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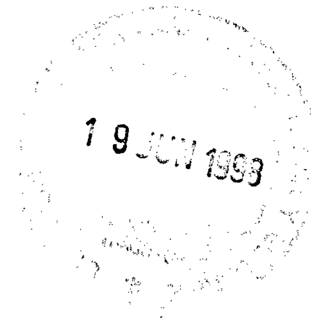

U.S. BARRIERS TO LATIN AMERICAN AND CARIBBEAN EXPORTS 1997

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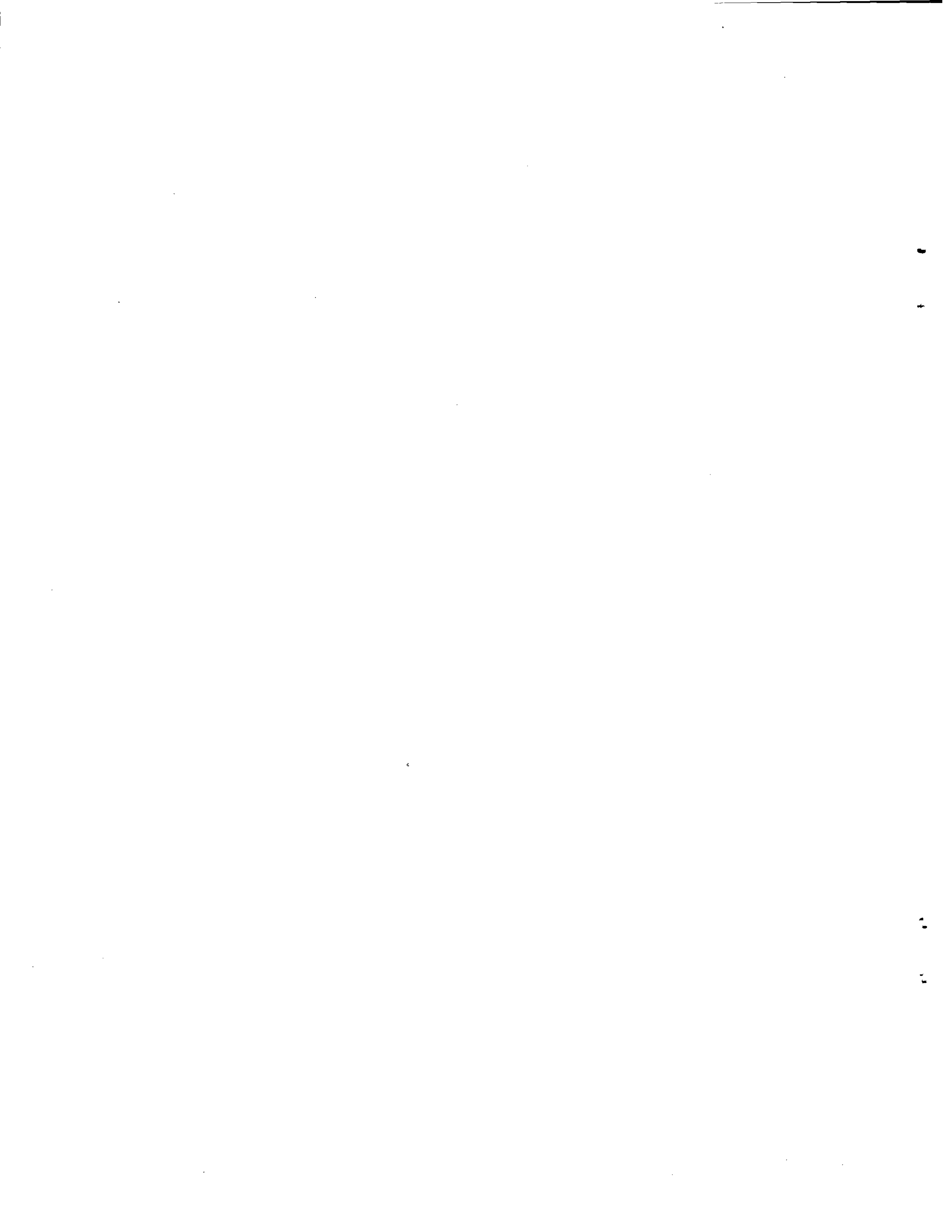

PREFACE

A precedent immediately followed by others was set by Section 303 of the United States Trade and Tariff Act of 1984. According to this Act, the Office of the United States Trade Representative (USTR) must submit an annual report to the Senate Finance Committee and the House Ways and Means Committee on the significant barriers confronted by the exports of the United States throughout the world.

Following that example, the Services of the European Commission release an annual report on United States trade barriers and unfair practices. The Industrial Structure Council of Japan also releases a yearly report on unfair trade policies by major trading partners, and Canada's Department of Foreign Affairs and International Trade releases every year a report on market access priorities which includes trade barriers.

This report, released periodically by ECLAC Washington, contributes to transparency through the identification of the trade barriers confronted by the exports from Latin America and the Caribbean in the United States market. As countries in the hemisphere work to achieve the Free Trade Area of the Americas (FTAA), in which barriers to trade and investment will be progressively eliminated, it is timely to look at the trade inhibiting measures that Latin American and Caribbean exports confront in the United States.

The list of barriers is not exhaustive, but covers the three most significant identified among the eight categories used by the USTR report: import policies, standards, and export subsidies. If necessary, subsequent ECLAC reports will cover the remaining five categories of barriers.

I. INTRODUCTION

This paper highlights U.S. trade measures of greatest importance to Latin America and the Caribbean (LAC), updating the information contained in a previous ECLAC report[1]. The classification of trade inhibiting measures follows that used by the U.S. Trade Representative's yearly publication National Trade Estimate Report on Foreign Trade Barriers. The USTR uses the following eight trade-barrier categories:

- Import Policies (e.g., tariffs and other import charges, quantitative restrictions, import licensing, customs barriers)
- Standards, testing, labeling, and certification (e.g., unnecessarily restrictive application of phytosanitary standards)
- Government procurement (e.g., "buy national" policies and closed bidding)
- Export subsidies (e.g., export financing on preferential terms and agricultural export subsidies that displace other foreign exports in third country markets)
- Lack of intellectual property protection (e.g., inadequate patent, copyright, and trademark regimes)
- Services barriers (e.g. regulation of international data flows, restrictions on the use of foreign data processing)
- Investment barriers (e.g., limitations on foreign equity participation, local content and export performance requirements, and restrictions on transferring earnings and capital)
- Other barriers (those that encompass more than one of the above or that affect a single sector)

Out of these categories, this report will focus on the following measures of greatest relevance for Latin America and the Caribbean: import policies, standards and export subsidies.

[1] ECLAC, U.S. Barriers to Latin American and Caribbean Exports, (LC/WAS/L.43), 4 July, 1997.

II. IMPORT POLICIES

Tariffs

In general, U.S. tariffs do not constitute a major barrier to Latin American and Caribbean (LAC) exports. For 1997, nearly 70% of all U.S. imports from the LAC region entered duty free. The trade-weighted tariff for all U.S. imports has gone down from 3.27% in 1992 to 2.1% in 1997, and the collected duties on Latin America and Caribbean exports have gone down even more. Total duties collected in 1997 on $136.2 billion of U.S. imports from LAC was $1.6 billion.

Ad Valorem Equivalent (AVE) is the average duty rate, expressed as the percentage of duties collected over the total value of all imports entering the U.S. The AVE total for U.S. imports from the LAC region in 1997 was 1.2%, while U.S. imports from the world paid an average duty rate of 2.1%. In comparison, imports from the Central American Common Market (CACM) paid an AVE total of 5.1%, Mercosur 2.8%, Caricom 1.5%, Andean Pact 0.8% and NAFTA countries had the lowest rate of 0.3%.

The AVE dutiable is the average duty rate, expressed as a percentage of duties collected over the amount of the dutiable value of imports not entering the U.S. duty free. The countries with the highest Ad Valorem duty rates are Honduras with 17.7%, Haiti and El Salvador with 16.6% and 16.2% respectively and Jamaica with 15.6%.

In 1997, 67% of imports from Central America entered the U.S. duty free, but the AVE on dutiable goods from Central American countries was 15.5%, the highest among all Latin American countries. This high rate was due in part to the higher rate of duties applied to textiles coming from the region.

Almost 80% of all U.S. imports from the Caribbean entered duty free, while only half of U.S. imports from South America entered duty free. U.S. duty free imports from Venezuela amounted to 28.2%, in part due to the high volume of petroleum imports from this country not entering duty free.

According to the HS 1996 nomenclature, zero duties are applied to 18.5% of tariff lines; 82.5% of tariff lines have duties of 10% or less and 3.5% of tariff lines are higher than 20%. Tariff escalation is not a major feature of U.S. trade policy. However, tariff peaks at above 15% are concentrated in agricultural, food and tobacco products, as well as in textiles and footwear; above-quota tariffs on tobacco are as high as 350%.[2]

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[2] World Trade Organization, Trade Policy Review of the United States, Geneva, October 1996, p.46.

Table - 1
Ad Valorem Duty Rates for U.S. Imports 1997
(millions of dollars, customs value)

	Total Value	Duty Free Value	% Duty Free	Duties Collected	A.V.E. Dutiable	A.V.E. Total
World	**862,428**	**458,169**	**53.1**	**18,429**	**4.6%**	**2.1%**
Western Hemisphere	304,044	238,556	78.5	1,879	2.9%	.6%
NAFTA	**252,886**	**210,056**	**83.1**	**719**	**1.7%**	**.3%**
Canada	167,881	144,848	86.3	244	1.1%	.1%
Mexico	85,005	65,208	76.7	476	2.4%	.6%
LAC	**136,163**	**93,708**	**68.8**	**1,635**	**3.9%**	**1.2%**
Andean Pact	**21,249**	**9,309**	**43.8**	**161**	**1.3%**	**.8%**
Bolivia	213	180	84.3	2	7.4%	1.2%
Colombia	4,615	2,953	64.0	47	2.8%	1.0%
Ecuador	2,139	1,447	67.6	6	.8%	.3%
Peru	1,706	1,179	69.1	41	7.7%	2.4%
Venezuela	12,576	3,550	28.2	65	.7%	.5%
Mercosur	**11,974**	**6,740**	**56.3**	**329**	**6.3%**	**2.8%**
Argentina	2,195	921	42.0	48	3.7%	2.2%
Brazil	9,510	5,625	59.2	276	7.1%	2.9%
Paraguay	40	39	95.9	0	6.1%	.2%
Uruguay	229	155	67.8	5	7.1%	2.3%
Chile	2,303	1,385	60.1	22	2.4%	1.0%
CACM	**8,410**	**5,623**	**66.9**	**433**	**15.5%**	**5.1%**
Costa Rica	2,322	1,903	82.0	55	13.1%	2.4%
El Salvador	1,345	739	55.0	98	16.2%	7.3%
Guatemala	1,984	1,129	56.9	126	14.7%	6.3%
Honduras	2,320	1,606	69.2	126	17.7%	5.4%
Nicaragua	439	246	55.9	28	14.6%	6.5%
CARICOM	**2,406**	**1,896**	**78.8**	**35**	**6.9%**	**1.5%**
Antigua & Barbuda	5	5	89.8	0	2.0%	.2%
Barbados	42	38	89.6	1	11.5%	1.2%
Belize	79	58	73.1	1	4.3%	1.2%
Dominica	9	5	52.2	0	2.3%	1.1%
Grenada	6	6	97.8	-	0	0
Guyana	104	88	84.5	0	2.7%	.4%
Haiti	188	143	75.8	8	16.6%	4.0%
Jamaica	721	577	80.1	22	15.6%	3.1%
St. Kitts & Nevis	30	25	85.4	0	2.1%	.3%
St. Lucia	21	12	58.0	1	14.1%	5.9%
St. Vin. & Grenadines	4	4	91.9	0	14.3%	1.2%
Suriname	91	89	97.0	0	1.8%	.1%
Trinidad & Tobago	1,105	847	78.7	2	.8%	.2%
Other Countries						
Bahamas	153	153	99.5	0	2.5%	0
Dominican Republic	4,308	3,091	71.7	176	14.5%	4.1%
Panama	354	304	85.9	2	4.2%	.6%

Source: U.S. Department of Commerce, International Trade Administration.

Trade Remedy Legislation

Antidumping (AD) and countervailing duties (CVD) have played an increasing role in the United States. In 1997, sixteen new actions were implemented and three of them involved Latin American countries.

An antidumping or countervailing duty petition may be filed with both the U.S. Commerce Department and the International Trade Commission (USITC), by domestic industries who believe imports are sold at less than fair value (LTFV), or are subsidized by a foreign government. The domestic industry may claim that it is being materially injured, that it is in threat of such injury, or that the establishment of a domestic industry is prevented by the above actions.

After an initial review, a preliminary determination is made either rejecting the petition and dropping the case, or agreeing that either dumping or subsidization has occurred and has or will cause harm to the domestic industry. At that point a preliminary duty is established.

For the AD case the duty amount should equal the difference between the good's price in its home market and the price of the import in the United States. For CVD the duty should equal the amount of the subsidy per unit produced. A final review is then issued and final duties are redetermined in the same manner as above if the preliminary duty is upheld. If the decision dismisses the case, all bonds posted at the U.S. Customs office during the temporary duty period are returned.

Latin American countries have raised several concerns regarding the United States' interpretation and enforcement of these two measures. The language of the laws gives great leeway to both the Department of Commerce and the USITC in determining such vital factors as what constitutes material injury and what the appropriate level of antidumping and countervailing duties should be. Although the level of duties is scheduled for yearly review, delays are common, thus causing foreign exporters to pay higher duties until the cases are reviewed and the duties adjusted. As shown in tables 3 and 4, AD and CVD measures are often kept in place for many years. Because of these uncertainties, any trade remedy action or threat thereof can act as a barrier to trade whether justified or not.

The most recent developments in these areas concerning Latin America and the Caribbean are the antidumping and countervailing duty petitions filed against imports of fresh Atlantic salmon and canned mushroom from Chile, steel wire rod from Trinidad and Tobago and steel wire rod from Venezuela.

Table 2: Countervailing Duties in Effect as of February 1998

Country	Date Begun	Item
Argentina	4/4/83	Wool
	11/22/84	OCTG
	10/2/90	Leather
Brazil	3/16/76	Castor Oil
	3/15/77	Cotton Yarn
	4/4/80	Pig Iron
	10/22/85	Tillage Tools
	5/15/86	Construction Castings
	1/8/87	Brass Sheet & Strip
	3/22/93	Hot-Rolled Lead & Bismuth CSP
	8/17/93	Cut to Length Carbon Steel Plate
Chile	3/19/87	Standard Carnations
	6/12/97	Fresh Atlantic Salmon
Mexico	12/12/86	POS Cookware
	8/17/93	Cut to Length Carbon Steel Plate
Peru	4/23/87	Pompon Chrysanthemums
Trinidad & Tobago	2/26/97	Steel Wire Rod
Venezuela	8/22/88	Redraw Rod
	2/26/97	Steel Wire rod
	5/10/93	Ferrosilicon

Source: ECLAC, on the basis of data from the U.S. Department of Commerce.

According to the U.S. Department of Commerce, on January 6, 1998 seven U.S. producers filed AD petitions against four countries, including exports of preserved mushrooms from Chile. The U.S. Department of Commerce has tentatively estimated dumping margins as high as 83% against Chilean preserved mushrooms.

In the case against fresh Atlantic salmon from Chile, the U.S. Department of Commerce initiated the investigations on July 2, 1997. On November 13, 1997, the U.S. Department of Commerce issued a negative preliminary CVD determination.

On January 9, 1998 the U.S. Department of Commerce issued an affirmative AD preliminary determination of 3.31% and 8.27% for two Chilean producers and 5.79% against the remainder of producers. In addition, a negative finding was issued for three other Chilean salmon producers.[3] On 2 June 1998, the U.S. Department of Commerce, issued its final

[3] U.S. Department of Commerce, Fresh Atlantic Salmon from Chile: AD and CVD Investigation, (Fact Sheet), 9 January, 1998.

determination that three Chilean companies were dumping fresh salmon on the U.S. market. The antidumping margins ranged from 2.24% to 10.91%. On 15 July 1998, the International Trade Commission (ITC) will issue its final determination on whether the dumped imports have injured the U.S. salmon industry. If the ITC final determination is affirmative, the U.S. Department of Commerce will issue an antidumping order and instruct the U.S. Customs Service to collect antidumping duties.

Table 3
Economic Impact of Fresh Atlantic Salmon on the U.S.

	Industrial Output (millions of dollars)	Incomes (millions of dollars)	Employment
U.S. (Direct impact)	237	110	6,050
Dade County	77	20	820
Florida	103	32	1,430
U.S. (Indirect)	153	66	1,570
TOTAL	**390**	**176**	**7,620**

Source: Thomas J. Murray, Economic Impact of Fresh Atlantic Salmon From Chile, Tampa, Florida, October 23, 1997.

Until then, Chilean producers are required to post a forfeitable bond equal to the level of the preliminary penalty. Chile was the largest exporter of fresh salmon fillets last year. These duties increase the price salmon is sold for in the U.S. Table 3 shows the economic impact of fresh Atlantic salmon on the U.S. economy. According to the study, $390 million of U.S. industrial output is affected by the salmon industry and over 7,600 jobs.

Once in place, antidumping and countervailing duties can have significant effects on both the United States and the exporting country.

The Uruguay Round Agreement changed U.S. antidumping and countervailing laws in several ways. First, it raised the "de minimis" margins that exclude from penalty the duties on imports priced as much as 2% below fair market value. The former de minimis standard was 0.5%. Second, the most substantive Uruguay Round related change are the "sunset" reviews, by which any anti-dumping or countervailing duty order five years or older will be revoked, unless the U.S. Department of Commerce and the ITC find it would likely lead to a recurrence of dumping or subsidies and injury to the domestic industry.

Anti-subsidy rules have also changed, because certain environmental, research and development, and "disadvantaged region" subsidies will not draw penalties.

Table 4: Antidumping (AD) Duties against Imports from LAC in Effect as of February 1998

Country	Date Begun	Item
Argentina	11/13/85	Barbed Wire
	11/23/84	Carbon Steel Wire Rods
	5/26/89	Rect. Tubing
	9/26/91	Silicon Metal
	8/3/95	Seamless Pipe
	8/11/95	Oil Country Tubular Goods
Brazil	1/12/87	Brass Sheet & Strip
	12/17/86	Butt-weld Pipe Fittings
	11/2/92	Circ. Welded Non-Alloy Pipe
	5/9/86	Construction Castings
	8/19/93	Carbon Steel Plate
	3/14/94	Ferrosilicon
	3/22/93	Lead & Bismuth Steel
	7/10/90	Nitrocellulose
	5/5/87	Orange Juice
	5/21/86	Pipe Fittings
	7/31/91	Silicon Metal
	12/22/94	Silicomanganese
	2/21/95	SS Bar
	8/3/95	Seamless Pipe
	1/28/94	SS Wire Rods
Chile	3/20/87	Standard Carnations
	1/6/98	Preserved Mushrooms
	6/12/97	Fresh Atlantic Salmon
Colombia	3/18/87	Fresh Cut Flowers
Ecuador	3/18/87	Fresh Cut Flowers
Mexico	8/30/90	Cement
	11/2/92	Circ. Welded Non-Alloy Pipe
	12/2/86	Cooking Ware
	8/19/93	Cut to Length CS Plate
	4/23/87	Fresh Cut Flowers
	8/11/95	Oil Country Tubular Goods
	3/25/93	Steel Wire Rod
Trinidad & Tobago	2/26/97	Steel Wire Rod
Venezuela	6/24/93	Ferrosilicon
	2/26/97	Steel Wire Rod
	11/2/92	Circ. Welded Non-Alloy Pipe

Source: ECLAC, on the basis of data from the U.S. Department of Commerce.

Tomatoes

In 1996, Florida tomato growers won protection against Mexican imports on grounds that Mexican tomatoes were being dumped in the U.S. market. An International Trade Commission suit was dropped, when U.S. officials brokered a deal with Mexico to place a price floor on Mexican tomatoes. The dispute arises from Mexico's comparative advantage in growing vine ripened tomatoes due to its ideal soil and climate.

Safeguard

On February 1998, a NAFTA arbitration panel found that the applications of increased tariffs to broomcorn broom imports from Mexico violated NAFTA because the injury determination of the ITC did not contain sufficient explanation. USTR officials are reviewing the panel's decision and are considering how the U.S. will respond to the report.[4]

Mexico requested on January 15, 1997, the establishment of a dispute settlement panel under NAFTA's Chapter 20, charging that the U.S. action to increase tariffs on Mexican broomcorn brooms --carried out under NAFTA's rarely-used safeguard action-- is "inconsistent" with the trade pact. The Mexican Government argued that the ITC's finding that led to the decision was based on a definition of the U.S. industry that was too narrow. The ITC excluded from its determination the production of other types of brooms, such as plastic brooms, which Mexico argued are similar or directly competitive with broomcorn brooms. NAFTA's Art.805 defines domestic industry as "producers as a whole of the like or directly competitive good operating in the territory of a Party."

The Sugar Tariff-Rate Quota

As part of its sugar program, the U.S. sets quotas on a yearly basis for countries that export sugar. The countries subject to quotas are granted most-favored-nation status and the rate of duty for them is 0.625 cent per pound (raw value). Additional amounts require a duty of 16 cents per pound (raw value).

[4] USTR, USTR underscores NAFTA panel decision on corn brooms to have virtually no effect on U.S. "Safeguard"regime, (Press release 98-12), Washington D.C., February 1998.

Table 5: U.S. Sugar Tariff-Rate Quota
(October 1, 1996 - September 30, 1997)

Country	% of total US Imports	Metric tons
Argentina	4.1	56,832
Barbados	0.6	7830
Belize	1.0	14,538
Bolivia	0.8	10,573
Brazil	13.7	191,642
Colombia	2.3	31,720
Costa Rica	1.4	19,825
Dominican Republic	16.6	232,614
Ecuador	1.0	14,538
El Salvador	2.5	34,363
Guyana	1.1	15,860
Guatemala	4.5	63,440
Haiti	0.5	7,258
Honduras	.9	13,217
Jamaica	1.0	14,538
Mexico	1.8	25,000
Nicaragua	2.0	27,755
Panama	2.7	38,328
Paraguay	0.5	7,258
Peru	3.9	54,189
St. Kitts & Nevis	0.5	7,258
Trinidad & Tobago	0.7	9,252
Uruguay	0.5	7,258
LAC Total	**64.6**	**1,359,724**

Source: ECLAC, on the basis of data from the U.S. Trade Representative

Most countries in Latin America and the Caribbean were exempt from the 0.625 cent duty, since they were beneficiaries under the Generalized System of Preferences (GSP). The only country in Latin America whose sugar exports do not receive duty-free treatment under the GSP is Brazil, due to its competitive advantage in this industry.

Table 5 shows the country-by-country allocation based on historical trade patterns of raw and refined sugar by percentage of total U.S. imports. The total level of imports that may enter the U.S. at the lower duty for fiscal year 1998 is 1,400,000 metric tons. The total level

of sugar imports that may enter the U.S. from Latin America and the Caribbean for fiscal year 1998 is 905,086 metric tons, which is 454,638 metric tons less than in 1997. Latin America and the Caribbean will supply nearly 65 percent of total U.S. sugar imports during fiscal year 1998.[5]

On March 12, 1998, the Mexican government asked for formal consultations under NAFTA Chapter 20 to clarify the sugar side agreements, in an effort to increase the Mexican sugar quota and to have unlimited access to the U.S. market by 2000.[6]

Section 301 Provisions

The United States' main statute for unilaterally addressing unfair trade practices affecting U.S. exports of goods or services falls under Section 301 of the Trade Act of 1974. Section 301 gives the USTR the power to respond to unreasonable, unjustifiable, or discriminatory practices that burden or restrict U.S. commerce. Once a petition has been filed with the USTR, or the USTR itself initiates the process, an investigation into the foreign government policy or action is implemented. During each investigation the USTR must carry out consultations with the foreign government involved. If an agreement is not reached by the conclusion of the investigation, or through the dispute settlement procedures available, the USTR has authority to implement any number of serious trade restrictions, such as import duties or fees.

The U.S. Government self-initiated a Section 301 investigation regarding Argentina's provisional safeguard duties and statistical tax on textiles and apparel imports from the U.S. In November 1997, a WTO dispute settlement panel ruled in favor of the U.S. challenge to the duties assessed by Argentina. In January 1998, Argentina appealed the ruling and reduced the tax to .5%.

Despite progress in the area of copyright protection in Honduras, the USTR initiated a Section 301 investigation in order to implement the Trade Policy Staff Committee (TPSC) recommendation to suspend GSP and CBI benefits from Honduras unless they show more improvement in the area of video/cable TV piracy.[7]

Super 301

The Super 301 rule of the Omnibus Trade and Competitiveness Act of 1988 was extended through 1997. Super 301 mandates the USTR to identify any foreign government "priority practice" whose elimination will result in the greatest increase in U.S. exports. The latest Super 301 report does not include Latin American and Caribbean countries that warrant

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[5] USTR, Allocation of Tariff-Rate Quota for Raw Cane Sugar, (Press Release 98-25), Washington D.C., 12 March, 1998.

[6] SECOFI, Embassy of Mexico, Mexico requests consultations with the U.S. on sugar under NAFTA, Washington D.C., 20 March, 1998.

[7] USTR, 1998 National Trade Estimate Report on Foreign Trade Barriers, 31 March, 1998, p.149.

the "priority practice" designation.

Special 301

Under Special 301 the USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR). Countries that have policies that most adversely impact U.S. products are designated "priority" foreign countries, and must be investigated under section 301. No country may be designated "priority" if it has entered in good faith negotiations with the USTR. Those countries in danger of receiving the "priority" designation are placed on watch lists updated annually by the USTR.

In January 1997, during a Special 301 out-of-cycle review (OCR), the U.S. Government announced the suspension of 50% of Argentina's GSP benefits effective in May 1997 because of Argentina's lack of patent protection for pharmaceuticals. The products affected include chemicals, certain metals and metal products, a variety of manufactured products and several agricultural items.[8] Argentina estimates the loss of export earnings to be about $600 million.

A major IPR priority for the United States is full and timely implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). This agreement obligates WTO members to provide protection in their domestic law and to enforce minimum standards for protecting intellectual property.

Ecuador has taken steps toward meeting U.S. concern regarding TRIPs, and recently passed a law to repeal the Dealers Act, which prevented U.S. suppliers from terminating distributorship contracts without paying compensation. Ecuador still remains on the "Priority Watch List" under the Special 301 provision.

Despite significant improvement in intellectual property protection Colombia still remains on the "Watch List" under the Special 301 provision since 1991.

The Dominican Republic was added to the USTR Special 301 Watch List in 1997 due to concerns about lack of TRIPs consistent laws and inadequate enforcement against piracy and counterfeiting.

Panama was removed from the Special 301 Watch List due to significant progress made in fighting video piracy, but was moved to the "other observations" category in October 1997, following an out of cycle review. The USTR, based on its Special 301 annual review in October 1998, will determine if there has been improvement in piracy protection, border enforcement, especially in the Colon Free Zone, and ensure that Panamanian law and enforcement practices are consistent with TRIPs obligations since Panama joined the WTO. If it fails to make significant progress toward these goals, Panama will be placed once again on

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[8] USTR, Argentine Products Lose GSP Benefits as a Result of "Out-Of-Cycle" Review, (Press Release 97-31), Washington D.C., 15 April, 1997.

the Special 301 Watch List.

The USTR on January 16,1998, identified Paraguay as a Priority Foreign Country under Special 301, based on their inadequate enforcement of intellectual property rights and its failure to enact adequate and effective intellectual property legislation. Although Paraguay's Chamber of Deputies recently passed copyright and trademark legislation, on February 18, 1998, the USTR initiated a Section 301 investigation of Paraguay's IPR regime and practices. The first round of 301 consultations between the two countries was held in March 1998 and failure to resolve these issues could lead to the imposition of bilateral trade sanctions.[9]

In 1997, Honduras was included in the "Watch List" category of the Special 301 review due to lack of adequate and effective protection and enforcement of intellectual property rights.

Peru passed two laws in April 1996, which improved the country's IPR regime and brought national laws into conformity with Andean Community decisions. Additionally, in June 1997, the Peruvian government issued an executive decree improving several aspects of its industrial property rights law. However, Peru still remains on the USTR "Watch List" since 1992.

The government of Venezuela created a new intellectual property office in March 1997 to focus and improve enforcement efforts, it will become operational in June 1998. Since 1989, Venezuela is on the "Watch List".

Voluntary Export Restraint Agreements (VERAs)

The situation with respect to Voluntary Export Restraint Agreements (VERAs) has remained unchanged since 1993. The threat of resorting to antidumping and countervailing duties has often compelled countries to negotiate VERAs to avoid being penalized. Although considered less harmful to exporting countries than trade remedy legislation, these often-coerced agreements are certainly contrary to the spirit of free trade. Steel and machine tools were the products most affected by VERAs in Latin America and the Caribbean. For many years the U.S. maintained VERAs on steel with Brazil, Venezuela, Mexico and Trinidad and Tobago. However, these agreements expired in 1992, which set off a chain of antidumping claims by the U.S. steel industry.

Textiles and Clothing

As part of the World Trade Organization (WTO), the Agreement on Textiles and Clothing (ATC) entered into force on January 1, 1995. The ATC superseded the Multifiber Arrangement (MFA), as a ten-year, time-limited arrangement for the slow integration of textiles and clothing into the WTO agreements. Under the ATC, the U.S. will integrate a specified percentage of textile and apparel imports in each of three stages and the remaining

[9] USTR, 1998 National Trade Estimate Report on Foreign Trade Barriers, 31 March, 1998, p. 319.

products by January 1, 2005. Once integrated, quotas can be applied only under regular WTO safeguard procedures.[10]

On December 1997, El Salvador and Honduras asked the US to increase the limits of the quotas to meet its supply of upcoming orders in January, February and March. El Salvador negotiated a settlement with the US in which it doubled its supplies of underwear - up from 1.7 million dozen to 3.2 million dozen for the first three months of 1998.

Honduras asked the WTO's Textile Monitoring Body, in March 1998 for increased U.S. quota limits on imports of underwear. The U.S. agreed to allow all Honduran underwear made with non-U.S. fabric to enter the U.S. after March 2, 1998.

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[10] U.S. International Trade Commission, The Economic Effects of Significant U.S. Import Restraints, (Investigation No.332-325) Washington D.C., December, 1995, p. 3-3.

Table 6: U.S. Imports from LAC of Textiles and Apparel

Country	1996 Imports (in million meters^2)	1997 Imports (in million meters^2)	1997 Imports (in millions of $)	Growth rate (percentage)
Argentina	3.8	9.1	8.1	139.5
Belize	7.6	10.5	16.7	38.2
Bermuda	.1	.04	.3	-60
Bolivia	1.5	1.6	12.4	6.7
Brazil	108.1	101.8	147.6	-5.8
Chile	10.3	4.1	19.3	-60.2
Colombia	83.0	100.3	381.3	20.8
Costa Rica	277.1	317.4	849.6	14.5
Dominican Republic	718.9	863.3	2,272.5	20.1
Ecuador	10.7	14.2	17.9	32.7
El Salvador	317.9	460.1	1,078.7	44.7
Guatemala	211.7	252.5	971.3	19.3
Guyana	3.7	5.1	11.1	37.8
Haiti	56.7	78.2	138.0	37.9
Honduras	536.4	735.2	1,663.3	37.1
Jamaica	204.3	194.4	472.3	-4.8
Mexico	2206.4	3041.1	5,927.7	37.8
Nicaragua	37.3	47.8	182.1	28.2
Panama	9.9	7.3	18.0	-26.3
Peru	34.1	45.2	221.3	32.6
St. Lucia	4.9	3.9	10.6	-20.4
Trinidad & Tobago	1.8	1.8	3.4	0
Uruguay	1.6	1.6	12.1	0
Venezuela	9.2	10.1	5.2	9.8
Others	1.3	1.0	5.8	-23.1

Source: ECLAC, on the basis of data from the US Department of Commerce, Major Shippers Report, 1998.

On February 10, 1997, the WTO Appellate Body ruled in favor of Costa Rica, because it found that the United States had violated global trade by backdating restraints on underwear imports. The WTO Appellate Body recommended that the Dispute Settlement body of the WTO, request the United States to bring the measure of restricting Costa Rica's exports of cotton and handmade fiber underwear into conformity with its obligations under the ATC. After further consideration, the U.S. allowed the quota restraint on imports of underwear from Costa Rica to expire on March 1997 and is now in full compliance with the WTO Appellate Body report.[11]

III. Standards and Regulations

A vast maze of standards and regulations makes exporting to the United States a daunting task. The complexity of the system can be partly attributed to the three separate tiers of regulations that exist: federal, state, and local. These regulations are often inconsistent between jurisdictions, or needlessly overlap. It is estimated that more than 44,000 federal, state, and local authorities enforce 89,000 standards for products within their jurisdictions.[12] These barriers, although unintentional, still create major hurdles for foreign firms attempting to enter the U.S. market.

The types of U.S. standards that have the greatest impact on Latin America and Caribbean exports are discussed below. Increasingly, these barriers have taken the form of consumer or environmental protection. The cases below only touch on a handful of the thousands of technical and regulatory requirements that hinder access to the U.S. market.

Phytosanitary Regulations

Phytosanitary regulations for fruit and vegetables pose numerous difficulties for Latin American and Caribbean exports. Gaining access to the U.S. market is a cumbersome and costly process that can take years. Exporters must finance all United States Department of Agriculture (USDA) expenses in researching and approving products. Once a rule is proposed and published in the Federal Register, it is subject to a 90-day "comment" period, after which the final rule may be issued and assigned a legally effective date. If access is gained, all shipments of the fruit or vegetable are subject to an inspection process in both the originating country and the allowed ports of entry that may further slow the process.

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[11] U.S.T.R., WTO Dispute Settlement Panel Issues Report on U.S. Safeguard Restriction on Underwear from Costa Rica, (Press Release No. 96-88), Washington D.C., 8 November, 1996.
[12] Canada, Department of Foreign Affairs and International Trade, Register of U.S. Barriers to Trade, Ottawa, 1996, p. 11.

Avocados

Since 1914, restrictions on the importation of Mexican avocados remain in effect. The ban stemmed from the existence of both seed weevils and fruit flies in avocados from Mexico, as it was feared their importation might lead to the infection of the domestic industry.

Twice during the 1970's, the Mexican Government formally asked the U.S. government to allow importing Hass avocados, to no avail. The only exception to the ban was issued on 27 July, 1993 allowing the state of Alaska to import Mexican avocados.[13] On July 5, 1994, the Mexican Government requested that the Animal and Plant Health Inspection Services (APHIS) amend its regulation to allow the restricted import of Mexican avocados into 19 Northeastern and Middle Atlantic States.[14] By January 31, 1997, the USDA issued a final ruling that lifted the 84-year ban to permit U.S. imports of Mexican Hass avocados from Michoacán under the "system approach." The new rule allows imports of fresh Hass avocados grown in approved orchards in Michoacán, México, into 19 Northeastern States during the winter months of November through February.[15]

Nevertheless, there still remain many obstacles. The USDA import plan contains nine specific safeguards to prevent exotic pests from entering the United States, including packing house and port of arrival inspections, limited distribution and continuing field services. Also, avocados must be shipped in sealed containers under Custom Bonds with clearly labeled Northeast destination and each avocado must display a sticker so that it can be traced back to its place of origin in Mexico.

Brazilian fruit

Sanitary barriers affect the majority of Brazilian fruits and vegetables. For the most part an additional obstacle and/or obligatory prerequisite is an import license.

Apples are one of the principal fruits exported to the United States from Brazil, but entrance is restricted from North Atlantic ports. Both grapes and apples require a special cold treatment, while yams and other vegetables require a treatment of methyl bromide. Mangos require a hot water dip and need certification stating "USDA-APHIS treatment with hot water". Finally, all these products need specific documentation certified by the APHIS representative in Brazil.

Those products with potential of being exported to the United States, face a major barrier and a slow bureaucratic process that is imposed by the USDA to examine the facts about the products for proof of effective control. Delays often occur during this process of risk analysis ("pet risk analysis"), which in certain cases can take years, since there are hundreds of products waiting (for example Brazilian papayas have been under analysis by the

[13] Federal Register, Vol.58, No. 142 (July 1993), p. 40033.
[14] Federal Register, Vol.60, No. 127 (July 1995), p. 34832.
[15] Federal Register, Vol.62, No. 24 (February 1997), p. 5293.

USDA since 1993). The sluggishness of this process contrasts with the Brazilian administrative process of risk analysis for oranges from Florida, which took only three months to be certified.[16]

The USDA issued a final rule on March 13, 1998, allowing the importation of Brazilian papayas under strict conditions for growing, treating, packing, and shipping the papayas; for field sanitation and for fruit fly trapping in papaya production areas. These same conditions apply for the importation of papayas from Costa Rica.[17]

Marketing Orders

Under Section 8e of the Agricultural Marketing Agreement Act, the Secretary of Agriculture can issue grade, size, quality, or maturity regulations for certain commodities through domestic marketing orders. These requirements must also be applied to comparable import commodities. The same products as last year remain subject to marketing order regulations: avocados, dates (other than dates for processing), filberts, grapefruit, table grapes, kiwifruit, limes, olives (other than Spanish-style olives), onions, oranges, prunes, raisins, tomatoes, and walnuts.[18]

On January 5, 1998, the USDA published new regulations that sought to enhance the quality of tomatoes in the U.S. market. These rules increased the minimum size level 1/32 of an inch in three different grades of tomatoes. Foreign tomato growers were also subject to the new guidelines. Mexican officials complained that the U.S. failed to give adequate notice of the changes, because Mexican growers were upset by the impact of these new costs on their sales, including purchases of new sizing belts that range in price from $450 to $19,000.

Guatemalan Raspberries

The FDA banned imports of Guatemalan raspberries on March 15, 1998. The ban will remain in effect until August 15, 1998, the end of Guatemala's growing season, when heavy rains contribute to the growth of cyclospora on raspberries.

Guatemala's raspberries are blamed for causing intestinal disease from the parasite cyclospora. On May 1997, Guatemala voluntarily stopped imports of the fruit after an outbreak of cyclospora disease in the U.S.

Gasoline Standards

In December 1993, the Environmental Protection Agency (EPA) instituted import

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[16] Embassy of Brazil, Estudo Sobre Barreiras Ao Acesso De Produtos E Serviços Brasileiros No Mercado Norte-Americano, Washington D.C., 1997, p. 40.

[17] Federal Register, Vol. 63, No. 49 (March 1998) p. 12383.

[18] USDA, Agricultural Marketing Service, Fruit and Vegetable Division, Fruit and Vegetable Requirements Washington D.C., March 1996.

standards for both reformulated and conventional gasoline in an attempt to control auto emissions. These new measures, however, sparked a dispute between foreign and domestic gasoline refiners. The regulations were charged to be less favorable to imported gasoline, since foreign producers were required to conform to a restrictive "baseline" for measuring pollutants, while U.S. refiners had the option of establishing an individual baseline corresponding to the quality of their gasoline in 1990.

In March 1995, Venezuela filed a complaint with the WTO against the EPA gasoline standards. In April 1995, the Dispute Settlement Body of the WTO approved Venezuela's request for the establishment of a dispute panel and was joined by Brazil as a complainant. Venezuela argued that the EPA regulations created preferential treatment for domestic suppliers and for those U.S. companies which had refineries in another country, since they could use their own individual baseline readings that could be lower than the U.S. average standards.

On January 17, 1996 the WTO ruled that the U.S. was in violation of Article III of the General Agreement on Trade and Tariffs (GATT), known as the national treatment principle, which requires equal treatment for imports and domestic products.[19] The United States appealed the decision. The Appellate Body of the WTO ruled that U.S. environmental policy did not necessarily conflict with international trade rule, but the U.S. Environmental Protection Agency (EPA) regulations did indeed create different standards for domestic and foreign producers.[20]

By August 19, 1997, the EPA issued a final regulation aimed at complying with the ruling of the WTO. Under this new regulation, foreign refiners will have a choice of applying to EPA for a similar individual baseline (the 1990 standard) for their gasoline, or adhering to a statutory baseline established by the EPA. The EPA rejected the option of requiring all gasoline importers to the U.S. to establish individual baselines, as it would interfere with the free importation of gasoline.

The quality of the conventional gasoline will be monitored annually by the EPA to ensure there is no environmental degradation as a result of the new regulations. Still, U.S. refiners charged that this ruling would allow foreign refiners to choose to import dirtier gasoline. The costs of complying with the additional requirements of an individual baseline will limit the amount of applicants.

The EPA has previously determined that foreign gasoline has been consistently cleaner than that produced by domestic refiners. In 1995, the EPA found that the average level of toxins (carcinogens) in imported gasoline was lower than both the statutory baseline and the gasoline produced by domestic firms.

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[19] USTR, WTO Dispute Settlement Panel Issues Report on EPA Rules for Imported Gasoline, (Press Release 96-04), Washington D.C., January 17, 1996.

[20] USTR, WTO Appellate Body Issues Report on EPA Rules for Imported Gasoline, (Press Release 96-38) Washington D.C., April 29, 1996.

Meat Import Regulation

On November 15, 1995 Uruguay,[21] and Argentina[22] as of August 25, 1997, became eligible to export beef, to the United States. Prior to 1995, all South American countries were subject to import restrictions due to outbreaks of cattle foot and mouth disease, which poses no threat to humans, but can infect cattle. Unlike the European Union, which imports uncooked meat from South America, the United States operates under a "zero risk" policy, prohibiting all imports of meat from countries with recent outbreaks of foot and mouth disease, or rinderpest. To be eligible to export meat to the U.S., a country must have had no outbreaks of each disease and must have outlawed the vaccination for such diseases for one year. Individual exporters must then contact their veterinary services to request an inspection, followed by inspections from both the U.S. Food Safety Inspection Service (FSIS) and APHIS, with the costs borne by the company requesting the inspection.

Currently, Argentina and Uruguay operate under the same 20, 000-ton quota imposed by the U.S. Uruguay's meat exports amounted to about 1% of the U.S. market in 1997 and is requesting that the quota be increased by 15,000 tons in 1999. Argentina began exporting manufacturing (grinding-quality) meat in September of 1997, in the long term, however, Argentina intends to export higher value prime cuts of grass-fed beef.

The United States Department of Agriculture consistent with the World Trade Organization Sanitary and Phytosanitary Agreement has adopted a policy that recognizes regions and levels of risk among those regions (regionalization). Such a policy allows specified regions within South American countries, which meet the disease free requirements, to export bovine products even though the entire country has not been declared disease free.[23]

APHIS's proposed regulation on regionalization outlines 6 categories ranked according to increasing risk. Import conditions or restrictions would vary according to the risk class or region from which the product or live animal originates.[24]

The import of cooked meat products into the U.S. is also subject to a lengthy inspection process. Each processing plant must demonstrate to APHIS inspectors that the meat products are cooked to minimum core temperatures to remove the threat of disease. Again, the process is expensive and takes months to complete.

Additionally, there was an increase in user fees for certain import-related services effective on June 6, 1996. User fees for import-related services for animals at all ports of entry and animal import centers, including the Canadian and Mexican borders increased by an amount of $0.25 and up to $21.00. For animal products and byproducts the range of increase was from $0.50 for an application for a permit renewal, to $10.25 for the inspection of an

[21] Federal Register, Vol. 60, No. 211 (November 1995) p. 55441.
[22] Federal Register, Vol. 62, No. 94 (June 1997) p. 34385.
[23] Federal Register, Vol. 62, No. 208 (October 1997) p. 56027.
[24] Federal Register, Vol.61, No 76 (April 18 1996), pp. 16977-17105.

approved establishment. The user fees are based on a per load, inspection, application, or certification basis.[25]

Marine Mammal Protection Act

The United States enforced an embargo on yellowfin tuna from all countries that fish in the Eastern Tropical Pacific (ETP) extended from Mexico and Venezuela to northern Chile and 700 miles out to sea. The embargo was required under the United States' Marine Mammal Protection Act of 1972 (MMPA) and the International Dolphin Conservation Act (IDCA) adopted in 1992. The IDCA prohibited the use of "on dolphin" methods for catching tuna, which involved dropping purse seine nets on dolphin schools to trap the tuna that frequently swim beneath them. This legislation, however, applied exclusively to those fishing in the ETP, where the U.S. tuna fleet maintains only minimal presence, on the false notion that tuna-dolphin association and the practice of fishing "on dolphin" only occur in the ETP.

In spite of a finding by a GATT panel that the U.S. was improperly prohibiting imports of Mexican tuna, in a 1992 court ruling, the U.S. extended the ban to all exports of ETP tuna sold by all intermediary countries, such as Costa Rica. This US embargo had a devastating impact on Mexico's tuna industry. In 1994, exports fell from 83,000 tons in 1989, to only 11,017. The tuna fleet, one of the largest in the Pacific, was reduced by 46%, declining from 85 400-ton-capacity ships to 42 ships. The closing of the U.S. market resulted in a loss of 30,000 permanent jobs related either directly or indirectly to the tuna industry in Mexico.

In that same year, the United States signed the international La Jolla Agreement with member governments of the Inter-American Tropical Tuna Commission (IATTC). The agreement adopted the International Dolphin Conservation Program (IDCP), implementing strict measures for reducing the number of dolphin mortalities in the ETP. Yet the IDCA and the La Jolla agreement are not fully compatible, as those countries complying fully with the La Jolla agreement are still banned from exporting tuna to the United States, despite the undeniable success of the program in reducing dolphin mortality rates to under 5,000 per year.[26]

On October 1995, the members of the Inter-American Tropical Tuna Commission (IATTC), in conjunction with major environmental groups, signed the Panama Declaration to strengthen the IDCP and reduce below 5,000 the number of dolphins killed by ETP tuna boats. The agreement sought to make the marine-species protection in the ETP binding in exchange for changes in U.S. law, including an altered definition of "dolphin-safe" tuna.[27]

As a result of the Panama Declaration, the U.S. Congress debated legislation to amend the MMPA, which would make U.S. law compatible with the International Dolphin Conservation Program. As opposed to previous legislation which prohibited any tuna caught

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[25] Federal Register, Vol.61, No 89 (May 7, 1996), pp. 20421-20437.

[26] GATT, United States Restrictions on Imports of Tuna, Report of the Panel, (DS29/R), June 1994.

[27] U.S. Congress. House. Ways and Means Committee, Tuna-Dolphin Bill: Hearing before the Ways and Means Committee, Washington, D.C., 1 May, 1997.

by setting nets on dolphins from being labeled dolphin-safe, the law was to allow tuna to be labeled "dolphin-safe" as long as no dolphins were observed to be killed during the set. Instead of this ruling, on June 30, 1997, legislators negotiated a compromise that lifted the U.S. ban on tuna imports, but kept in place the current definition of "dolphin-safe" tuna for labeling purposes until at least March 1999, pending the preliminary findings of a study on the impacts of the chasing and encirclement of dolphins in the ETP. A second, more in-depth study that would research the role chasing has on dolphin populations, as well as alternative ways of fishing for tuna, will be released between July 2001 and December 2002, and will further determine the possibility of a new definition for the "dolphin-safe" label.

On May 21, 1998, the U.S. and seven Latin American countries signed the International Dolphin Conservation Program that will provide the basis for removing U.S. tuna trade embargoes for nations that become parties to the agreement. The dolphin-safe label, however, will remain unchanged contingent upon the 1999 study. The agreement will be fully ratified after four countries approve it, which is expected to take place by January 1999.[28]

Shrimp Embargo

On December 29, 1995, the U.S. Court of International Trade ordered an embargo against all shrimp imports, effective May 1, 1996, from countries that do not require and enforce the use of Turtle Excluding Devices (TED) on shrimp trawlers. The only exception is if the U.S. Department of Commerce certifies that the harvesting nation has adopted a comparable program to protect sea turtles in the course of commercial fishing operations or that the fishing environment of the harvesting nation does not pose a risk to sea turtles.[29]

Although the embargo's greatest impact will be in the Far East, fifteen Latin American countries may be affected, including Mexico and Ecuador, two of the top three worldwide shrimp exporters to the United States. The overall effect on each individual country's shrimp exports will vary depending on previously adopted measures and the amount of fishing waters where the limited threat to sea turtles warrants exemption from the law.[30]

On February 1998, an interim panel in the World Trade Organization ruled that the U.S. violated its obligations under international trade rules by imposing a ban on wild shrimp caught without devices that allow endangered sea turtles to escape from nets. In March of 1998, the Office of the U.S. Trade Representative appealed the WTO ruling.[31] In an April 1998 meeting, the interim panel decided to uphold the earlier ruling.[32] As of May 1, 1998, the

[28] U.S. Department of State, Multilateral dolphin protection agreement signed, (Press statement), Washington D.C., 21 May, 1998.
[29] WTO, U.S. Trade Policy Review, Geneva, 1996.
[30] Federal Register, Vol. 61, No. 77 (December 1995) p. 17342.
[31] USTR, USTR to challenge draft shrimp-turtle report at WTO, (Press release 98-29), Washington D.C., March 1998.
[32] USTR, Barshefsky responds to WTO shrimp-turtle report, (Press release 98-40), Washington D.C., April 1998.

U.S. State Department certified that 39 countries met the standard to prevent accidental drowning of sea turtles in shrimp trawls. Brazil, Venezuela and the Bahamas, which were certified last year, were banned from selling shrimp in U.S. markets in 1998, after officials determined that they were not enforcing their own laws aimed at protecting sea turtles. Among the countries that were certified are: Belize, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Suriname, Trinidad and Tobago, Dominican Republic, Jamaica and Peru. Argentina, Chile and Uruguay have shrimp fisheries only in cold waters, where the risk of catching sea turtles is negligible.[33]

IV. Export Subsidies

Products from Latin American and Caribbean countries regularly encounter competition from subsidized U.S. goods in their domestic markets, as well as in other export markets. U.S. export support programs facilitate export transactions overseas by creating more incentives for exports, credit opportunities for potential buyers, and overseas infrastructures that facilitate the storage of U.S. agricultural products. The comprehensive farm bill, approved on April 4, 1996, maintains most U.S. export support programs, though many of them at lower funding levels due to the WTO agreement on agriculture. Essentially, this law is intended to support an export strategy that is designed to increase U.S. agricultural exports at a rate faster than the global rate.

Export Enhancement Program (EEP)

The agricultural Export Enhancement Program (EEP), approved in 1985 to challenge unfair trade practices from other countries, was created during a period of large grain stocks and low prices to help U.S. agricultural producers, processors, and exporters compete in foreign markets. Recently, the EEP has been broadened to not only counter specific competition actions, but to assist U.S. agricultural exports in general.[34] Under this program, U.S. exporters are paid subsidies when they commercialize products in targeted countries. These are countries defined as those where U.S. sales have been nonexistent, displaced, reduced, or threatened, because of competition from other subsidized exports. Every three months, the U.S. Department of Agriculture allocates quantities and destinations for U.S. agricultural products where bonuses will be awarded

In 1996, the program was extended until the year 2002. Under the new farm bill, the EEP expenditure was capped at $350 million in 1996; $250 million in 1997; and will be $500 million in 1998; $550 million in 1999; $579 million in 2000 and $478 million for 2001 and

[33] U.S. Department of State, Sea turtle conservation and shrimp imports, (Press statement), Washington D.C., 4 May 1998.

[34] General Accounting Office, U.S. Agricultural Exports, (Report GAO/NSIAD-97-260), Washington D.C., September 1997.

2002. For the years 2000-2002, funding levels for EEP represent the maximum allowable expenditures under the WTO.

Although the EEP is currently active, funded, and operational, no subsidies have been granted since July 1995, due mainly to high world prices and tight food stocks. ERS projects the continuation of these tight markets through 2005.

Originally, commodities eligible for EEP subsidies were wheat, wheat flour, semolina, frozen poultry, frozen pork, barley, barley malt, and vegetable oil. Presently, the program operates to subsidize those commodities, but has eliminated semolina and frozen pork, and has since added rice and table eggs. It has also extended its operations to assist similar programs in the export of dairy products and sunflower and cottonseed oils.

Because of this program, many countries complained in the past that the EEP caused their agricultural products to loose market shares abroad. In a September 1997 report on U.S. Agricultural Exports, however, the GAO detected minimal global impact of the EEP. The reason being that the EEP had not significantly increased U.S. export market share, as the gains made from the lower prices were often offset by lost U.S. sales in other unassisted markets.

Dairy Export Incentive Program (DEIP)

The Dairy Export Incentive Program is intended to make certain U.S. dairy products more competitive against other countries that subsidize their dairy industry. The program works by granting cash bonuses to exporters calculated by multiplying the determined bonus by the net quantity of the export commodity. This allows U.S. dairy exporters to sell products at a price below cost. Commodities eligible under DEIP are milk powder, butterfat, cheddar, mozzarella, Gouda, feta, cream, and processed American cheeses.

Under the new farm law, the DEIP eliminates the price supports on dairy products over the next three years, after which they are replaced by a recourse loan program. The law will fully fund the DEIP to the maximum levels allowed by the WTO.

The Export Credit Guarantee Programs

The Export Credit Guarantee programs are the largest US export promotional programs of the Commodity Credit Corporation (CCC). They are designed to increase U.S. exports in countries where credit is necessary to finance purchases, and where private financial institutions would not finance the commercial purchase unless the CCC guarantees it. The programs guarantee payment from approved foreign banks, normally to financial institutions in the United States, that extend credit to them to finance U.S. agricultural imports. The CCC usually insures up to 98 percent of the principal plus a portion of the interest.

There are two programs within the export credit guarantee programs. First, the export

credit guarantee program (GSM-102) allows foreign buyers to purchase U.S. agricultural products from private U.S. exporters, providing coverage for financing the sale with repayment guarantees from 90 days up to three years. Second, the intermediate export credit guarantee program (GSM-103) provides coverage for credit terms that are between three and ten years in length. The loan terms under the GSM-103 sales distort trade, due to the favorable loan terms that surpass commercial terms.

Table 7: GSM-102
(Millions of Dollars)

COUNTRY	ANNOUNCED	REGISTERED	BALANCE
Andean Region	200.0	137.3	62.7
Brazil	75.0	25.8	49.2
Central America	80.0	69.2	10.8
East Caribbean	80.0	53.1	26.9
Mexico	1,225.0	1,104.0	121.0
West Caribbean	35.0	13.7	21.3

Source: United States Department of Agriculture. March 17, 1998.

Each fiscal year the U.S. Department of Agriculture allocates approximately $5 billion to the GSM-102 and about $500 million to GSM-103. In fiscal year 1996, $3.4 billion was allocated for GSM-102 and $3.4 million for GSM-103. For fiscal year 1997, $2.44 billion for GSM-102 was allocated, and for the GSM-103 program, $353 million was allotted. Consequently, these generous subsidies create unfair situations for domestic agricultural producers who cannot compete with the low prices and easy access to credit that can be offered by U.S. exporters.

Some eligible commodities within these programs are: barley malt, cotton, dairy products, feed grains, fresh fruits, oilseeds, vegetable oils, meat (chilled or frozen), planting seeds, potatoes, peanuts, poultry, rice, livestock, wheat, wood products, almonds, and corn products. However, the USDA will consider any agricultural commodity of 100 percent U.S. origin, or if the market for U.S. exports will be expanded or maintained as a result. Also, the GSM-103 program is focused on a more limited number of products, such as wheat and breeder livestock.

Table 8: GSM-103
(Millions of Dollars)

COUNTRY	ANNOUNCED	REGISTERED	BALANCE
Central America	10.0	0.0	10.0
Mexico	125.0	5.0	120.0

Source: United States Department of Agriculture. March 17, 1998.

The Market Access Program (MAP)

The Market Access Program (MAP), (called the Market Promotion Program (MPP) until April 1996) began in 1990 to finance promotional activities, market research, technical assistance, and trade servicing for U.S. agricultural products. With funds from the CCC, the MAP works by partially reimbursing program participants who conduct these foreign market development projects for eligible products in specified countries. In April 1996, expenditures were capped at $90 million per year until the year 2002, and reforms were implemented to restrict participation to small business, farmer-owned cooperatives and agricultural groups.

Within the Market Access Program is the Export Incentive Program (EIP) which helps small-sized U.S. commercial and cooperative entities promote their products through advertising, seminars, trade shows, and demonstrations.

Some of the commodities covered by the MAP include apples, asparagus, canned peaches and fruit cocktail, catfish, cherries, citrus, cotton, dairy products, dry beans, eggs, feed grains, frozen potatoes, grapes, honey, hops, kiwi fruit, meat, peanuts, pears, pet food, pistachios, poultry meat, prunes, raisins, rice, salmon, soybeans, strawberries, sunflower seeds, surimi, tallow, tomato products, walnuts, and wheat.

Supplier Credit Guarantee Program

The Supplier Credit Guarantee Program (SCGP), which became effective on August 30, 1996, is intended to encourage U.S. exporters to expand, maintain and develop markets for U.S. agricultural commodities and products in areas where commercial financing may not be available without a CCC payment guarantee.

Under the SCGP program, the CCC guarantees a portion of payment due from importers under short-term financing of up to 180 days. The SCGP is similar to the export credit guarantee program (GSM-102), but the CCC guarantees a substantially smaller portion of the value of exports than with the GSM-102 (currently 50 percent).[35] Also, under SCGP the

[35] USDA, Fact Sheet, (FAS Online), Washington D.C., September 1997.

CCC guarantees the importer obligations, as opposed to guaranteeing repayment of credits extended to foreign banks under the GSM-102 program.

Eligible commodities include specific U.S. agricultural products, with an emphasis on high value products (processed products and value-added products) like wine, chilled-beet, and frozen dinners, to a limited number of countries.

Table 9: SCGP
(Millions of Dollars)

COUNTRY	ANNOUNCED	REGISTERED	BALANCE
Brazil	10.0	0.1	9.9
Central America	10.0	3.1	6.9
Mexico	30.0	0.5	29.6

Source: United States Agricultural Department. March 17, 1998.

Facility Guarantee Program

The Facility Guarantee Program (FGP) was reauthorized by USDA in 1995 as a division of the CCC, and is intended to provide payment guarantees to assist in the financing of manufactured goods and services exported from the U.S. It is administered by the FAS, and is a subpart of both the GSM-102 and GSM-103 programs. Its intent is to establish agriculture-related facilities in emerging markets and enhance sales in markets where inadequate storage, processing, or handling capabilities may otherwise restrict demand.

The U.S. currently allocates $150 million in emerging markets worldwide, however there have been no applications for projects since its reauthorization.

Foreign Market Development Program

Also known as the Cooperator program, the Foreign Market Development Program (FMD) has sought for more than 40 years to develop, maintain, and expand long-term export markets for U.S. agricultural products. The program facilitates partnership with nonprofit cooperators and the USDA who pool their financial and technical resources to build export markets.

This program has proven to substantially support growth in U.S. agricultural exports, as it has funded market development activities in more than 100 countries worldwide.[36]

[36] USDA, Fact Sheet, (FAS Online), Washington D.C., November 1997.

Projects within the program consist of market research, trade servicing activities, and technical assistance, depending on the status of individual markets.

USDA's contribution to this program has averaged $30 million annually. Cooperators and U.S. industry also contribute significantly as in 1998, they will likely contribute resources totaling 110 percent of the $33.5 million in funds provided by the United States Foreign Agricultural Service.[37]

Emerging Markets Program

The Emerging Markets Program (EMP), originally authorized by the Food, Agriculture, Conservation and Trade Act of 1990 and amended by the Federal Agriculture Improvement and Reform Act of 1996 (FAIR Act), promotes U.S. agricultural exports to emerging markets by providing technical assistance and agricultural expertise. It seeks low-income markets with dynamic economies and high potential for U.S. export growth. The Act authorizes $10 million annually for 7 years, using funds from the Commodity Credit Corporation (CCC).[38]

The activities in the program include: agricultural sector and joint-venture assessments, market information systems, commodity exchange development, resident policy advisors, training in importing, agriculture banking and credit, business planning, farm and agribusiness management, and sanitary and phytosanitary training.

Farm Service Agency loans

The Department of Agriculture's Farm Service Agency (FSA) provides direct and guaranteed loans to farmers who are unable to obtain loans from the Farm Credit System or other commercial lenders. All FSA loans provide some subsidy value or credit enhancement to the borrower. The interest rates on these loans, which are made directly by FSA, are lower than the rates on loans from commercial lenders. These low-interest rate programs were originally authorized to stem acute cash flow or profitability problems, but have now become permanent features of Federal farm credit programs. However, because of lower interest rates and reduced lending activity in the late 1990's, FSA has become a less important source of credit for many direct borrowers.

Nevertheless, special low interest rates for direct lending programs have been used extensively. Almost 14% of the $1.6 billion in guaranteed lending in fiscal year 1997 was made through these programs. During that same year, 60% of the $745 million in direct farm loan obligations were made at rates below regular program rates.

FSA is required by law to lend at least 25% of its direct loans each year at the limited-

[37] USDA, Announces Foreign Market Development Program for Fiscal Year 1998, (FAS Online), Washington, D.C., September 1997.

[38] USDA, Summary: Emerging Markets Program, (FAS Online), Washington D.C., February 1998.

resource rate. Limited-resource rates are set at half the rate on 5-year U.S. Treasury notes, but not below 5%. Other FSA loan rates include the "Emergency Disaster Rate", which is fixed at 3.75% for the life of the loan. "The Beginning Farmer Downpayment Rate" is available for qualified farmers for 4-percent, 10-year, fixed-rate loans to finance the downpayment on farm real estate purchases. Others may be able to obtain 4-percent loans under joint financing arrangements with commercial lenders.

For interest rate assistance, FSA reduces the rate on guaranteed operating loans by 4 percentage points from the loan rate negotiated between the borrower and the lender. There is no minimum rate, and eligibility is reviewed annually.