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U.S. BARRIERS TO LATIN AMERICAN AND CARIBBEAN EXPORTS 1994

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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 releases 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. Canada's Ministry of External Affairs and Trade releases every year a register of U.S. trade barriers.

This report, released annually by ECLAC Washington, contributes to transparency through the identification of the trade barriers confronted by the exports from Latin America and the Caribbean to the United States market.

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

I. INTRODUCTION

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. 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. This report delineates 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)

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

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[1] ECLAC, U.S. Barriers to Latin American and Caribbean Exports 1992 (LC/WAS/.21), October 13, 1993.

II. IMPORT POLICIES

Tariffs

Broadly, U.S. tariffs do not constitute major barriers to Latin American and Caribbean exports. According to the latest General Agreement on Tariffs and Trade (GATT) figures, the simple average of U.S. tariffs for all products dropped to 6.7% in 1993, from 7.1% in 1991.

Table 1: Estimated Duties Collected on U.S. Imports from Latin American and the Caribbean 1994

HS COMMODITY	IMPORTS (thousands of US $)	Ad Valorem Equivalent (%)
LIVE ANIMALS; ANIMAL AND VEGETABLE PRODUCTS		
Live Animals	86,323,272	3.24
Dairy products; birds eggs; honey; ed animal pr nesoi	33,062	7.18
Edible vegetables & certain roots & tubers	1,159,007	4.44
BEVERAGES AND TOBACCO		
Tobacco and manufactured tobacco substitutes	308,181	9.33
PRODUCTS OF CHEMICAL OR ALLIED INDUSTRIES		
Tanning & dye ext etc; dye, paint, putty etc; inks	65,754	4.14
Miscellaneous chemical products	106,629	3.38
LEATHER AND ARTICLES THEREOF		
Leather art; saddlery etc; handbags etc; gut art	296,971	4.83
TEXTILES AND TEXTILE ARTICLES		
Wool & animal hair, including yarn & woven fabric	43,704	20.69
Cotton, including yarn and woven fabric thereof	159,341	6.97
Manmade filaments, including yarns & woven fabrics	87,150	9.20
Manmade staple fiber, incl yarns & woven fabrics	12,585	7.75
Carpets and other textile floor coverings	12,929	6.38
Spec wov fabrics; tufted fab; lace; tapestries etc.	25,139	6.75
Impregnated etc text fabrics; tex art for industry	27,730	4.33
Knitted or crocheted fabrics	16,306	13.28
Apparel articles and accessories, knit or crochet	2,368,754	8.15
Apparel articles and accessories, not knit etc.	4,567,666	8.49
Textile art nesoi; needlecraft sets; worn text art	358,073	5.43
FOOTWEAR, HEADGEAR AND ARTIFICIAL FLOWERS		
Footwear, gaiters etc. and parts thereof	1,869,060	7.73
Headgear and parts thereof	118,274	5.28
ARTICLES OF STONE OR CERAMICS; GLASS AND GLASSWARE		
Ceramic products	340,670	7.10
Glass and glassware	412,354	3.07
BASE METALS AND ARTICLES OF BASE METALS		
Iron and steel	1,936,823	3.50
ARMS AND AMMUNITION; PARTS AND ACCESSORIES THEREOF	75,164	4.32

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

However, even though the average tariff remains low, it varies across the board and certain products face high tariffs[2]. Table 1 shows those LAC imports at two digit level that face at least a 3% average duty, with apparel, textiles, tobacco, footwear and ceramics facing the highest duties.

The Multifiber Agreement

Instituted within the GATT framework in 1974, signatory countries of the Multifiber Agreement (MFA) negotiate bilateral agreements with their trading partners to establish quotas on the importation levels for a variety of textile and apparel products. Under the authority of section 204 of the Agricultural Act of 1956, the U.S. can also negotiate bilateral agreements with non-GATT members, such as Haiti and Panama. As shown in Table 2, in 1994, the United States entered into MFA agreements with several Latin American and Caribbean countries. The MFA agreement with Panama was allowed to expire without any effort to renegotiate.

Table 2: U.S.-LAC MFA Agreements and Import Value 1994

Country	Import value (thousands of US $)	Expiration date
Brazil	289,312	03/31/96
Colombia	347,436	12/31/95
Costa Rica	658,789	12/31/95
Dominican Republic	1,457,653	12/31/94
El Salvador	268,138	12/31/93
Guatemala	565,194	12/31/94
Haiti	95,686	12/31/94
Jamaica	390,919	12/31/95
Mexico	1,372,050	*
Panama	41,702	03/31/94
Uruguay	36,342	06/30/94

Source: ECLAC, on the basis of data from the U.S. International Trade Commission.
* The agreement with Mexico expired on 12/31/93. Under NAFTA, restraints will be eliminated by the year 2003.

On December 9, 1993, the GATT Textile Committee agreed to extend the MFA for a sixth time until December 31, 1994. This was done to bridge its expiration with the adoption of the Uruguay Round agreement on textiles and apparel. The MFA will be reduced dramatically after the passage of the Uruguay Round and the creation of the World Trade Organization (WTO). As of January 1, 1995, 16 percent of the products contained in the MFA were phased out of the quota system, with a further 17 percent in the next three years, and an additional 18 percent in 7 years. The remainder will be eliminated at the end of the 10 year transition period.

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[2] GATT, Trade Policy Review Mechanism of the United States of America, (Geneva, January 1994), p. 34.

Trade Remedy Legislation

The GATT council's 1993 review of U.S. trade policies noted an increased recourse to anti-dumping (AD) and countervailing (CVD) actions by the U.S. Antidumping duties are imposed by the United States when the Department of Commerce finds that imports are being sold at less than fair value (LTFV), or when the U.S. International Trade Commission (ITC) concludes that a domestic industry is being materially injured, or the establishment of an industry is prevented by the dumping of imports.

Table 3: Antidumping (AD) Duties in Effect as of February 1995

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
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	Cut to Length CS 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
	1/28/94	SS Wire Rods
Chile	3/20/87	Standard Carnations
Colombia	3/18/87	Fresh Cut Flowers (terminated 3/3/95)
Ecuador	3/18/87	Fresh Cut Flowers (terminated 3/3/95)
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
	3/25/93	Steel Wire Rope
Venezuela	8/22/88	Aluminum Rod
	12/15/89	Aluminum Sulfate
	6/24/93	Ferrosilicon
	11/2/92	Circ. Welded Non-Alloy Pipe

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

The Department of Commerce and the ITC begin simultaneous investigations when a private petition is filed. Procedures for CVD investigations are similar to those for antidumping cases. The duty imposed for ADs is supposed to equal the difference between the price of the product in the producer's domestic market and the price at which the product is sold in the U.S. market. The duty for CVDs should be equivalent to the subsidy from which the imported product benefits.[3]

Table 4: Countervailing Duties in Effect as of February 1995

Country	Date Begun	Item
Argentina	11/16/78	Woolen Garments
	1/17/79	Non-Rubber Footwear
	4/4/83	Wool
	3/18/83	Leather Wearing Apparel
	4/26/83	Cold-Rolled Flat Products
	11/22/84	OCTG
	3/12/85	Certain Apparel
	3/12/85	Certain Textile Mill Goods
	9/27/88	Standard and Line Pipe
	9/27/88	Light & Heavy Walled Tubing
	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
Ecuador	1/13/87	Cut Flowers
Mexico	4/10/81	Leather Wearing Apparel
	5/10/82	Ceramic Tile
	3/18/85	Textile Mill Products
	12/12/86	POS Cookware
Peru	2/1/83	Cotton Yarn
	2/1/83	Cotton Sheeting and Sateen
	3/12/85	Certain Textile Mill Products
	3/12/85	Apparel
	11/27/85	Rebar
	4/23/87	Pompon Chrysanthemums
Venezuela	8/22/88	Redraw Rod
	12/19/89	Aluminum Sulfate
	9/17/92	Cir. Weld Non-Alloy Steel Pipe
	5/10/93	Ferrosilicon

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

[3] U.S. International Trade Commission, The Year in Trade: Operation of the Trade Agreements Program, 1991 (Washington, D.C., 43d. Report, August 1992), p. 149.

The final determination in antidumping and countervailing cases is based on whether domestic parties object within five consecutive months of the first notice. If a company objects, the duty order is not revoked. While an investigation is conducted, preliminary duties are immediately imposed on the imported product until a final determination is made. 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 often are kept in place for many years. For instance, all the duty orders that existed in 1993 are still in place. In addition, recently six new antidumping and three new countervailing duties were imposed, all of them on steel products. Of those duties, five were applied to Brazil, two to Mexico, and two to Venezuela.

Voluntary Export Restraint Agreements

The situation with respect to Voluntary Export Restraint Agreements (VERA) 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. 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.

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).

Most countries in Latin America and the Caribbean are exempt from the 0.625 cent duty since they are beneficiaries under the Generalized System of Preferences (GSP) and/or the Caribbean Basin Economic Recovery Act (CBERA). This means they receive duty-free treatment for the sugar they export within their prescribed quotas. The only country in Latin America that does not receive duty-free treatment 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 between August 1, 1994 and September 30, 1995 is 1,322,978 metric tons, compared to 1,956,125 metric tons between October 1, 1992 and August 7, 1994. Latin America and the Caribbean will supply 64 percent of total U.S. sugar imports during the 94-95 period.

Table 5: U.S. Sugar Tariff-Rate Quota
(August 1, 1994 - September 30, 1995)

Country	% of total US Imports	Metric tons
Argentina	4.3	53,604
Barbados	.7	8,726
Belize	1.1	13,713
Bolivia	.8	9,973
Brazil	14.5	180,759
Colombia	2.4	29,919
Costa Rica	1.5	18,699
Dominican Republic	17.6	219,404
Ecuador	1.1	13,713
El Salvador	2.6	32,412
Guyana	1.2	14,959
Guatemala	4.8	59,837
Haiti	*.3	8,468
Honduras	1.0	12,466
Jamaica	1.1	13,713
Mexico	*.3	8,468
Nicaragua	2.1	26,179
Panama	2.9	36,152
Paraguay	*.3	8,468
Peru	4.1	51,111
St. Kitts & Nevis	.03	8,468
Trinidad & Tobago	.7	8,726
Uruguay	*.3	8,468
Total	64	846,405

Source: ECLAC, on the basis of data from the U.S. Trade Representative
* These countries have been allocated a minimum access level.

Section 22, Agricultural Product Quotas

Under Section 22 of the Agricultural Adjustment Act of 1933, imports of certain agricultural products that interfere with U.S. Department of Agriculture domestic price support policies are subject to quotas or import fees. The exports from Latin America most affected by these quotas include dairy products, certain sugar containing products, peanuts and unprocessed cotton.

With the ratification of the Uruguay Round, there are no longer absolute quotas, instead, tariff quotas will be established within approved limits. If the imported amount exceeds the quota limit, a secondary duty (over-quota duty) must be paid.

Section 301 Watch List

Section 301 of the Trade Act of 1974 gives the USTR the authority to address unfair trade practices affecting U.S. goods and services. Section 301 also may be used to address unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. According to Section 301, the U.S. may retaliate against trading partners when the U.S. determines that its rights have been denied under international agreements, or when U.S. commerce is subject to discriminatory treatment. Section 301 investigations may be initiated by any interested party or by the USTR itself. In each case the USTR must consult with the foreign government whose practice is under investigation.

The USTR, after nearly two years of section 301 investigations on Brazil, decided to terminate these investigations effective February 28, 1995. In contrast, the USTR initiated section 301 investigations on January 9, 1995, of the practices of Colombia and Costa Rica concerning the exportation of bananas to the European Community.

Under the 1988 Omnibus Trade and Competitiveness Act, a "Special 301" provision was created by which the USTR is required to launch investigations of "priority foreign countries" concerning the denial of intellectual property rights or market access. Currently, no exports from Latin America are subject to a Special 301 investigation, although a few are being monitored, primarily due to intellectual property concerns.

From 1993 through 1994, Chile and El Salvador remained on the "Special 301 watch list," while Colombia, Guatemala, Peru, and Venezuela were added to the list. In 1994, Argentina was placed on the "Special 301 priority watch list," after a USTR study found that Argentina had failed to enact legislation that would "upgrade" its existing patent laws. A "priority watch list" classification results in an immediate investigation under an accelerated framework. In most instances, a country can usually avoid being placed on the "priority watch list" if a good-faith effort is underway to rectify the USTR complaints. Ecuador has been removed from all Section 301 watch lists due to what the USTR calls "improved protection and market access."[4]

The U.S. has been able to influence the adoption of significant trade policy reforms by not only conducting investigations under Section 301 but also by imposing severe trade restrictions after the completion of an investigation with negative findings. For example, following a Special Section 301 investigation, which resulted in the imposition of sanctions against certain imports, Brazil introduced legislation to revise its intellectual property rights protection and industrial property laws. Brazil has since been removed from the "priority foreign country" designation.[5]

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[4] USTR, 1994 Trade Policy Agenda and 1993 Annual Report. (Washington D.C.), pg. 100.

[5] USTR, 1994 National Trade Estimate Report on Foreign Trade Barriers. (Washington D.C.), pg. 23.

III. STANDARDS AND REGULATIONS

It is not an easy task for exporters to understand and abide by the complex system of U.S. standards. There are three tiers of regulations that must be considered: federal, state and local. More than 44,000 federal, state, and local authorities enforce an estimated 89,000 standards for products destined for their jurisdictions.[6] These regulations are often inconsistent across jurisdictions or overlap. Further, there is no central source of information on U.S. product standards. Because of this complex structure, obtaining information and complying with the necessary regulations is a major undertaking for foreign enterprises, especially those of small and medium size.[7]

Imports into the U.S. increasingly face regulations related to consumer and environmental protection. In this area, state and local authorities often impose more stringent restrictions than the U.S. Government, oriented to their particular constituencies. In addition, the line between optional requirements and essential safety standards has become blurred due to the role private organizations often play in determining the criteria for standards.[8]

The types of U.S. standards that have the greatest impact on Latin American and the Caribbean exports are discussed below.

Marketing Orders

Under Section 8e of the Agricultural Marketing Agreement Act of 1937, the Secretary of Agriculture can issue grade, size, quality or maturity regulations for agricultural products through domestic marketing orders. Some of these requirements are also applied to imported agricultural products. The same products listed in 1993 remain subject to marketing order regulations: avocadoes, dates (other than dates for processing), filbert, grapefruit, table grapes, kiwifruit, limes, olives (other than Spanish-style olives), onions, oranges, Irish potatoes, prunes, raisins, tomatoes, and walnuts.[9]

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[6] Foreign Affairs and International Trade, Canada, Register of U.S. Barriers To Trade 1994 (Ottawa, 1994), p. 11.

[7] U.S. Customs Service, Importing into the United States (Washington D.C., September, 1991) for a description of importing standards and requirements. This publication lists sources of information, including a list of customs offices by state.

[8] Services of the European Commission, Report on United States Barriers To Trade and Investment 1994, Doc No I/194/94 (Brussels, April 1994), p. 55.

[9] U.S. Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Division, Fruit and Vegetable Import Requirements (Washington, D.C., January 1993).

Phytosanitary Regulations

Phytosanitary regulations for fruit and vegetables pose numerous difficulties for Latin American and Caribbean exports. Adjudicating claims is a cumbersome and costly process that can take years. Once a decision is taken it is published in the Federal Register, followed by a 90-day "comment" period, after which the decision is re-published in the Federal Register and assigned a legally effective date.

All cases mentioned in ECLAC's 1993 report remain under investigation. In the case of Mexican avocados, on July 5, 1994, the Government of Mexico requested that the Animal and Plant Health Inspection Service (APHIS) amend its regulations to allow the importation of fresh Hass avocado fruit--grown in approved orchards and approved municipalities in Michoacán, Mexico--into 19 additional States.[10] (APHIS has prohibited the importation of Hass avocadoes from Mexico into the United States (except Alaska) since July 27, 1993, due to diseases caused by fruit flies and seed weevils).

For its part, the USDA continues its investigation of Chilean tomatoes to determine whether they are infected by the fruit fly. During this period no tomatoes can be imported into the U.S. Meanwhile, Chile is in the process of solving this problem through a quarantine treatment and by establishing an area free of the fruit fly.

Meat Import Regulations

Only three Latin American countries, Argentina, Brazil and Uruguay, are currently exporting cooked meat products to the United States. These countries have not been able to export uncooked meat for 40 years because of outbreaks of hoof-and-mouth disease which poses no danger for humans, but can infect cattle. While other countries such as Germany and the United Kingdom import fresh meat from Latin America, the United States has operated under a "zero-risk" standard, that completely disallows importation of uncooked meat from countries with any outbreak of hoof-and-mouth disease.

The United States is now moving towards a regionalization of standards and quotas under the ratification of the Uruguay Round, whereby a specific region in a country can be declared free of specific diseases. A region declared disease free would be able to export 20,000 metric tons of fresh meat to the United States. For this to happen, a region must not only be free of the disease but must not have vaccinated against the disease for one year.

Argentina and Uruguay have been inspected for this purpose, including inspection of veterinary health and sanitary infrastructure as well as border structures. Argentina had the last outbreak of hoof-and-mouth disease in April 1994. It is still vaccinating against the disease and has received favorable evaluations of veterinary health and sanitary conditions. Uruguay has not had an outbreak for four years and stopped vaccinating on June 15, 1994. It

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[10] The 19 States identified in Mexico's request are Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and Wisconsin.

could thus be declared free of the disease on June 15, 1995. Brazil's two southern regions, Rio Grande do Sul and Santa Catarina, have both terminated vaccination for hoof-and-mouth disease and both have requested an inspection. However, for the regionalization of standards to be implemented, a modification of the United States current regulation must occur. Such modification is expected to be announced in the Federal Register in the spring of 1995.

Marine Mammal Protection Act

A U.S. embargo on Mexican yellowfin tuna was put into effect on February 22, 1991. This embargo, intended specifically to save dolphins, is maintained under an amendment of the U.S. Marine Mammal Protection Act (MMPA), which prohibits the importation of tuna from countries whose fishing fleets have a higher marine mammal fatality rate than US vessels. Venezuelan tuna imports are also embargoed under the MMPA.[11]

In January 1992, a U.S. court order banned imports of these tuna products from Mexico and Venezuela, including through intermediary nations such as Costa Rica. The United States signed into law the International Dolphin Conservation Act (IDCA) October 1992. This law established a 5-year moratorium, beginning March 1, 1994, on the practice of setting yellowfin tuna fishing nets over dolphin schools. It would also eliminate the embargo on intermediary nations and will lift the direct embargo on tuna products for those countries agreeing to the law and implementing the moratorium. These new measures still fall short of bringing the United States into compliance with GATT rules. The embargo remains in place since no countries have agreed to the IDCA legislation.[12]

An agreement signed by the member governments of the Inter-American Tropical Tuna Commission (IATTC)[13] became effective January 1993. It was aimed at reducing dolphin mortality in the eastern tropical Pacific to near zero by setting annual limits. Mexico reduced dolphin mortality rates to 0.01% in 1993, while the U.S. embargo decreased the earnings of Mexican fishermen, which in turn made it harder for them to implement technological improvements to further lower the rate of dolphin mortality. Venezuela has complained that although its fishermen have been able to substantially reduce dolphin mortality, they are still subject to the U.S. embargo because Venezuelan laws regarding tuna have not been fully aligned with the U.S.[14]

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[11] U.S. International Trade Commission, The Year in Trade: Operation of the Trade Agreement Program, 1991, (Washington D.C., 43d Report, August 1992), p. 38.

[12] U.S. International Trade Commission, The Year in Trade: Operations of the Trade Agreement Program, 1992, (Washington D.C., 44th Report, July 1993), p. 30.

[13] Agreement reached in June 1992 between Colombia, Costa rica, Ecuador, Mexico, Nicaragua, Panama, the United States, Vanuatu and Venezuela.

[14] GATT, FOCUS Newsletter, (Geneva, October 1994), No. 111, p. 4.

U.S. Gasoline Standards

In December 1993, the U.S. Environmental Protection Agency (EPA), in December 1993, adopted new standards for reformulated and conventional gasoline. These new measures were less favorable to imported gasoline, while giving preferential treatment to gasoline imported by a U.S. company from its refinery in another country. The GATT Council has established a panel to examine Venezuela's complaint that the EPA measures would cost them nearly $150 million worth of gasoline exports and a $1 billion investment program for its gasoline refining industry. This complaint was supported by Brazil, Argentina, Peru, Chile and Honduras.[15]

Tobacco Regulations

In 1993, new legislation imposed a 75% domestic content on tobacco used in the manufacture of cigarettes in the United States and additional fees on imported tobacco. A record number of countries, which included Brazil, Argentina, Chile, Colombia, El Salvador, Guatemala and Venezuela, complained to the GATT council stating that this legislation was not consistent with GATT provisions, and had adversely affected exporters of burley and flue-cured tobacco by restricting the use of imported tobacco in the manufacture of U.S. cigarettes.

A GATT panel concluded in October 1994 that the domestic marketing assessment of the 1993 Budget Act was inconsistent with GATT rules. GATT members are prohibited from establishing or maintaining internal quantitive regulations relating to the mixture, processing or use of products in specified amounts or proportions that require that the product be supplied from domestic sources. The Uruguay Round implementing legislation authorized the President of the United States to correct the budget deficit assessment and eliminate the domestic market assessment.[16]

Other Regulations

U.S. Department of Agriculture:

- Licenses are required for imports of most plants and plant products.
- Imported sugar must be accompanied by a certificate of eligibility to obtain low-duty entry into the United States under the sugar tariff-rate quota system.
- Licenses must be obtained to import butter, certain dried milk products, malted milk and other articles of milk or cream and certain cheeses.
- Import permits are required for certain animals and animal products.

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[15] Ibid., p. 3.

[16] USTR, 1995 Trade Policy Agenda and 1994 Annual Report. (Washington D.C.), pg. 36.

U.S. Department of Energy

- Import authorization must be obtained to import natural gas.

U.S. Department of Interior

- Licenses are required for importers and exporters of all wild animals, fish, reptile, amphibian, mollusc, crustacean, arthropod, coelenterate or other invertebrate.

U.S. Department of Justice

- Importers of narcotic materials and non-narcotic controlled substances must obtain a permit and submit an import declaration for each shipment.

U.S. Department of Treasury

- Distilled spirits importers are required by law to have permits to engage in business.
- Importers of industrial alcohol must have a distilled spirits permit.

IV. EXPORT SUBSIDIES

Export Enhancement Program

The Export Enhancement Program (EEP), introduced in 1985 (authorized to continue through 1995) is intended to challenge unfair trade practices of other countries by compensating U.S. exporters. Although originally intended to concentrate on grains and oilseeds, the products currently eligible for EEP subsidies are wheat, wheat flour, barley, barley malt, semolina, rice, vegetable oil, table eggs and frozen poultry. Many countries complained that the EEP caused their agricultural products to lose market share abroad. Brazil, for example, expressed particular concern over its poultry and soybean oil exports, while Argentina has complained about subsidized U.S. exports of wheat to Brazil that violate MERCOSUR integration agreements.

Dairy Export Incentive Program

The Dairy Export Incentive Program (DEIP), authorized to continue through December 31, 1995, is designed to make certain U.S. dairy export products more competitive against countries that subsidize their dairy industry. The products currently eligible for the program are milk powder, butterfat, cheddar, mozzarella, gouda, feta, processed American cheeses, and cream.

The guidelines for the program state that it is intended to counter subsidies and unfair trade practices by expanding U.S. exports, with a minimal effect on non-subsidizing countries, and that the subsidy be maintained at a minimum level to achieve the programs objectives. The bonus granted is calculated by the Commodity Credit Corporation (CCC) by multiplying the determined bonus by the net quantity of the export commodity, which is then paid in cash to the exporter. The total amount allocated for the program has increased from $154 million in fiscal year (FY)94 to a budgeted $171 million for FY95.

Sunflower and Cottonseed Oil Assistance Programs

The Sunflower Oil Assistance Program (SOAP) and Cottonseed Oil Assistance Program (COAP) were authorized by Congress in 1988 and 1989, respectively. The programs are intended to help U.S. exporters become more competitive on the world market by targeting certain countries. USDA pays cash to U.S. companies to compensate for the difference between their more expensive prices and lower world market prices. The 1990 Farm Bill legislated $50 million to be used in every fiscal year beginning in FY91. For FY94, this amount was to be shared by both programs.

Market Promotion Program

This program is intended to establish and maintain the market share of U.S. agricultural exports abroad by funding promotional activities. Its objective is to challenge unfair trade practices of other countries. The MPP is jointly funded through the U.S. Commodity Credit Corporation and an eligible trade organization, which can include non-profit trade organizations, regional associations of state agriculture departments, producer cooperatives, state agencies that promote agricultural products, and, in some cases, private companies. The budget for this program has decreased steadily, from $200 million in FY92 to $86 million in FY95.

Marketing Loans

Marketing loans serve as support to U.S. companies by allowing them to pay back these government loans at lower interest rates than commercially available loans. The 1990 Farm Bill provided for the continuation of this program on a discretionary basis for wheat, feedgrains and soybeans, and on a mandatory basis for cotton and rice.

Credit Guarantee Programs

The Export Guarantee Program (GSM-102) has been functioning since 1982 and is the largest US export promotion program. It guarantees repayment of private, short-term credit for up to three years. Additionally, the Intermediate-Term Export Guarantee Program (GSM-103) began under the Food Security Act of 1985, and is designed to complement the GSM-102. GSM-103 authorizes the Commodity Credit Corporation (CCC) to provide low-interest loans to expedite the sale of US agricultural products. It guarantees 98 percent of the principal and some of the interest accrued during the financing period, which can range from 3 to 10 years. If importers default on their loans, the CCC pays the exporter the amount of the principal and interest covered by the guarantee. In FY93, $166 million in credit was approved for the GSM-102 and GSM-103 programs.