will have three years to bring existing measures into conformity with the agreement. Former state trading countries and developing countries have certain concessions, of which the most important is a period of 7 and 8 years respectively during which the actionability of their subsidies will be restricted.

5.57 The Government welcome the tighter disciplines on subsidies and the clearer procedures for dealing with disputes which the new agreement will produce, and, in particular, the coverage of developing countries' subsidies for the first time. The permitted subsidies for research and development activities are, however, more generous than the Government would have liked. The UK will closely monitor the operation of the agreement and work towards establishing further clarity in the agreement's definitions and methodology as it is implemented in practice.

Steel and Civil Aircraft

5.58 The Government remain committed to securing a Multilateral Steel Arrangement, to provide tighter disciplines on subsidies in the steel sector which have a distorting effect on trade in steel products. This remains the best prospect for ensuring open international trade and the ending of the endemic subsidies which have distorted the global market for steel over several years. The Government are anxious to ensure that the British steel industry, which is unusual both in its efficiency and in not receiving any subsidies, is not undermined by subsidies provided elsewhere.

5.59 Trade in civil aircraft has been exempted from certain articles of the agreement while a separate sectoral code is under negotiation (see paragraphs 6.2 to 6.4 below).

Safeguards

5.60 Safeguard measures provide a remedy against sudden surges of fairly traded imports (products which have not been dumped or subsidised) which cause or threaten to cause serious injury to domestic producers of like or directly competing products. Measures must be proportionate, and compensation - in the form of trade concessions on other products - may be payable to the exporting countries.

5.61 The new safeguards agreement considerably strengthens the provisions of Article XIX of the GATT. At the same time, it provides for much more disciplined use of safeguard action and for much greater transparency in proceedings relating to safeguard action. Investigations must be based on objective and quantifiable economic evidence relating to the industry concerned, and the results must be published. The implications for all interested parties must be considered. Strict time limits are also imposed on investigations and on the duration of any measures, which must in any case be for as short a time as possible. The agreement allows very short-term provisional safeguard action in critical circumstances, where delay would make the alleged serious injury difficult to repair, while the required investigation is carried out.

5.62 The agreement makes clear that action need not be by imposition of quantitative restrictions - often favoured in the past - but that other alternatives, such as tariff measures, should be considered and that the domestic industry must use the period during which safeguards are in place to adjust to the new conditions of the market. Measures may be renewed only in limited circumstances. They must also be applied to all imports of the product concerned, irrespective of source, although in cases of serious injury extra protection may be imposed against countries whose products account for a disproportionate share of the total increase in the imports concerned.

5.63 The agreement requires the phasing out of all so-called Grey Area Measures, such as voluntary export restraints, in general within four years of the WTO coming into force. These are seldom based on a proper assessment of the economic facts, harm the interests of consumers and, in the long term, of the domestic industry concerned. But they have proved easy to put in place since they are informal and not usually notified to the GATT.

5.64 The agreement allows developing countries certain concessions. Action may not be taken against imports from a developing country unless its share of the imports in question is at least 3 per cent, or 9 per cent collectively in the case of a group of developing countries which each fall below the 3 per cent threshold. Developing countries are also given more leeway in extending and re-applying measures.

Anti-dumping

5.65 Article VI of the GATT condemns the practice of dumping - that is selling goods in an export market at prices lower than those which an exporter charges in its domestic market - if material injury to an industry in the importing country is thereby caused or threatened. The GATT Anti-Dumping Code (last amended in 1979 as a result of the Tokyo Round) interprets the provisions of Article VI and elaborates rules for their application. It was the subject of further negotiation in the Uruguay Round.

5.66 The principal innovations of the new agreement are:

- (a) improved rules for determining dumping and injury, including a provision for sampling techniques to be used where large numbers of overseas suppliers need to be investigated, and a requirement to establish a minimum dumping margin of 2% if investigations are to be continued;
- (b) more detailed and effective rules on the calculation of the price comparison between the home and the export market;
- (c) a limit of five years on the duration of anti-dumping measures in line with current EC practice, rather than permitting them to run in perpetuity, as is current US practice;
- (d) provisions for investigations to be made more open by widening the definition of interested parties who may make their views known to

investigating authorities to include producers in the importing country as well as industrial users and representative consumer organisations.

5.67 One omission from the new agreement is any provision to deal with the circumvention of anti-dumping measures by setting up operations in the importing country using imported parts to assemble products which were previously imported. The European Commission has, however, announced its intention to amend the existing measures in the EC which deal with this problem.

Trade Related Investment Measures (TRIMs)

5.68 The TRIMs agreement clarifies the application of GATT rules to certain types of investment measures which risk breaching the principle of national treatment or the general GATT prohibition on quantitative restrictions. It prohibits measures which make the approval of foreign investment conditional on restrictions on the use of imported materials or on meeting local content requirements. The agreement applies GATT dispute settlement procedures to the investment field and provides transitional periods of 2, 5 and 7 years respectively for developed, developing and least developed countries to comply with its requirements. The agreement confirms obligations on the transparency and notification of TRIMs and provides for a review of the agreement after five years.

5.69 The TRIMs agreement should help to provide a more secure climate for international investment flows and limit the use of investment measures to restrict trade.

Technical barriers to trade

5.70 The agreement on technical barriers to trade (TBTs) extends and clarifies the earlier TBT agreement concluded in the Tokyo Round. The agreement is intended to assist the development of international standards and conformity assessment systems, which can facilitate the conduct of international trade, while ensuring that technical regulations and standards do not create unnecessary obstacles to trade.

5.71 The agreement introduces several significant changes which both extend its coverage and enable more rapid and effective action to be taken against those countries which fail to meet its requirements:

- (a) the coverage of conformity assessment procedures is enlarged and the disciplines made more precise;
- (b) notification provisions applying to local government and non-governmental bodies are elaborated in more detail;
- (c) a Code of Good Practice for the preparation, adoption and application of standards by standardising bodies, which is open to acceptance by private

and public sector bodies, is included as an annex to the agreement;

- (d) the timeframe involved in settling TBT disputes will be significantly reduced, eliminating the role of the existing TBT Committee and including TBTs within the general dispute settlement arrangements under the WTO.

Sanitary and Phytosanitary measures

5.72 It has always been accepted within GATT that, in certain circumstances, the need to safeguard human, animal or plant health justifies measures which may have a restrictive effect on trade. Inevitably, however, there has been concern that the lack of formal treatment of these issues within the GATT has increased the risk of unscrupulous and unjustified discrimination against trade with third countries.

5.73 Over the course of negotiations during the Round, there was some anxiety that the removal of restrictions on trade in agricultural products might be circumvented by arbitrary new measures introduced under the guise of health concerns. This was counter-balanced by pressure to clarify the right of GATT members to set high standards in this area. The result was the agreement on sanitary and phytosanitary (SPS) measures. This is designed not only to check the arbitrary use of trade restrictions but also to ensure that, where appropriate, justifiable measures will not be prohibited.

5.74 The SPS agreement recognises that, where measures are applied in line with the standards agreed by international bodies such as Codex Alimentarius, the International Centre for Epizootics and organisations operating within the framework of the International Plant Protection Convention, there will be no question of challenge within GATT. In addition, as part of a movement towards greater harmonisation of standards, countries will be encouraged to recognise each other's standards as equivalent when the same end result is achieved, even if using different methods.

5.75 The SPS agreement does not prevent a country from setting more rigorous standards if it judges that such measures are necessary. Should these measures lead to disputes with third countries, they will have to be justified on the basis of sound science and an assessment of the risks involved. Countries will also need to demonstrate that their measures are no more restrictive on trade than they need to be if they are to achieve their objective.

5.76 A number of points about the operation of the agreement remain to be clarified. The agreement will establish a new Committee on SPS measures as part of the framework of the WTO. The Committee will have no formal role in the development of international standards. Nor will it be the forum for the formal settlement of trade disputes which will be addressed within the general dispute settlement framework of the WTO. It will, however, be the place for further discussion on the wide range of issues covered by the SPS text.

Import licensing procedures

5.77 A new agreement provides for greater transparency to ensure the fair and equitable application and administration of import licensing procedures. The agreement confirms that the flow of international trade could be impeded by the inappropriate use of import licensing procedures and that they should therefore be no more burdensome than absolutely necessary to administer the relevant measure. It provides for detailed notification of licensing procedures and coverage. Consultation and dispute settlement procedures are strengthened by application of the new WTO dispute settlement procedures and clear deadlines are stipulated for licence allocation. As with other subjects previously covered by voluntary GATT codes, a major benefit is that the provisions must be applied by all members of the WTO.

Customs valuation

5.78 Article VII of the GATT establishes the basis for a fair, uniform and neutral universal system for customs valuation of imported goods. An Agreement on Implementation of Article VII was concluded as part of the Tokyo Round and came into effect on 1 January 1981. The purpose of this agreement was to facilitate international trade by removing barriers which arise from the application of different methods of customs valuation and to introduce where possible the transaction value as the basis for customs valuation of goods.

5.79 Consultations on matters relating to the administration of the customs valuation system are undertaken by the GATT Committee on Customs Valuation composed of representatives from each of the contracting parties. The process of consultation for determining the basis of customs valuation is undertaken by the Technical Committee on Customs Valuation as part of the Customs Co-operation Council (CCC).

5.80 The amendments to the agreement agreed during the Round are mainly confined to the area of administration of the Technical Committee in relation to the settlement of disputes. Whilst the UK has an interest in this area as a member of the Committee, it is likely that the amendments will have only a minimal effect on the UK's customs operation.

5.81 In addition, the GATT Customs Valuation Committee will be asked to approve texts in due course relating to:

- (a) cases in which customs administrations have reasons to doubt the truth or accuracy of the declared value of goods - the Government believe that relevant cases are already adequately covered by various Articles of the Community Customs Code and that no amendment to the Code will be required;
- (b) minimum values and imports by sole agents, sole distributors and sole concessionaires, where the intention is to cushion the negative effects on developing countries' revenue which may flow from membership of the

agreement.

Pre-shipment inspection

5.82 The results of the Round include a new agreement which sets out for the first time rules on pre-shipment inspection (PSI). PSI is the practice of some developing country governments of inspecting goods before shipment to those countries, usually to avoid fraud. A number of agencies exist for this purpose. In some cases PSI had become a form of non-tariff barrier, and a means of exerting pressure on exporters to make last-minute price reductions.

5.83 The principal elements of the agreement are:

- (a) obligations of non-discrimination and transparency in the application of PSI rules;
- (b) a requirement to protect confidential business information, including guidelines about information which exporters need not divulge to PSI authorities;
- (c) the imposition of time limits for PSI processes;
- (d) establishment of an agreed procedure for the conduct of price verification;
- (e) an appeals procedure for firms and provision for independent review.

5.84 The operation of the Code will be subject to the WTO dispute settlement procedure.

Rules of origin

5.85 Origin rules are used to determine the provenance of goods for trade policy purposes, for example in the context of anti-dumping actions and in the application of quantitative restrictions. The new Agreement on Rules of Origin breaks new ground in providing for the introduction of internationally harmonised non-preferential origin rules within the GATT framework.

5.86 The harmonisation exercise is to be undertaken by a Technical Committee under the auspices of the CCC. The Committee, which has been asked to complete the task in three years, will start work in autumn 1994. The results will subsequently be endorsed by the GATT Origin Committee and annexed to the Agreement. The Technical Committee will base its work on two main principles, both of which are already applied by the EC:

- (a) that the harmonised rules of origin will be applied equally for all purposes;

- (b) that the rules will be based on the criterion of the "last substantial transformation" for goods which have not been wholly produced in one country.

5.87 The agreement will introduce much needed discipline into the operation of origin rules and provide a defence for exporters against protectionist elements of the origin rules of other countries. Subjecting origin rules to GATT disciplines will reduce the risk of origin rules being used as protectionist measures. The agreement will also provide for consistency, impartiality, transparency, binding assessments of the origin of particular goods and dispute settlement, all of which represent significant improvements of benefit to exporters and importers alike.

5.88 At the EC's insistence, the agreement does not extend to origin rules used to determine eligibility for preferential treatment. The origin rules applied in the EC's various free trade agreements will, therefore, remain matters for the EC and its partners and are subject to a Common Declaration listing basic principles which are closely in line with current EC practice.

GATT 1994 - understandings on interpretation

5.89 The GATT 1994 contains a number of specific sub-agreements which are in the form of Understandings on the interpretation of existing GATT provisions. The effect of the understandings is to clarify and elaborate the rights and obligations of WTO members in respect of specific existing provisions, usually in circumstances where experience has shown that the obligations are ambiguous or ineffective as they stand.

5.90 The specific effect of the Understandings is:

- (a) to clarify the GATT treatment of taxes and charges other than tariffs levied on goods at the time of importation;
- (b) to strengthen and consolidate the existing requirement to provide a list of state trading enterprises to the WTO;
- (c) to improve GATT rules on import control measures taken for balance of payments reasons, by making clear that such measures should be temporary and reduced over an announced time-frame, that import quota restrictions should only be used as a last resort (tariff measures being preferred instead), and by strengthening the provisions on consultation with other WTO Members;
- (d) to clarify the rules for the establishment of customs unions and free trade areas;
- (e) to strengthen somewhat the rules on waivers (that is agreement by other members to one member disregarding particular obligations), to eliminate all existing waivers two years after entry into force of the WTO

Agreement, unless specifically extended, and to clarify the relationship of waivers to the dispute settlement system;

- (f) to clarify existing GATT rules for increasing tariffs above a bound rate, in order to make clear how countries with a right to be compensated in such circumstances are to be defined, and to make clear the relative levels of compensation due in circumstances where tariffs are replaced by tariff quotas (tariffs which are imposed at a higher rate above a defined level of imports) which are inherently more restrictive; and
- (g) to tighten the rules on non-application of GATT rights between particular pairs of countries, in order to make it more difficult for members to opt out of obligations towards other members for political or other reasons.

CHAPTER 6

RESULTS OF THE PLURILATERAL NEGOTIATIONS

6.1 In parallel with the multilateral negotiations involving all the participants in the Round were a number of negotiations involving smaller numbers of countries. The results of these negotiations, and existing GATT agreements which will continue to be applied by only some GATT members, are collectively known as the plurilateral agreements and are described briefly in this chapter.

Civil Aircraft

6.2 Following the signature by the EC and the US in July 1992 of a bilateral agreement on support measures for large civil aircraft, discussions commenced in a sub-committee of the GATT Civil Aircraft Committee on multilateralising its terms and extending them to cover aircraft of all sizes, aero-engines and equipment.

6.3 In November 1993, the Chairman of the sub-committee put forward a draft text of such an agreement, which was considered acceptable by all the parties to the discussions, with the sole exception of the US. An agreement was, however, reached on 14 December on an interim regime for the civil aircraft sector. The Agreement on Subsidies and Countervailing Measures (see paragraphs 5.53 to 5.57 above) will apply to civil aircraft (including aero-engines and equipment) with three exceptions:

- (a) Article 6.1(a), where the presumption of serious prejudice, should subsidisation exceed 5%, is removed;
- (b) Article 6.1(d) on forgiveness of debt - a failure to repay launch aid in full as a result of a shortfall in sales is not to be considered as forgiveness of debt causing serious prejudice; and
- (c) Article 8.2(a), which exempts some basic and applied research activities from actionability.

In addition, negotiations on a new GATT Civil Aircraft Agreement will continue for one year, on the basis of the Chairman's draft text and other proposals.

6.4 The Government regret that it proved impossible in the course of the Round to reach an agreement acceptable to all parties on support measures for civil aircraft. Over the coming months the Government will be working hard with the European Commission to achieve a balanced agreement which puts in place workable disciplines on both direct and indirect supports in order to provide a stable basis for future trade in civil aircraft.

Government Procurement

6.5 A new Agreement on Government Procurement was agreed in Geneva on 15 December 1993, to come into effect on 1 January 1996. The new agreement will lead to a ten-fold increase by value in the coverage of public purchases subject to its rules. It will replace the existing GATT Agreement on Government Procurement, which was agreed in 1979 as part of the Tokyo Round, and whose coverage was limited to the purchase of most supplies by listed central government departments and related bodies.

6.6 The new agreement, which follows closely the lines of the existing EC procurement rules, will cover the purchase of supplies, works and services by public bodies at both central and local government level, as well as by public entities in the port, airport, water, urban transport and electricity sectors. The agreement is on the basis of mutual reciprocity, with guarantees of access in particular sectors not being extended to parties who have not made similar guarantees. The threshold for central government is a little under £100 000. For the purchase of goods and services by local authorities, the threshold varies but is generally in the region of £150,000. For the utilities, the threshold for goods and services is generally in the region of £300 000. As regards construction contracts, in general the threshold is around £3 million.

6.7 A major element of the results of the public procurement negotiations is a bilateral agreement between the EC and the US. This will extend the coverage of central government procurement from supplies to works and services and open up such purchases at the sub-central level in 37 US states. Reciprocal access has also been achieved for procurement by certain utilities. Significant market opening has been achieved and is worth about £57 billion on each side of the Atlantic. Negotiations to extend this will continue, as will discussions to open up procurement in the telecommunications sector.

6.8 The other parties to the new Government Procurement Agreement besides the EC and the US will be Austria, Canada, Finland, Israel, Japan, the Republic of Korea, Norway, Sweden and Switzerland.

CHAPTER 7

THE WORLD TRADE ORGANISATION

7.1 The establishment of the WTO will mark a significant change in the institutional character of the world trading system, and provide the foundation for its future expansion, in terms of both subject matter and membership. Three key elements of the existing GATT system will continue to underpin the multilateral trading system:

- (a) the system is a contractual one, based on an exchange of mutual rights and obligations between members. These take the form of adherence to an agreed set of rules and agreement to offer defined levels of market access. Countries cannot claim an automatic right to belong: they must negotiate their entry by agreeing to the rules and offering appropriate market access concessions to existing members.
- (b) The rules of the trading system are largely aimed at preventing governments from taking action in particular ways. The trading system may be characterised as a highly developed form of commercial disarmament agreement.
- (c) Implicit in the GATT and now explicit in the WTO Agreement is a commitment to further negotiations aimed at extending the coverage of the rules of the system, and securing progressively greater market access concessions from individual members.

The role of the WTO

7.2 The role of the WTO will be to provide an institutional structure for the operation of the various trade agreements covered by the WTO Agreement. It will provide a framework of rules for the accession of new members, for the amendment of the various trade agreements and for other decisions and waivers.

7.3 The WTO will also provide the institutional framework for other mechanisms set up under the various trade agreements. These include the integrated dispute settlement system, the trade policy review mechanism, the various sectoral Councils and Committees, the trade and environment group, and such other groups and working parties as may be set up from time to time. The WTO will also provide a forum for future multilateral trade negotiations.

7.4 The WTO Secretariat (based in practice on the existing GATT Secretariat) will undertake much of the practical work involved in servicing the agreements. Budgetary provision will be based on a contribution levied against members in proportion to their share of world trade. It has not yet been decided whether this contribution will reflect a member's trade in both goods and in services, or continue to be based on trade in goods alone, as at present.

7.5 The UK will pay its own share of this budget, and will continue to speak and act on its own behalf in budgetary and administrative matters, like other EC Member States. In 1994 the UK subscription to the GATT was £2.37 million (reflecting an assessed contribution of 5.75 million Swiss Francs).

The effect of the WTO Agreement on national laws

7.6 The WTO agreement contains in Article XVI(4) the obligation that

each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements.

This commitment reflects the established principle of international law that Governments should not take on international obligations without ensuring they have the necessary domestic authority to implement or discharge those obligations.

7.7 Some concern has been expressed that this provision, combined with the provisions of the dispute settlement understanding (see paragraphs 7.9 to 7.12 below), would mean that WTO members might be forced by the WTO to repeal otherwise desirable legislation simply because it was found by a dispute settlement panel to be incompatible with WTO obligations. Environmental measures are cited as examples, as they often affect traded goods. The WTO will not, however, have such enforcement powers: in circumstances where a member is found to be acting in breach of its WTO obligations, the member will be able to choose among the same three options (themselves not mutually exclusive) as exist under the GATT system:

- (a) to bring the measure into conformity with the rules;
- (b) to offer compensatory market access, often as part of a negotiated settlement with the complainant; or
- (c) to accept the retaliatory withdrawal of market access by the complainant.

7.8 Both compensation and retaliation are intended to be proportionate in value to the impairment of rights or market access opportunities at issue. Neither is intended to be punitive or coercive, but to provide a means of maintaining the underlying balance of rights and obligations between members.

The dispute settlement system

7.9 An important feature of the WTO Agreement is the Understanding on Dispute Settlement. This provides an integrated mechanism for the resolution of disputes between members about the rights and obligations contained within the agreements.

7.10 The dispute settlement understanding builds on the informal practice developed within the existing GATT. In view of the scope of the WTO Agreement and its related trade agreements, a special Dispute Settlement Body (DSB) is to be established to manage dispute settlement across the WTO and its related agreements. The dispute settlement system is based on consultation and collective arbitration, and it will involve a number of steps:

- (a) consultations aimed at clarifying and where possible settling a dispute by agreement, as in the existing GATT.
- (b) Where consultations are unsuccessful, the aggrieved member will be able to take its complaint to a panel of experts, which will hear arguments (written and oral) from the members concerned and from other members with an interest. The panel report will be an exposition of the facts and an opinion on the balance of rights and obligations involved. This is very similar to present GATT practice.
- (c) The panel's report will then be considered by the DSB, which will "adopt" it as their collective view unless all members agree not to do so. This is a new development: at present, dispute settlement panel reports are considered by the GATT Council (on behalf of all GATT contracting parties), but reports are only adopted as the Council's opinion if all contracting parties agree. This makes it possible for a contracting party affected by an adverse report to block its adoption (a course of conduct which both the US and the EC have followed in a number of cases). This will no longer be possible under the WTO system.
- (d) To balance the new procedures for the adoption of panel reports, a new Appeal Body is to be established. The reports of the Appeal Body will themselves be adopted as the view of the DSB, unless all members agree that they should not be.

7.11 The dispute settlement process under the WTO is to be governed by a new set of closely-defined time limits. Once a panel or Appeal Body report has been adopted, any adverse finding against a WTO member must be responded to by the member concerned within a "reasonable period of time". There are also provisions for binding arbitration on the value of compensatory market access and for rapid approval of retaliatory withdrawal of concessions. These need not necessarily be in the same area as the subject matter of the dispute: if suitable scope for retaliation does not exist within the sector or agreement in which the dispute occurred, it will be possible to look to another sector or agreement. Retaliation against a breach of intellectual property obligations, for example, may take the form of withdrawal of tariff concessions on goods.

7.12 Developing countries will continue to receive special assistance from the Secretariat in mounting or defending dispute settlement cases, and they will retain the right to make use of existing, less stringent, dispute settlement provisions if they wish.

The Trade Policy Review Mechanism

7.13 Established at the time of the Montreal Ministerial mid-term review of the Uruguay Round in 1988, the Trade Policy Review Mechanism (TPRM) involves a periodic examination of the trade policies of individual members by all the other members of the GATT and, in future, the WTO, based on factual reports by the Secretariat and on information supplied by the contracting party or member concerned. The cycle of reviews involves looking at the trade policies of the largest members (the EC, US, Japan and Canada) every two years, with others being reviewed less frequently.

7.14 This process will continue in the WTO, on the same basis as before. The resource-intensive nature of the exercise means that the cycle of reviews may be lengthened somewhat. The wider scope of the WTO, including services and TRIPs, means that the TPRM scope will also need to be widened. TPRM reviews provide important benchmarks for looking at countries' trade policies, and provide useful information for planning a wide range of export and investment promotion activities.

Relations with other International Organisations

7.15 The WTO's relations with other international organisations will continue to develop along lines established by the GATT. The most important relationship is with the International Monetary Fund (IMF). This will continue to be governed by the provisions of the existing GATT Article XIV and a parallel provision in the GATS agreement, giving the IMF a clear role in advising governments on balance of payments issues (where special GATT rules have always applied). The Fund's role in supervising the system of international exchange rates and payments, which is recognised in GATT Article XV, remains unchanged. The WTO will also continue to have an important role, together with the UN Conference on Trade and Development (UNCTAD) in providing specialised policy assistance and advice to developing countries through the International Trade Centre.

Trade and the environment

7.16 The question of the possible use of trade restrictions and other measures for environmental purposes emerged as an important international issue when the Uruguay Round was well-advanced. It had, however, already received a good deal of attention: for example, procedural guidelines intended to guide policy-makers in making trade and environmental policies mutually supportive were developed and adopted by the OECD in 1993, with the UK playing a leading role. The UN Environment Programme, UNCTAD and other international organisations have all launched policy analysis programmes on trade and environment issues.

7.17 The existing GATT has been actively engaged in discussion of trade and environment issues since 1991. The result has been a series of exchanges on the relationship between GATT rules and the provisions of international environmental agreements, packaging and labelling requirements and the general question of

transparency in environmental rules.

7.18 The GATT work on trade and environment is to be transferred to the WTO and expanded in scope as a result of a Decision adopted by Ministers at the Marrakesh Conference in April 1994, providing for further development of the work programme, and for a trade and environment committee to be established within the WTO.

Other new trade issues

7.19 A number of other new trade-related issues have emerged during the course of the Uruguay Round in addition to environmental questions. There is growing acknowledgement that many aspects of domestic policy may affect trade relations, and that trade policy may have effects on related areas of domestic economic policy. These areas of policy include investment rules and competition policy. Discussions are under way in the OECD and elsewhere to examine further the relationship between trade and these areas of policy.

7.20 The appropriate scope of the new trade agenda has not yet been settled. Some countries, for example, favour the development of new rules in areas like labour standards and exchange rates, while others believe this to be unnecessary or even damaging.

7.21 An issue of considerable importance for the GATT and the WTO over the next few years will be the current or likely future negotiations with China, Taiwan, Russia, Saudi Arabia and nearly 20 other countries which want to join the GATT/WTO. Many are large or potentially large economies, and it will be important to secure their compliance with the existing rules of the GATT and then the WTO and to negotiate acceptable market access commitments in both goods and services.

CHAPTER 8

IMPLICATIONS FOR DEVELOPING COUNTRIES

8.1 Developing countries played a full and active role in the Uruguay Round. Of the 125 participants in the Round, around two-thirds were developing or least developed countries, including some of the poorest of the world's trading nations. On a number of occasions during the Round, developing countries took a lead in urging progress on the developed world, notably in the Limassol declaration by Commonwealth countries in November 1993.

8.2 Low and middle income developing countries' exports amounted to some \$700 billion a year in 1991. Developing countries have fully shared in the growth of world trade. They therefore stand to benefit substantially from the reduction in trade barriers and strengthening of GATT disciplines which the Uruguay Round will provide. The study on the Uruguay Round carried out by economists attached to the OECD and the World Bank, published in November 1993, (*Trade Liberalisation: Global Economic Implications*; Goldin, Knudsen and van der Mensbrugghe) concluded that developing countries stood to suffer most from continued or increased protectionism, which the failure of the Round would probably have involved. The study also concluded that the liberalisation of trade in manufactures and agricultural products anticipated from the Uruguay Round would raise incomes in non-OECD countries by some \$78 billion per year in the medium term. This is likely to be an underestimate as it fails to take account of the dynamic effects of trade liberalisation.

8.3 Some of the specific changes which will be brought about by the Round are likely to bring particular benefits to developing countries. The phasing out of the Multi-Fibre Arrangement, for example, (see paragraphs 5.16 to 5.20 above) is likely to be particularly important. Textiles manufacturing is a key sector for many developing countries and the phasing out of quotas will be a major gain for exporters of textile and clothing products in the developing world. The more rigorous regimes to be introduced on safeguards and anti-dumping should also be of benefit to developing countries' exports of manufactured goods. The Agriculture Agreement will bring agriculture properly into the multilateral trading system for the first time (see paragraphs 5.22 to 5.29 above). As a result, exporters in many developing countries should benefit from improved access to developed country markets and reductions in subsidies in the developed world.

8.4 Most studies which have been conducted on the likely effect of the agricultural policy reforms which will be brought about by the Round estimate that there will be world price increases for most staple products compared with the level of world prices in the absence of an agreement. Higher world prices for staple foodstuffs will raise the cost of imports for those developing countries which import food, but should also increase production incentives to farmers, encouraging developing countries to increase local food production and reduce their dependence on imported food.

8.5 By means of a Ministerial Decision annexed to the Final Act of the Round participants agreed to establish appropriate mechanisms to ensure that the

implementation of the results of the Round on trade in agriculture does not adversely affect the availability of food aid at a level which is sufficient to continue to provide assistance in meeting the food needs of developing countries, especially least-developed and food-importing countries. The Decision also recognised that developing countries experiencing short term difficulties in financing normal levels of commercial imports may be eligible to draw on the resources of international financial institutions.

8.6 The Punta del Este Declaration recognised that developed countries could not expect reciprocity in the level of commitments made by developing countries. This is reflected in the special provision made for developing and least developed countries in several of the Round agreements. In order to become original members of the WTO, for example, least-developed countries have been given an additional year to submit their schedules of tariff and services commitments, and will be required to undertake commitments and concessions only to the extent consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities.

8.7 Similar provisions recognising the special needs of developing countries are made in a number of the Round agreements. The Agreement on Subsidies and Countervailing measures, for example (see paragraphs 5.53 to 5.57 above) imposes significantly lighter disciplines on developing countries' subsidies than on those of developed countries. Similarly, the TRIPs agreement (see paragraphs 5.42 to 5.52 above) allows developing countries a transitional period of five years to apply most of the obligations of the agreement and a period of eleven years for the least-developed (compared with one year for developed countries). Many of the agreements also provide for technical assistance to be made available to developing countries to help them comply.

8.8 Ministers meeting at Marrakesh also agreed a Decision on Measures in Favour of Least-Developed Countries. This provides for:

- (a) regular reviews of special measures in favour of least-developed countries;
- (b) MFN concessions on products of export interest to least-developed countries to be implemented autonomously, in advance and without staging;
- (c) a flexible and supportive application of trade rules to least-developed countries;
- (d) special consideration to be given to the export interests of least-developed countries in the application of import relief measures;
- (e) substantially increased technical assistance in the development, strengthening and diversification of their production and export bases.

CHAPTER 9

CONCLUSION

9.1 The Government warmly welcome the successful conclusion of the Uruguay Round. It is an outcome for which the Government worked hard over many years. The results should offer great benefits to British business and consumers.

9.2 The major reductions in tariffs which have been agreed should provide substantial benefits to exporters through improved access to overseas markets. It is notable, for example, that in six of the eight sectors where tariff barriers are to be eliminated by the Quad countries (EC, Japan, the US and Canada) the UK has a positive trade balance with the other Quad countries.

9.3 Reductions in the EC's own tariffs should lead to lower prices and wider choice for consumers. Consumers and taxpayers will also benefit from the reductions in farm subsidies and agricultural trade barriers which the Round will bring. These represent an important basis for further liberalisation in future.

9.4 The inclusion within the multilateral trade rules of services and trade related intellectual property rights for the first time is particularly important. The Government pressed for these subjects to be included in the preparations for the Round in the mid 1980s. Services already account for 23% of UK trade and trade in services is growing faster than trade in goods. The GATS will provide a more secure basis for the future growth of this trade to the benefit of UK service providers and the economy more widely.

9.5 The TRIPS agreement is also a major achievement which will provide better international protection for innovative UK products and help to reduce tensions over trade in counterfeit goods. Stronger trade rules in areas like subsidies, safeguards and anti-dumping will increase the stability and effectiveness of the multilateral trade system. The creation of the WTO itself puts the system on a permanent institutional basis. The new dispute settlement system should help ease trade tensions and reduce the scope for unilateral trade sanctions.

9.6 Trade liberalisation is a continuous process and no trade agreement can settle every trade dispute. But the completion of the Uruguay Round represents an enormous achievement in which "the world has chosen trade liberalisation rather than protectionism. The conclusions of the Round provide a secure basis for future expansion of world trade and the growth and prosperity which go with it.

ANNEX 1

URUGUAY ROUND AGREEMENTS PUBLISHED BY HMSO

	<u>Command Paper Number</u>
The Final Act Ministerial Decisions and Declarations Understanding on Commitments in Financial Services	Misc No 14 (1994) Cm 2570
Agreement Establishing The World Trade Organisation Understanding on Rules and Procedures Governing the Settlement of Disputes Trade Policy Review Mechanism	Misc No 15 (1994) Cm 2571
General Agreement on Tariffs and Trade 1994 Interpretative Understandings Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994	Misc No 16 (1994) Cm 2558
Agreement on Agriculture	Misc No 17 (1994) Cm 2559
Agreement on the Application of Sanitary and Phytosanitary Measures	Misc No 30 (1994) Cm 2562
Agreement on Textiles and Clothing	Misc No 18 (1994) Cm 2561
Agreement on Technical Barriers to Trade	Misc No 19 (1994) Cm 2564
Agreement on Trade-Related Investment Measures	Misc No 20 (1994) Cm 2565
Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994	Misc No 21 (1994) Cm 2566
Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994	Misc No 22 (1994) Cm 2567

Agreement on Preshipment Inspection	Misc No 23 (1994) Cm 2568
Agreement on Rules of Origin	Misc No 24 (1994) Cm 2569
Agreement on Import Licensing Procedures	Misc No 25 (1994) Cm 2573
Agreement on Subsidies and Countervailing Measures	Misc No 26 (1994) Cm 2572
Agreement on Safeguards	Misc No 27 (1994) Cm 2574
General Agreement on Trade in Services	Misc No 28 (1994) Cm 2556
Agreement on Trade-Related Aspects of Intellectual Property Rights	Misc No 29 (1994) Cm 2557
Agreement on Trade in Civil Aircraft	Misc No 24 (1979) Cmnd 7661
Agreement on Government Procurement	Misc No 13 (1994) Cm 2575
International Dairy Agreement	
International Bovine Meat Agreement	

ANNEX 2

LIBRARIES HOLDING COPIES OF MARKET ACCESS SCHEDULES

Details of individual market access schedules for both goods and services are available at the government libraries listed below. Schedules can be consulted there by appointment and copies of individual schedules and sections of schedules may be ordered by telephone from the DTI Victoria Street Library and Information Centre at the number listed below. A fee will be charged to cover the costs of this service.

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LIST OF ABBREVIATIONS USED

AMS	Aggregate Measure of Support
CAP	Common Agricultural Policy
CCC	Customs Co-operation Council
DSB	Dispute Settlement Body
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
IMF	International Monetary Fund
OECD	Organisation for Economic Co-operation and Development
MFA	Multi-Fibre Arrangement
MFN	Most favoured nation
PSI	Pre-shipment inspection
SPS	Sanitary and phytosanitary
TBT	Technical barriers to trade
TMB	Textile Monitoring Body
TPRM	Trade Policy Review Mechanism
TRIMs	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organisation



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