

# WTO members urge open markets as preparations start for 3rd Ministerial

## *E-commerce work programme adopted*

**W**TTO Members, in a special session of the General Council on 24-25 September, unanimously rejected trade protectionism as a response to the current financial turmoil, and urged that markets remain open to assist economic recovery.

The special session marked the start of preparations for the Third WTO Ministerial Conference which will be held in the United States late next year and the launching of a WTO work programme for electronic commerce, as mandated by the Second WTO Ministerial Conference held in Geneva last May.

The United States suggested that the Conference take place on 30 November to 3 December 1999. It said that it would propose a venue shortly.

### **Proposals for future negotiations**

A number of members proposed that trade negotiations to be launched at the Third Ministerial be a comprehensive one, which would cover not only those subjects in the "built-in" agenda—agriculture and services—but also other issues, such as further industrial tariff cuts. Some other countries stressed that the WTO should stick to dealing with implementation issues and those negotiating subjects already agreed to in the Uruguay Round. A number of other members said that they would be tabling their



*Director-General Renato Ruggiero and Chairman John Weekes at the Special Session launching preparations for the 1999 Ministerial. (Tania Tang/WTO)*

proposals after completing domestic consultations.

The European Communities said the danger of "beggar-they-neighbour" policies was growing rapidly as the impact of the financial crisis had spread. It underlined the need for a greater urgency in the WTO to ensure that the organization remained a bulwark against any protection-

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## **The financial crisis and the WTO**

**D**irector-General Renato Ruggiero, in an informal meeting of the General Council on 18 September, underlined that in the face of the world financial crisis "our shared responsibility is to see how the trading system can give a positive contribution towards our shared objective—returning the world economy to the path of sustainable growth." He stressed the following:

- Protectionism, especially under the present circumstances, would be a tragic mistake;
- Finalizing accession negotiations of some 30 applying states would be a powerful signal of confidence in the world economy; and
- As we prepare for the Third Ministerial Conference, we must show the world that we intend to keep our work programme firmly on track.

ist backsliding, and urged members to adopt an ambitious programme of further negotiations as their “collective contribution to the health of the international trading system”. The EC proposed adding to the built-in agenda negotiations for substantial reductions of industrial tariffs across all sectors, and new rules in sectors such as competition policy and investment. It said that “comprehensive” negotiations meant that they reflect the interests of all members, adding that “further negotiations in the WTO will only be acceptable if the benefits of it are widely shared”.

Japan supported comprehensive negotiations as the best approach to achieve overall balance of interests of all members. It said that the Geneva Ministerial Declaration provided a basis for negotiations in industrial tariffs, rules on investment and other new areas in addition to the built-in agenda.

The Czech Republic, speaking also on behalf of Bulgaria, Hungary, Poland, Romania, the Slovak Republic and Slovenia, called on members to show their ability to maintain open markets and sustain the momentum of liberalization amidst the current economic turmoil. It said

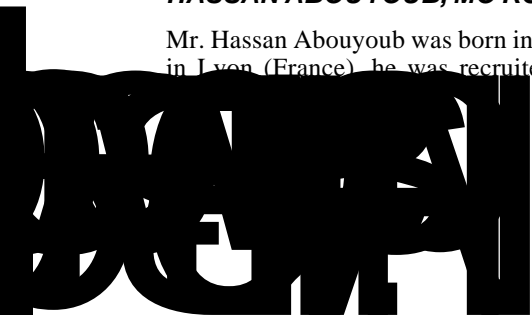
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**HASSAN ABOUYOUB, MO ROCCO**

Mr. Hassan Abouyoub was born in 1952. Af ter study ing in Lyon (France) he was recruited

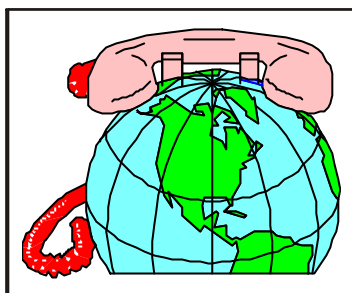




**WORK PROGRAMME ON ELECTRONIC COMMERCE**

*Adopted by the General Council on 25 September 1998*

**1.1** The Declaration on Global Electronic Commerce adopted by Ministers at the second session of the Ministerial Conference urged the General Council to establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, taking into account the economic, financial, and development needs of developing countries, and to report on the progress of the work programme, with any recommendations for action, to the Third Session. The General Council therefore establishes the programme for the relevant WTO bodies as set out in paragraphs 2 to 5. Further issues may be taken up at the request of Members by any of these bodies. Other WTO bodies shall also inform the General Council of their activities relevant to electronic commerce.



**1.2** The General Council shall play a central role in the whole process and keep the work programme under continuous review through a standing item on its agenda. In addition, the General Council shall take up consideration of any trade-related issue of a cross-cutting nature. All aspects of the work programme concerning the imposition of customs duties on electronic transmission shall be examined in the General Council. The General Council will conduct an interim review of progress in the implementation of the work programme by 31 March, 1999. The bodies referred to in paragraphs 2 to 5 shall report or provide information to the General Council by 30 July 1999.

**1.3** Exclusively for the purposes of the work programme, and without prejudice to its outcome, the term "electronic commerce" is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means. The work programme will also include consideration of issues relating to the development of the infrastructure for electronic commerce.

**1.4** In undertaking their work, these bodies should take into account the work of other intergovernmental organizations. Consideration should be given to possible ways of obtaining information from relevant non-governmental organizations.

**Council for Trade in Services**

**2.1** The Council for Trade in Services shall examine and report on the treatment of electronic commerce in the GATS legal framework. The issues to be examined shall include:

- scope (including modes of supply) (Article I);
- MFN (Article II);
- transparency (Article III);
- increasing participation of developing countries (Article IV);
- domestic regulation, standards, and recognition (Articles VI and VII);
- competition (Articles VIII and IX);

- protection of privacy and public morals and the prevention of fraud (Article XIV);
- market-access commitments on electronic supply of services (including commitments on basic and value added telecommunications services and on distribution services) (Article XVI);
- national treatment (Article XVII);
- access to and use of public telecommunications transport networks and services (Annex on Telecommunications);
- customs duties;
- classification issues.

**Council for Trade in Goods**

**3.1** The Council for Trade in Goods shall examine and report on aspects of electronic commerce relevant to the provisions of GATT 1994, the multilateral trade agreements covered under Annex 1A of the WTO Agreement, and the approved work programme. The issues to be examined shall include:

- market access for and access to products related to electronic commerce;
- valuation issues arising from the application of the Agreement on Implementation of Article VII of the GATT 1994;
- issues arising from the application of the Agreement on Import Licensing Procedures;
- customs duties and other duties and charges as defined under Article II of GATT 1994;
- standards in relation to electronic commerce;
- rules of origin issues;
- classification issues.

**Council for TRIPS**

**4.1** The Council for TRIPS shall examine and report on the intellectual property issues arising in connection with electronic commerce. The issues to be examined shall include:

- protection and enforcement of copyright and related rights;
- protection and enforcement of trade marks;
- new technologies and access to technology.

**Committee for Trade and Development**

**5.1** The Committee on Trade and Development shall examine and report on the development implications of electronic commerce, taking into account the economic, financial and development needs of developing countries. The issues to be examined shall include:

- effects of electronic commerce on the trade and economic prospects of developing countries, notably of their small- and medium-sized enterprises (SMEs), and means of maximizing possible benefits accruing to them;
- challenges to and ways of enhancing the participation of developing countries in electronic commerce, in particular as exporters of electronically delivered products: role of improved access to infrastructure and transfer of technology, and of movement of natural persons;
- use of information technology in the integration of developing countries in the multilateral trading system;
- implications for developing countries of the possible impact of electronic commerce on the traditional means of distribution of physical goods;
- financial implications of electronic commerce for developing countries.

## Panel set to examine EC's complaint against US tax treatment for FSCs

The Dispute Settlement Body, on 22 September, established a panel to examine the European Communities' complaint that the United States' tax treatment for "foreign sales corporations" or FSCs violated provisions of the WTO Agreements on Subsidies and Countervailing Measures and on Agriculture, and the GATT 1994.

The EC, in reiterating a panel request first made at the previous DSB meeting, claimed that the measure in question was an instrument designed to assist US exports. It said that the taxation system granted export subsidies it resulted in profits of US parent companies being exempted from taxes.

The United States said that the EC had raised a matter that it had considered resolved. It viewed the EC panel request as legally unwarranted and commercially unjustified action, and was confident its arguments would prevail in the panel process.

Canada reserved third-party rights to participate in the panel proceedings.

### Panel report adopted

The DSB considered a panel report, circulated on 24 August, on the EC's complaint against India's patent protection for pharmaceutical and agricultural products. The panel found that India had not complied with its obligations under Article 70.8(a) of the TRIPS Agreement by failing to establish a legal basis that adequately preserves novelty and priority in respect of applications for product patents for pharmaceutical and agricultural chemical inventions, and was also not in compliance with Article 70.9 of the TRIPS Agreement by failing to establish a system for the grant of exclusive marketing rights.

The EC welcomed the report as confirming its views in this dispute. It requested the adoption of the report.

India said it was prepared to join a possible consensus for the adoption of the report. However, it believed that the aspects of the report had raised certain systemic issues, including its concerns over the initiation by the EC of panel proceedings on a matter that had already been examined by a panel (upon a complaint by the United States), and where the EC had participated as a third party. India stressed that it recognized its obligations under the TRIPS Agreement, and had established the required "mail box" for product patents when the WTO entered into force. It said that its differences with the EC in this regard concerned certain legal issues.

The DSB adopted the panel report.

### US measure affecting government procurement

The European Communities and Japan made separate requests for the establishment of a panel to examine a law enacted by Massachusetts that prohibited the awarding of

state contracts to companies that do business in or with Myanmar. They contended that this measure violated provisions of the plurilateral Agreement on Government Procurement.

The EC said that if this law was allowed to stand, it would undermine a fundamental principle of the agreement, namely that political considerations should not be part of decision-making with regard to the awarding of procurement contracts. It stressed that its request did mean the EC approved practices of Myanmar.

Japan said that it had been working with Myanmar on the question of human rights both bilaterally and in the UN Human Rights Commission. It said that improvements were required in Myanmar but this did not justify an imposition of trade measures by any government.

The United States expressed regret about the panel requests, citing its common interest with the EC and Japan in improving the human rights situation in Myanmar. It said that with the assistance of Massachusetts officials, it would continue efforts to reach a mutually-agreed solution with the EC and Japan, and thus was not in a position to agree to a panel at that meeting.

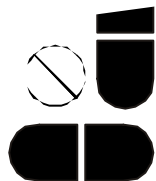
### Implementation of DSB recommendations

Canada presented its fifth status report on the implementation of the DSB recommendations on the periodicals dispute. It said that it was working for legislative changes that would enable it to comply fully with the recommendations by 30 October, including the revocation of excise taxes on foreign periodicals and changes to the postal subsidy programme.

The United States expressed concern over plans in Canada to introduce legislation that would continue discrimination against foreign magazines. It said it would closely monitor the situation, and that it was prepared to use its legal rights, if necessary.

The EC presented its second status report on the implementation of the DSB recommendations concerning its banana regime. It said that it had adopted a regulation that partially implemented the recommendations, and that it had begun negotiations with substantial suppliers with regard to the allocation of shares in the EC banana tariff-rate quotas.

Under a separate item in the agenda, the United States, also speaking on behalf of Ecuador, Guatemala, Honduras, Mexico and Panama, expressed concerns over what it said was the EC's failure to comply with the DSB's recommendations regarding its regime for the importation, sale and distribution of bananas. It expressed regret that the EC had refused their proposal for the reconvening of the original panel to examine the consistency of the revised EC measures. The United States believed that the EC's measures to comply with the DSB recommendations were inconsistent with WTO provisions because the



## DISPUTE SETTLEMENT

market allocation for the ACP and Latin American countries was almost the same, and the new criteria for distributing import licenses appeared to be discriminatory. In its view, if the EC believed that its measures were WTO-consistent, it should welcome the opportunity to prove this before the original panel.

## DISPUTE SETTLEMENT

li gations. It said that de vel op ing coun tries were at a se ri ous ad van tage in air craft pro duc tion as de vel op ed coun tries con tin ued to sub si dize the de vel op ment and pro duc tion of high-tech nology prod ucts.

The DSB es ta blished a panel to ex amine Can ada's com plaint against Bra zil un der the ac cel er ated pro ce dures of the Agree ment on Sub sidies and Coun ter vail ing Mea sures for al leged pro hib ited sub si dies. The United States re served its third-party rights.

Bra zil com plained that Can ada main tained an ex ten sive ar ray of sub si dies to its civil air craft in dus try that was in con sis tent with the pro vi sions of the Sub sidies Agree ment. It said these sub sidies, which in cluded fi nanc ing and loan guar an tees pro vided by the Ex port De vel op ment Cor pora tion, had been es ti mated by econ om ists to ex ceed \$5 bil lion in re cent years. Bra zil said EMBRAER, a pri vate Bra zil ian air craft man u fac turer, had been fac ing dif fi cul ties be cause of Can ada's mea sures.

Can ada said that Bra zil's panel re quest was a di rect re sponse to its panel re quest on PROEX, and did not be lieve the re quest to be found ed on any ev i dence of the WTO in consistency of Can adian pro gram mes. It was con fi dent that the panel would find its pro gram mes to be con sis tent with the Sub sidies Agree ment.

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*The Trade Policy Review Body (TPRB) concluded its second review of Nigeria's trade policies on 23 and 24 June 1998. Excerpts from Chairperson's concluding remarks:*

**M**embers welcomed the progress made since 1995 in restoring macro-economic stability, under an extensive programme for private sector-led growth, and the Trade Policy Review Body (TPRB) concluded its sec

*The TPRB conducted its second review of Hungary's trade policies on 7 and 8 July. Excerpts from Chair person's concluding remarks:*

Members congratulated Hungary on the remarkable changes that had been achieved, during the short period since the previous TPR in 1991, in its transition to a market-oriented economy. It was recognized that these changes had taken place under difficult economic and social conditions, including the collapse of trade with the CMEA, the bankruptcy of a large number of companies and the consequent temporary loss of jobs. Members welcomed the fact that, despite these circumstances, Hungary had pursued its liberalization process and continued to make an important contribution to the WTO.

Members recognized that the move toward EU accession had been a major element in Hungary's liberalization process. However, questions were raised on possible trade diversion stemming from preferences, and there was a considerable debate on this issue and its systemic implications. In response, the representative of Hungary stressed that WTO rules and commitments had been, and would be, thoroughly observed during the whole process of integration into the European Union. He rejected allegations that European integration had diverted trade to the disadvantage of third countries; on the one hand, trade flows had moved in favour of western markets, following the collapse of the CMEA, and before the introduction of EU preferences; on the other, imports from non-European trade partners, both in North America and in the Pacific region, had grown faster than those from EU sources.

Members raised concerns over the scope of unbound tariffs on a number of items, such as some fish products, footwear, precious stones, transportation equipment and agricultural products, and on the average levels of bound and applied tariffs in some areas. In response, the Hungarian representative noted that 95.7% of tariff lines were bound and that the data on bound and applied items in the Secretariat report reflected averaging of bound and unbound items.

While welcoming the phase-out of the global quota on consumer goods, Members raised questions concerning its allocation and the reasons for its under-utilization. Members also sought clarification of the Government's future import and export licensing policies. In response, the Hungarian representative said that details of the operation of the quota had already been notified to the WTO. The reasons for the under-utilization of some subquotas was that the yearly 10% increase of the quota in many cases exceeds the actual demands.

On agriculture, food and beverages, Members raised various questions referring in particular to land ownership; tariffs; plant certification; SPS measures; the nature and value of various types of support; and export restrictions and subsidies. The Hungarian agricultural tariff regime was, as shown in its WTO Schedule, one of the most

liberal among WTO Members.

The increase in tariff dispersion was the consequence of tariffification, which reflected the variable effects of previous agricultural NTMs. SPS standards were becoming internationalized under the 1995 Food Law. As regards export subsidies, the

representative reaffirmed Hungary's strict adherence to the terms and conditions laid down in the WTO waiver.

On motor vehicles, the representative of Hungary rejected allegations by Members that preferential tariffs and quotas related to regional trade agreements adversely affected third parties, citing the success of a Korean company in increasing exports to the Hungarian market during the period 1992-96. He added that the restriction on im-

jected a third party TD0.69.498.7501 tariff 0 Tnd

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*The TPRB concluded its third review of Australia's trade policies on 30 June and 2 July 1998. Excerpts from the Chairperson's concluding remarks:*

Members welcomed Australia's strong and active participation in the multilateral trading system. They commended the high degree of transparency in the conduct of Australia's trade and investment policies. Members also recognized that Australia's unilateral approach to trade liberalization, which complemented internal structural and regulatory reforms, had greatly improved the country's overall economic performance, leading to high rates of growth in output and productivity together with low inflation since the last Trade Policy Review, and contributing to a substantial fall in unemployment from a peak of 11% in 1992/93 to near 8% at present.

Some Members noted that a slow down in the process of liberalization had occurred in recent months. They pointed to an increase in export assistance, slower uni-

## WTO and WIPO join forces to help developing countries meet year-2000 commitments on intellectual property

The World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) have agreed on a joint initiative to provide technical cooperation for developing countries.

The purpose is to help developing countries which are members of the WTO meet the 1 January 2000 deadline—less than a year and a half away—for conforming with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

This process involves bringing their laws on copyright, patents, trademarks and other areas of intellectual property into line with the agreement, and providing for effective enforcement of these laws in order to deal with piracy, counterfeit goods and other forms of intellectual property infringements.

The Directors General of the two organizations, Mr Renato Ruggiero of the WTO and Dr Kamil Idris of WIPO, are sending joint communications to the ministers of each of the developing countries concerned to inform them of the initiative. The communication will underscore the two organizations' commitment to help developing countries comply with the TRIPS Agreement on time.

The aim is for WIPO and the WTO, together with the countries requesting assistance, and (where appropriate) donor countries, to maximize use of available resources in the coming critical period by improved planning and coordination of technical cooperation activities.

The forms of technical cooperation that are available include assistance in preparing legislation, training, institution-building, and modernizing intellectual property systems and enforcement.

The task of conforming with the TRIPS Agreement is

seen as a challenge for developing countries because of the complexities of intellectual property laws and their enforcement. But it also provides an opportunity to use intellectual property protection to accelerate economic, social and cultural development.

At the same time, the two organizations stress that assistance given to other countries—in particular least developed countries, which do not have to meet the year-2000 deadline—will not suffer. The WTO and WIPO renew their commitment to continue to provide technical cooperation to these countries.

The joint initiative will build on the existing cooperation between the two organizations, which has been established since the signing of the WIPO-WTO Agreement in 1995. This provides, among other things, for cooperation in providing legal technical assistance and technical cooperation related to the TRIPS Agreement for developing country members of either of the two organizations.

### MEETINGS

#### October 1998

12-13	Trade Policy Review: Turkey
12-14	Textiles Monitoring Body
14	GENERAL COUNCIL
15	Council for Trade in Services
16	Committee on Rules of Origin Committee on Specific Commitments
19	ITA Committee
19-22	Trade Policy Review: Burkina Faso, Mali, Guinea & Togo
20	Committee on Customs Valuation
21	Dispute Settlement Body
22	Working Party on Professional Services
23	Committee on Safe guards Working Party on Croatia
26-28	Committee on Trade and Environment
26-27	Committee on Anti-Dumping: Ad hoc Group
27	Working Party on Lithuania
28	Committee on Anti-Dumping: Informal Group on Anti-Circumvention
29-30	Committee on Anti-Dumping Practices
29-30	Trade Policy Review: Jamaica

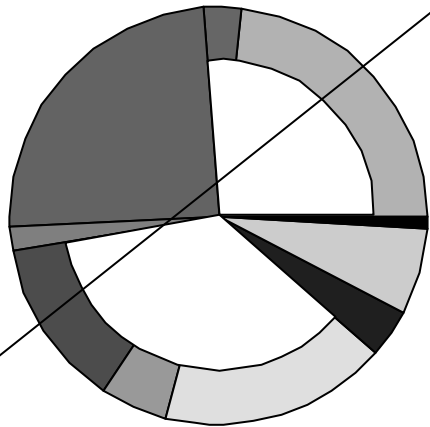
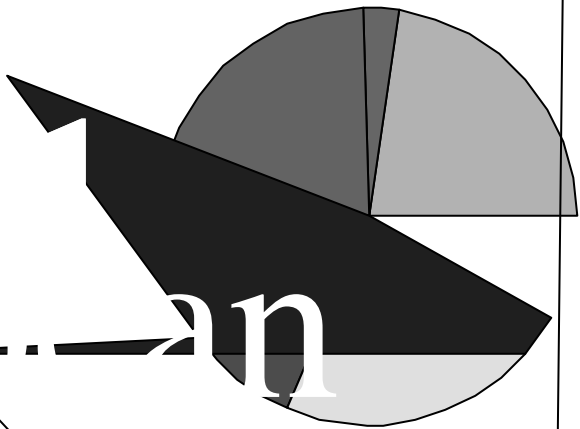
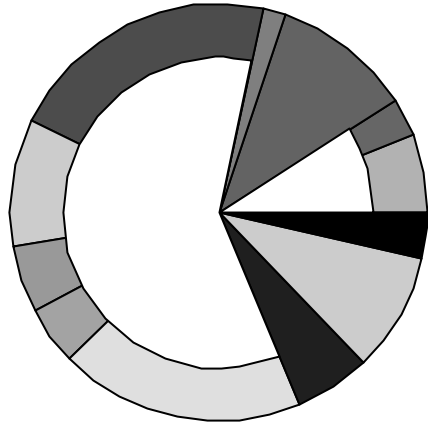
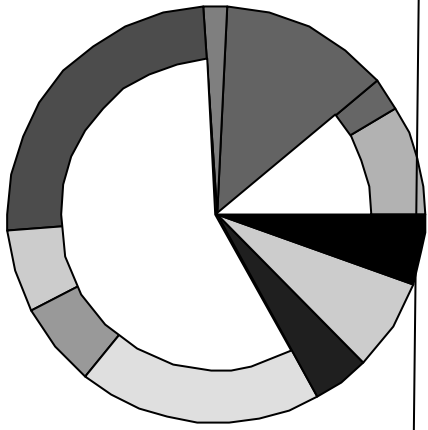
### WTO FOCUS

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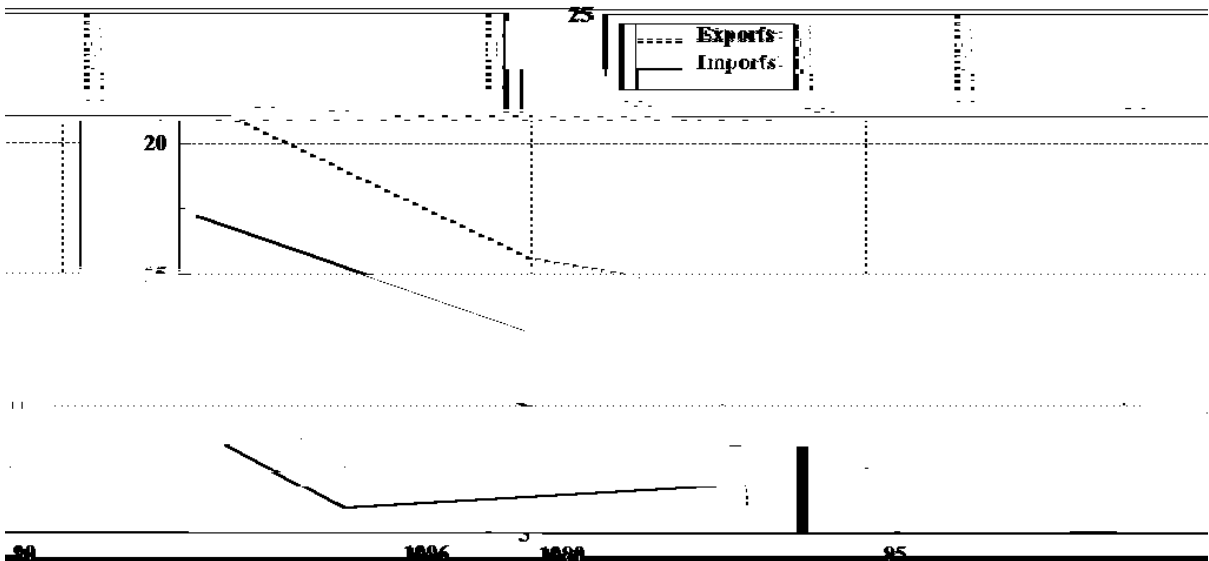
*Mr. Charles R. Carlisle, GATT Deputy Director-General (1987-1993) during the Uruguay Round negotiations, died in Mas sa chu setts on 26 July. He will be sadly missed by his colleagues, friends and delegates to the WTO.*







Percentage of Africa's total exports and imports



Source: WTO (1997), Annual Report 1997, Table III.51.





