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## 4 Agriculture and manufacturing trade policy issues and developments

There were 36 new anti-dumping and countervailing cases initiated by Australia in 1997-98. Initiations have almost doubled in each of the past three years. Internationally, Australia continues to account for a relatively high proportion of total initiations and measures in force. A new anti-dumping and countervailing system was introduced on 24 July 1998. It remains to be seen what impact the faster single stage investigation and revised review and appeal mechanism will have on the number of initiations and the outcome of investigations.

The WTO's recent Trade Policy Review of Australia raises a number of issues regarding manufacturing and agriculture policy in Australia. Several of these issues, and others, may be raised by Australia's trading partners at the next WTO negotiations on agriculture scheduled to commence in late 1999.

APEC early sectoral liberalisation arrangements, initiated in November 1996, are to be finalised by November 1998 with implementation scheduled to commence in 1999. There are several issues which need to be addressed if early voluntary sectoral liberalisation (EVSL) is to achieve its objectives most effectively. Some of these issues are also relevant to foreshadowed unilateral tariff reform in Australia, involving the elimination of 'nuisance' tariffs.

### 4.1 Anti-dumping and countervailing activity

Dumping occurs when a foreign supplier exports goods at a price which is lower than the 'normal value' of the goods in the supplier's home market. The General Agreement on Tariffs and Trade (GATT) allows Members to apply anti-dumping measures on imports of a good with an export price below its normal value if such imports cause or threaten to cause material injury to the domestic industry (WTO 1997).

Anti-dumping action may take two forms:

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- the foreign exporter may agree to make a formal undertaking to export future goods to the importing market at a normal price; or
  - a dumping duty may be imposed on the relevant imports to bring the export price up to but not higher than the normal value of goods in the exporting country.

There is no single definition of normal value. The price of the good in the exporter's home market is taken as the normal value if possible, but alternatives such as the price of the good in another export market or a constructed price may be used.

Like other measures which affect the price of imports, anti-dumping measures may restrict competition, protect domestic industry and impose higher costs on domestic consumers.

In addition, the WTO Agreement on Subsidies and Countervailing Measures (1995) allows Members to apply countervailing duties where exports benefiting from certain forms of subsidies cause or threaten to cause material injury or serious prejudice to a domestic industry.

### **Australia's new anti-dumping and countervailing system**

A new anti-dumping and countervailing system implemented through amendments to the legislation became effective on 24 July 1998.<sup>1</sup> The new arrangements draw on the recommendations of the *Review of Anti-Dumping and Countervailing Administration* (Willett 1996).

Key changes to anti-dumping and countervailing administration introduced in the new scheme include:

- a significantly shorter (155 day) single stage anti-dumping and countervailing investigation conducted by the Australian Customs Service (ACS);
- the abolition of the Anti-Dumping Authority (ADA);
- provision for the payment of interim duties after 60 days of the investigation period; and
- a new appeal and review mechanism which provides for reviews to be conducted by a statutory officer known as the Trade Measures Review Officer (TMRO).

Table 4.1 provides a summary comparison of the previous and the new systems. A flow chart depicting the new process is provided as figure 4.1.

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<sup>1</sup> This follows interim changes announced in February 1997 without any change to the legislation. These changes were discussed in IC (1997f).

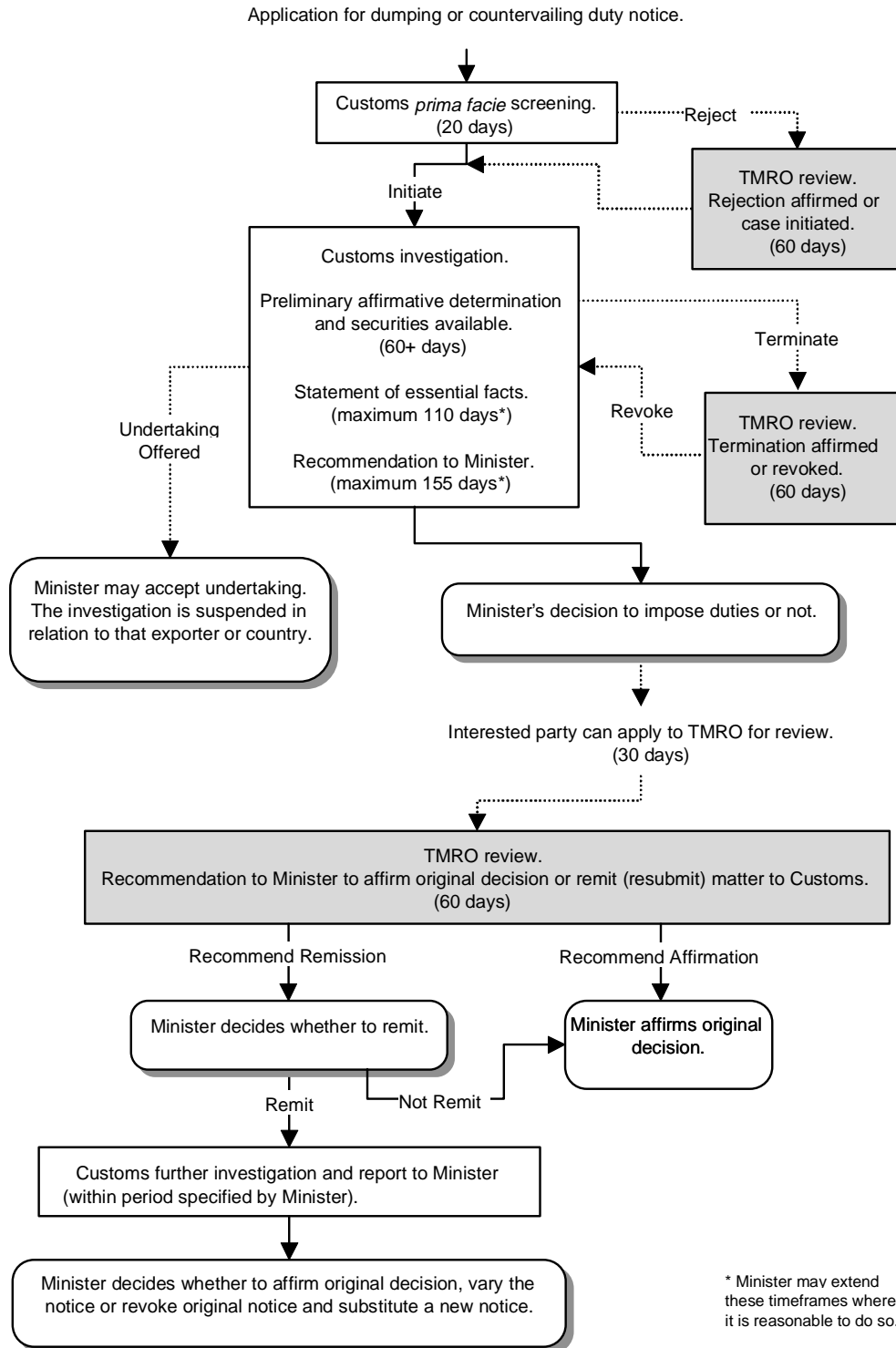
**Table 4.1 Comparison of previous<sup>a</sup> and new<sup>b</sup> anti-dumping and countervailing systems**

<i>Feature</i>	<i>Previous</i>	<i>New</i>
Total time frame	215 day two stage system conducted by the ACS and ADA.	155 day (175 including screening) single stage system conducted by the ACS.
Screening	20 days for ACS to examine application and to initiate investigation or reject application.  Complainants must demonstrate that they are a local industry producing like goods, undertake a substantial process of manufacture (with a minimum local content of 25%), and have the support of a majority of local producers of the good.	20 day screening period is now outside the formal investigation period.  25% local content requirement repealed. Other screening requirements unchanged.
Preliminary investigation	85 days for ACS to deliver a preliminary finding at which stage interim duties may be applied.	Interim duties may be applied after 60 days of the investigation period.
Final Finding	In the case of a positive preliminary finding, 110 days for ADA to gather additional information, conduct an investigation and deliver a final finding.	In the case of a positive finding after preliminary investigation, ACS to continue investigation and deliver a final finding within 155 days. Statement of essential facts by day 110 with submissions in response due by day 130.
Review and Appeals	Rejection of initial application subject to appeal, 60 days for ADA to conduct a review.  Negative preliminary finding subject to appeal, 90 days for the ADA to undertake a review of ACS's investigation.  Final duty assessment subject to appeal, 90 days for the ADA to undertake a review.	Rejection of initial application automatically subject to 60 day review by TMRO.  Negative finding after preliminary investigation automatically subject to 60 day review by TMRO.  Positive or negative final finding subject to appeal, 90 days for TMRO to conduct a review of ACS's investigation with: <ul style="list-style-type: none"> <li>• notice of appeal given within 30 days of the final decision;</li> <li>• submissions due by day 60; and</li> <li>• decision delivered by the TMRO by day 90.</li> </ul>

<sup>a</sup> System after the interim reductions to time frames implemented on 1 February 1997. <sup>b</sup> Effective from 24 July 1998.

Source: Truss (1998), Moore and Truss (1998) and Willett (1996).

**Figure 4.1 Process for considering an application for the imposition of anti-dumping or countervailing duties**



Source: Information provided by ACS.

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Under the new arrangements, the ACS undertakes the entire investigation. Previously, in the case of a positive preliminary finding by Customs, the ADA would conduct a review of the findings by Customs and also call for additional submissions and gather further information.

The move to a single stage investigation conducted solely by Customs will streamline the administration of anti-dumping and countervailing actions, but it may also have implications for investigation outcomes. It is worth noting that since its establishment in 1988, ADA investigations resulted in a final finding different from the Customs preliminary finding in more than 40 per cent of cases.<sup>2</sup> However, this partly reflects the relatively short time frame for the preliminary investigation by ACS and the benefits the ADA derived from additional information/submissions.

The WTO in its latest Trade Policy Review of Australia questioned “whether the shorter investigation period will enable the ACS to conduct as thorough an analysis and review as previously” (WTO 1998b, p. 57).

As part of the new 155 day investigation period, the ACS is to issue a ‘statement of essential facts’ after 110 days which affected parties (including importers, exporters, local industry and consumer groups) may respond to within 20 days. Under the previous system, after a positive preliminary finding by the ACS, the ADA carried out a similar consultative function.

Under the new scheme, domestic industry or foreign exporters may appeal against a final finding, but the appeal entails a review of the interpretation of existing information only, with no further investigation. The TMRO conducts the review and draws on the resources of the Department of Industry, Science and Technology (DIST). Appeals must be lodged within 30 days following publication of the final finding.

In addition to conducting the final finding appeal, the office of the TMRO will also review the rejection of applications for dumping and/or countervailing measures at the end of the 20 day screening period, and also the termination of investigations after the preliminary investigation period.

The Government repealed the legislative requirement that companies wishing to have a complaint investigated must have at least 25 per cent local content in the product in question. The other screening requirements have been retained — complainants need to demonstrate that they are a local industry producing like goods, undertake a substantial process of manufacture in Australia, and are supported by the majority of other local producers of the good or goods. The

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<sup>2</sup> Information provided by ADA.

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relaxation may enable some producers with high imported input content (for example, producers of certain finished textiles) — previously excluded by the local content requirement — to initiate action against competing imports of finished goods.

Anti-dumping and countervailing action in Australia continues to be subject to a five year sunset clause, with reviews undertaken prior to the expiry date, if there is a request for the action to continue.

The Government's scheduled review of anti-dumping and countervailing regulation under the Competition Principles Agreement has been postponed to allow for full implementation of the new arrangements. The review of the scheme will provide an opportunity to consider such questions as:

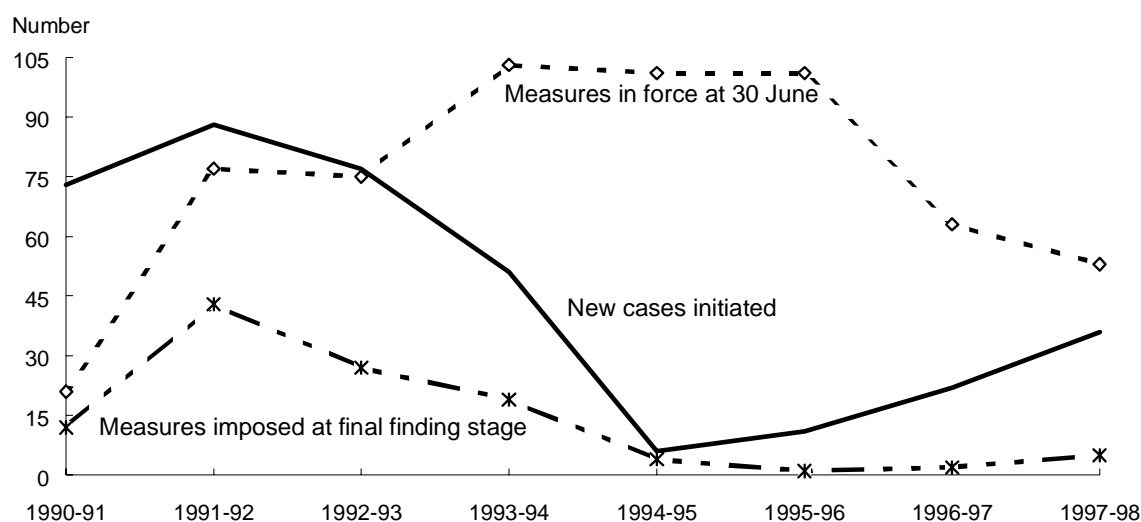
- Does the shorter investigation period provide sufficient time for a thorough examination of the issues?
- Are there adequate opportunities for all parties to defend their interests?
- While the abolition of the ADA has eliminated some duplication, have there been any implications for the quality/rigour of the investigation?
- Has the TMRO been given sufficient time and resources to conduct appeals and reviews effectively and is it appropriate that the TMRO be restricted only to reviewing the interpretation of information collected by ACS?
- Has the new 'simpler and faster' system resulted in an increase in initiations and/or measures imposed?
- Are the new processes consistent with WTO Agreements?

### **Anti-dumping and countervailing activity in 1997-98**

The number of Australian cases reported as initiated increased from 22 in 1996-97 to 36 in 1997-98. Initiations have almost doubled in each of the past three years. Despite this, the number of initiations still remains well below the levels observed in the early 1990s (figure 4.2 and table 4.4).

It remains to be seen whether the upward trend will continue under the new system. However, the simpler and faster processes and the relaxation of the local content requirement would suggest (economic conditions and other factors being equal) the possibility of increased initiations in future years.

Figure 4.2 Anti-dumping and countervailing activity,<sup>a</sup> 1990-91 to 1997-98



<sup>a</sup> A measure or case is counted as one commodity from one economy. If multiple economies are involved, they are counted as separate actions.

Source: ACS and Commission estimates.

The reduction in measures in force as at 30 June 1998 (figure 4.2) predominantly reflects expiry of measures after the 5 year sunset period for which no applications for extensions were lodged. Furthermore, dumping measures were removed on blood collection packs as the sole Australian manufacturer ceased production.

The increase in cases initiated in 1997-98 was largely due to three single commodity initiations which involved four or more economies (table 4.2). Despite the steady increase in initiations over the past three years, the number of measures imposed at the final finding stage has remained low (figure 4.2).

**Table 4.2 New Australian anti-dumping and countervailing initiations<sup>a</sup> in 1997-98**

<i>Commodity</i>	<i>Economy</i>
Coated wood-free paper in sheets	Austria, Belgium/Luxembourg, Finland, France, Germany, Indonesia, Italy, Japan, Republic of Korea, Netherlands, South Africa, Sweden, Switzerland, Taiwan
Cotton blankets	China
Clear float glass	Indonesia
Picture frames	China
Polymeric plasticisers	United Kingdom
Polystyrene resin	Hong Kong, Republic of Korea, Singapore, Taiwan
Polyvinyl chloride homopolymer resin	Germany, Hungary, India, Indonesia, Israel, Netherlands, United Arab Emirates/Iran <sup>b</sup>
Tubeless steel remountable rims	Canada, South Africa <sup>c</sup>
Wound/skin closure strips	France, Germany, United States

<sup>a</sup> Complaints formally initiated by industry. Initiations are defined as one commodity from one economy. <sup>b</sup> Counted as two initiations by ACS. <sup>c</sup> Initiations for dumping and subsidisation.

*Source:* Information provided by ACS.

### *Industry incidence*

The initiations for 1997-98 are dominated by industries in the paper and paper products and the chemical and petroleum products subdivisions (table 4.3). For both industry subdivisions, initiations involved single commodities, but related to imports from a number of economies (table 4.2). Over the past six years, these two subdivisions together with miscellaneous manufacturing have accounted for over 70 per cent of new cases.

Under the new legislation, initiations may increase from certain industries characterised by a high proportion of imported inputs in the production process (for example, certain textile industries), due to the relaxation of the 25 per cent local content requirement.

Table 4.3 **Anti-dumping and countervailing cases,<sup>a</sup> by industry, 1992-93 to 1997-98**

<i>Industry<sup>b</sup></i>	<i>Six-year period</i>						<i>Total</i>	<i>Per cent of total<sup>c</sup></i>
	<i>1992-93</i>	<i>1993-94</i>	<i>1994-95</i>	<i>1995-96</i>	<i>1996-97</i>	<i>1997-98</i>		
Food and beverages	10	–	2	–	–	–	12	6
Textiles	2	10	–	–	–	1	13	6
Paper, paper products	9	–	–	–	–	14	23	11
Metallic minerals	–	–	–	–	–	–	–	–
Chemical and petroleum products	18	16	2	5	11	13	65	32
Non-metallic mineral products	–	4	–	–	2	1	7	3
Metal products manufacturing	3	4	1	2	–	3	13	6
Transport equipment	1	–	–	–	–	–	1	–
Machinery and equipment	2	4	1	3	1	–	11	5
Miscellaneous Manufacturing	32	13	–	1	8	4	58	29
<b>Total</b>	<b>77</b>	<b>51</b>	<b>6</b>	<b>11</b>	<b>22</b>	<b>36</b>	<b>203</b>	<b>100</b>

– Nil. <sup>a</sup> Complaints formally initiated by industry. Cases are defined as one commodity from one economy. Cases where dumping and subsidisation are alleged for the same economy and commodity are counted as two distinct initiations. <sup>b</sup> Based on Australian and New Zealand Standard Industry Classification subdivisions. <sup>c</sup> The sum of the components does not add to the total due to rounding.

Source: Information provided by ACS.

### *Country incidence*

Over the six years to 1997-98, Australian firms have initiated anti-dumping and countervailing cases against firms from a range of economies (table 4.4). The trading regions which have had the highest incidence of initiations against them over this period are Asia and Western Europe, together accounting for 75 per cent of total initiations. In 1997-98, initiations against these two regions accounted, respectively, for 39 per cent and 36 per cent of new initiations.

Relative to import shares, the number of initiations against Australia's trading partners in North America and Western Europe have been much lower than against economies in the Asian region. The Asian region accounted for more than a third of Australia's merchandise imports in 1997-98 (ABS 1998a), but since 1992-93 has been subject to almost half of total initiations (table 4.4). An exception within this region is Japan, which together with the United States has consistently had the lowest incidence of initiations relative to its import share.

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There have been no Australian initiations against imports from New Zealand since July 1990, when the two countries agreed to eliminate anti-dumping and countervailing actions in trans-Tasman trade under changes arising from the Closer Economic Relations Agreement. Since then, anti-competitive conduct in trans-Tasman trade has been covered by competition laws under the Australian *Trade Practices Act 1974* and the New Zealand *Commerce Act 1986*.

## **International Trends**

Australia accounted for 18 (8 per cent) of the 224 anti-dumping and countervailing cases initiated internationally in 1996 (the latest year for which comparable data are available) (table 4.5). South Africa, the European Union (EU), Argentina, the United States and India were the largest initiators of anti-dumping and countervailing actions.

In 1996, four economies together accounted for nearly three quarters of all measures in force — the United States (37 per cent), the European Union (15 per cent), Mexico (10 per cent) and Canada (10 per cent). Australia accounted for 6 per cent of measures in force internationally, down from 11 per cent in 1995. Relative to its share of world trade (less than one per cent), Australia continues to be one of the most frequent users of anti-dumping and countervailing measures.

The industry pattern of anti-dumping and countervailing activity continues to be similar in most countries, with the chemicals or metals industries being the dominant source of initiations. Measures against steel products are particularly common in the United States and Canada. Chemicals continue to figure prominently in the EU's list of measures.

Table 4.4 **Australian initiations of anti-dumping and countervailing cases, by trading region and economy,<sup>a</sup> 1992-93 to 1997-98**

Region/economy	<i>Six-year period</i>						Total	Per cent <sup>b</sup>
	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98		
<b>North America</b>	<b>5</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>11</b>	<b>5</b>
Canada	2	–	–	–	–	1	3	1
United States	3	2	–	1	1	1	8	4
<b>Western Europe</b>	<b>17</b>	<b>11</b>	<b>2</b>	<b>3</b>	<b>7</b>	<b>14</b>	<b>54</b>	<b>27</b>
Austria	1	1	–	–	–	1	3	1
Belgium/Lux	3	–	–	1	–	1	5	2
Finland	2	–	–	–	–	1	3	1
France	3	1	–	–	–	2	6	3
Germany	5	1	–	–	3	3	12	6
Italy	1	2	2	–	–	1	6	3
Netherlands	1	3	–	–	1	2	7	3
Spain	–	1	–	–	1	–	2	1
Sweden	–	–	–	–	2	1	3	1
Switzerland	–	–	–	–	–	1	1	–
UK	1	2	–	2	–	1	6	3
<b>Asia</b>	<b>41</b>	<b>27</b>	<b>2</b>	<b>5</b>	<b>9</b>	<b>13</b>	<b>97</b>	<b>48</b>
China	3	2	1	1	3	2	12	6
Hong Kong	3	2	–	–	–	1	6	3
India	4	–	–	–	1	1	6	3
Indonesia	5	1	1	–	1	3	11	5
Japan	1	2	–	–	–	1	4	2
South Korea	6	5	–	2	–	2	15	7
Malaysia	5	3	–	1	1	–	10	5
Singapore	5	6	–	–	–	1	12	6
Thailand	6	1	–	1	1	–	9	4
Taiwan	3	5	–	–	2	2	12	6
<b>Other</b>	<b>14</b>	<b>11</b>	<b>2</b>	<b>2</b>	<b>5</b>	<b>7</b>	<b>41</b>	<b>20</b>
South Africa	3	6	2	2	–	3	16	8
Other	11	5	–	–	5	4	25	12
<b>Total</b>	<b>77</b>	<b>51</b>	<b>6</b>	<b>11</b>	<b>22</b>	<b>36</b>	<b>203</b>	<b>100</b>

– Nil. <sup>a</sup> Cases are defined as one commodity from one economy. Cases where dumping and subsidisation are alleged for the same economy and commodity are counted as two distinct initiations. <sup>b</sup> The sum of the percentages for the individual economies may not add to the regional totals due to rounding.

Source: Information provided by ACS.

Table 4.5 International anti-dumping and countervailing actions, 1995 and 1996<sup>ab</sup>

Country	Initiation		Provisional measures		Definitive duties		Price undertakings		Measures in force at 31 December		Per cent of total measures in force	
	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996	1995	1996
US	15	23	23	15	38	14	0	1	375	378	42	37
EU	33	24	25	11	19	26	3	6	161	155	18	15
Mexico	1	3	19	3	10	5	6	0	na	106	na	10
Canada	12	5	8	9	28	0	0	0	100	101	11	10
Australia	4	18	2	5	1	0	0	1	101	60	11	6
Turkey	0	0	0	0	11	0	0	0	38	37	4	4
Argentina	1	24	4	4	2	19	1	2	na	31	na	3
Brazil	5	17	11	1	8	6	0	0	27	31	3	3
South Africa	18	30	9	9	2	8	0	0	15	31	2	3
New Zealand	12	8	1	3	4	4	0	0	26	29	3	3
India	5	20	2	5	7	0	0	0	13	15	1	1
South Korea	4	13	3	9	0	5	0	1	8	14	1	1
<b>12 WTO Members</b>	<b>110</b>	<b>185</b>	<b>107</b>	<b>74</b>	<b>130</b>	<b>87</b>	<b>10</b>	<b>11</b>	<b>864</b>	<b>988</b>	-	-
<b>All WTO Members</b>	<b>141</b>	<b>224</b>	<b>125</b>	<b>92</b>	<b>148</b>	<b>93</b>	<b>10</b>	<b>11</b>	<b>896</b>	<b>1028</b>	<b>100</b>	<b>100</b>

na not available. <sup>a</sup> The reporting period covers 1 January to 31 December of each year. <sup>b</sup> The sum of the components does not add to the totals due to missing notifications.

Source: WTO (1996) and (1997).

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## 4.2 Issues from the WTO Trade Policy Review of Australia

The WTO recently completed its third Trade Policy Review of Australia. In the latest report, the WTO Secretariat acknowledged the efforts of successive Australian Governments in continuing unilateral trade liberalisation and structural reform programs. The report noted that Australia has been successful in meeting its Uruguay Round commitments by converting all remaining quantitative restrictions in agriculture to tariffs and by reducing export subsidies. Reductions in subsidies, the introduction of a national competition policy and deregulation and privatisation of Australian industry were judged to have improved significantly the ability of Australian industry to compete successfully on the international market (WTO 1998b).

The Trade Policy Review Report also highlighted several areas for further reform which may have implications for Australia's future competitiveness and trade relationships.

While levels of industry assistance have generally fallen to low levels, assistance remains very high for a few industries, most notably for milk production within the agricultural sector and for the PMV and TCF industries within the manufacturing sector. These activities continue to receive assistance many times higher than the industry average (see chapter 3).

Commenting on several recent developments, such as the tariff pause for the PMV and TCF industries and the Government's recent industry policy statement *Investing for Growth*, the WTO (1998b, p. x) made the observation that:

The Government may be adopting a more ambivalent attitude to unilateral trade liberalisation and the provision of assistance to industry, perhaps reflecting its increased susceptibility to pressures from certain interest groups.

With regard to the tariff pause in the PMV and TCF industries the WTO (1998b, p. x) also noted that:

In light of the positive adjustment that has taken place in PMV and TCF industries, largely in response to tariff reductions since 1991, the Government may be providing the wrong signal to these two industries and to the manufacturing sector in general.

The extent to which Australia's relatively strict quarantine measures may provide additional assistance to the agricultural sector was also questioned by the WTO. Quarantine issues are discussed in the following section.

The WTO's comments on the possible dangers of a shorter investigation period for dumping investigations were noted in the previous section.

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The WTO acknowledged that significant reforms have taken place in financial and telecommunications services, and to a lesser extent in the air transport services sector, but noted that other areas such as maritime, port services and coastal trade regulations have had little or no reform to date (see chapter 5).

### **4.3 WTO negotiations on agriculture**

The next multilateral trade negotiations for agriculture are scheduled to commence in late 1999. The negotiations are to build on and advance the principles which were developed as part of the WTO Agreement on Agriculture, negotiated under the Uruguay Round. The Agreement on Agriculture is to be fully implemented by the end of 2000 for developed countries and 2005 for developing countries.

The objective of the new multilateral negotiations is to generate benefits to WTO members by removing impediments to trade and reducing the incidence of measures that distort markets. The new round of negotiations represents an opportunity for Australia to benefit from expansion of its export markets through further multilateral reductions in domestic support policies, export subsidies and quantitative restrictions.

#### **The importance of the Uruguay Round and the new negotiations**

The WTO Agreement on Agriculture put in place a negotiating framework under which distortions to trade could be addressed in a multilateral context. Prior to the Uruguay Round, agriculture had been practically excluded from multilateral negotiations through a number of special clauses and waivers.

The main advances from the agreement were in setting minimum levels of access to restricted markets, virtual abolition of all border measures except tariffs and tariff quotas, universal binding of tariff rates, and reductions in export and other subsidies. However, the actual reductions in export subsidies and in the 'tariff equivalents' of other trade barriers were, in most cases, small. This is because the base periods which were adopted reflected abnormally high levels of support or protection, and the structure of commodity groupings enabled increases in domestic support for some commodities (ABARE 1997). The next round of negotiations should seek to ensure further significant reductions in trade barriers and subsidies in the shortest time possible.

Potential negotiations on tariff quotas (TQs) is an area of particular interest for Australian agriculture. TQs improve access to restricted markets by allowing a

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lower rate than the general tariff rate on a specified quantity of imports. Ideally, general tariff rates should be reduced to the point where TQs would no longer be required to improve market access. Failing this, the next negotiations on agriculture provide an opportunity to increase the quantity of imports allowed into restricted markets under TQs.

Australia is in a relatively strong position going into the next negotiations on agriculture as its current levels of protection are quite low after implementing reductions agreed to under the Uruguay Round. However, Australia's statutory marketing arrangements and quarantine restrictions might come under notice during the new negotiations. So too might pockets of high assistance such as for the dairy industry (see chapter 3).

### *Statutory marketing boards*

Sole national exporting and marketing bodies may come under scrutiny at the next round of negotiations. The United States has been a longstanding advocate of limiting the activities of such 'monopoly' bodies (ABARE 1997). Australia has statutory marketing agencies for key agricultural crops such as wheat, rice and sugar.

Reform of statutory marketing arrangements to end compulsory acquisition, production controls and discriminatory pricing arrangements would improve resource use and benefit consumers. In 1993-94, the cost to consumers of supporting agricultural products via domestic pricing arrangements was estimated at more than \$500 million (PC 1996).

The WTO recently noted that the Government is committed to reviewing the distribution and marketing arrangements for agricultural products under the Competition Principles Agreement (1995). State and Commonwealth Governments have agreed to restructure the statutory marketing boards to reflect competition policy rules better (WTO 1998b). Recent changes which have been implemented include the restructure and commercialisation of the Queensland Sugar Corporation (QSC) and the Australian Meat and Livestock Corporation (AMLC). From 1 July 1997, raw sugar produced in Queensland has been sold domestically at export parity prices (see chapter 3).

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## *Quarantine*

Australia may be required to justify its quarantine system at the next negotiations. This may include justification of specific restrictions, such as those for pigmeat imports.

In October 1997, the Government lifted bans on imports of uncooked pigmeat from Denmark and of cooked pigmeat from Canada. Bans on frozen, uncooked pigmeat from Canada were lifted in 1990. While some uncooked product from New Zealand and cooked, canned hams, can also be imported, Australia maintains a quarantine ban on pigmeat imports from all other countries.

The Government has initiated a generic import risk analysis of quarantine restrictions on pigmeat imports. The assessment is to be conducted under new guidelines designed to ensure that such analyses are completed in a transparent and consistent manner. These new arrangements are in line with the recommendations made by the Nairn Report into Australia Quarantine released in October 1996.

The WTO (1998b) questioned the extent to which Australia's relatively strict quarantine measures may provide assistance to the agricultural sector. A WTO Panel recently found that Australia's ban on uncooked salmon imports was inconsistent with the Sanitary and Phytosanitary (SPS) Agreement (box 4.1), and that the ban nullified or impaired benefits accruing to Canada under the WTO. The finding has been appealed.

### **Box 4.1 The SPS Agreement**

Under the Sanitary and Phytosanitary (SPS) Agreement (1994), countries have the right to apply quarantine measures which they deem necessary to keep the risk of disease at an acceptably low level. To help ensure that such measures are scientifically rather than trade based, measures may be challenged via the WTO's Dispute Settlement procedures. The SPS Agreement is scheduled to be reviewed in 2000.

The WTO (1998b) also questioned the length of time and uncertainty involved in gaining access to the Australian market through the quarantine system. It noted that recent decisions by the Government to lift bans on cooked poultry imports from the United States, Denmark and Thailand, and on pigmeat from Denmark and Canada, were based on submissions made over a decade ago.

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### *Pigmeat safeguards*

The Commonwealth Government has asked the Productivity Commission to inquire and report on whether safeguard action, in accordance with the WTO Agreement on Safeguards, is warranted against imports of certain frozen pigmeat. The Commission has also been asked to report on the factors affecting the profitability and competitiveness of the domestic pig farming and pigmeat processing industries. The inquiry is to be completed by 13 November 1998.

Article XIX of the General Agreement on Tariffs and Trade (1994) allows for safeguard action against imports of particular products which are deemed to be causing or threatening to cause serious injury to an industry. The Uruguay Round resulted in interpretation and elaboration of Article XIX, embodied in a new WTO Agreement on Safeguards.

Safeguard action is intended to provide temporary assistance for industries to adjust to increased competition from imports. Safeguard measures must be sufficient only to remedy the extent of injury attributable to the imports and must be liberalised progressively in order to promote industry adjustment. There is no requirement under the WTO safeguard provisions to demonstrate that imports are dumped or subsidised.

As a member of the WTO, Australia's safeguard investigations and measures must comply with the rules and criteria embodied in the WTO Agreement, including a requirement for public hearings and admittance of evidence for consideration of the public interest. The general procedures which the Commission must follow, and the questions it must consider, in order to determine whether safeguard action is warranted are set out in a Commonwealth of Australia Special Gazette (Commonwealth Gazette 1998).

Specifically, the Commission is requested to:

- a) determine whether safeguard measures (which may be in the form of a quota, a tariff quota, or an increased level of tariff) are justified under the WTO Agreement; and, if they are justified
- b) consider what measures would be necessary to prevent or remedy serious injury and to facilitate adjustment; as well as
- c) consider whether, having regard to the Government's requirements for assessing the impact of regulation which affects business, those measures should be implemented.

Part (c), in effect, requires the Commission to consider whether application of a safeguard measure would be in the public interest.

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## 4.4 APEC sectoral liberalisation

In the Bogor Declaration of 1994, APEC members made a commitment to achieve the goal of trade and investment liberalisation in Asia Pacific by 2010 for developed countries and by 2020 for developing countries. In 1995, members adopted the Osaka Action Agenda and agreed to develop and regularly update Individual Action Plans (IAPs) which would provide details of specific trade and investment liberalisation commitments.

### Early voluntary sectoral liberalisation

In November 1996, APEC Leaders instructed Ministers to identify sectors where early (that is, before the agreed goals of 2010 and 2020) sectoral liberalisation would have a positive impact on trade, investment and economic growth in the individual APEC economies as well as in the region and to submit recommendations on how this could be achieved. Early voluntary sectoral liberalisation (EVSL) is a process to run concurrently with, but separate from, the process of IAPs.

By August 1997, member economies had submitted 62 nominations for EVSL covering more than 30 sectors. At the Ministerial Meeting in November 1997, a subset of 15 proposals clearly emerged as having the most support.

The 15 proposals were divided into two tiers. The first tier comprised nine sectors which were identified for fast-track treatment — forest products, fish and fish products, toys, gems and jewellery, chemicals, medical equipment and instruments, environmental goods and services, energy and telecommunications.<sup>3</sup> The remaining six sectors in the second tier required more preparatory work — oilseeds and oilseed products, food, rubber, fertilisers, automotive and civil aircraft.<sup>4</sup> The measures covered in each proposal included trade liberalisation, facilitation and economic and technical cooperation.

APEC Ministers reviewed progress at their June 1998 meeting in Kuching, Malaysia. Senior Officials met in September and Trade Ministers are to consider the final arrangements at their November meeting with a view to commencing implementation in 1999.

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<sup>3</sup> This sectoral proposal comprises the Telecommunications Mutual Recognition Agreement which has been finalised. The objective of the agreement is to achieve conformity assessment of equipment subject to network terminal attachment or other telecommunications regulation.

<sup>4</sup> Three of the fifteen sectors were nominated by Australia — chemicals and energy in the first tier and food in the second.

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The process of EVSL represents an opportunity, outside WTO negotiations, for Australia to advance its trade liberalisation objectives and to develop stronger regional ties. Through the process, Australia has been able to address relatively sensitive areas of protection in the APEC region in an open forum which includes its major trading partners. However, the process needs to address several issues if it is to achieve its trade liberalisation objectives most effectively.

### *Flexibility in achieving EVSL commitments*

At Kuching, in order to enable finalisation of the sectoral arrangements that would maximise participation, Ministers agreed that flexibility would be required to deal with product-specific concerns raised by individual economies in each sector (APEC 1998). Such flexibility would generally be in the form of longer implementation periods. Participation in the nine fast track sectors and all three measures (trade liberalisation, facilitation and economic and technical cooperation) in each sector was seen as essential. Other proposed forms of flexibility (such as choice of products within sectors) were to take into account the broader goal of maximising mutual benefits, and the need to maintain the balance of interests (APEC 1998). It remains to be seen how these principles will be reflected in a final agreement.

### *Extending liberalisation to include non-tariff measures*

Recent analysis shows that it is important for the EVSL commitments to include non-tariff measures (including subsidies) as well as tariff protection (Dee, Hardin and Schuele 1998). Reviews of non-tariff measures (including production and export subsidies) are currently in progress for a majority of the proposals. These studies generally must be completed and ratified by APEC members before such measures can be put forward for liberalisation. There would be benefits in completing this process and broadening the scope of sectoral liberalisation as soon as possible.

### *Comprehensive coverage*

Broadening, rather than restricting, the product and sectoral coverage of the EVSL proposals may be necessary for achieving the broader objectives of EVSL.

Implementation of EVSL proposals which contain predominantly upstream sectors could lead to losses in income (Dee et. al. 1998). This could occur if liberalised resources move into more highly protected downstream processing as a consequence of cheaper imported inputs. Some proposals — for example, those

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relating to chemicals — contain nominations concentrated at the upstream end of the processing chain. However, other proposals, such as those for forestry products and fish and fish products, broadly cover both upstream and downstream processing. Implementation of these proposals could be expected to lead to gains in income for the APEC region.

The sectoral approach in EVSL makes it difficult to trade off the liberalisation of high and low protection sectors. One way to introduce such a tradeoff would be by taking the EVSL nominations into the WTO forum, to use as negotiating coin for further tradeoffs within that forum.

## 4.5 Review of ‘nuisance’ tariffs

The Government has identified lowering business input costs as a key area for future reform in industry policy. In this context, DIST is to review all tariff items between 3 and 5 per cent which offer little or no protective benefit to Australian industry (Moore 1998e). In some instances, these tariffs constitute ‘negative’ assistance where industries pay tariffs on inputs, but have end products which compete with imports that enter Australia duty free (Moore 1998c). As part of the review process, a preliminary list of over 2000 tariff items identified as ‘nuisance’ tariffs and individually raising little revenue was compiled and made available to Australian industry for comment by late October 1998.

The review of ‘nuisance’ tariffs follows recent decisions by the Government to remove tariffs on imported business inputs in the information technology and telecommunications sectors and on medical and scientific equipment. The decision on medical and scientific equipment was in response to a Commission recommendation in the Report on *Medical and Scientific Industries* (IC 1996c).

Any decision to eliminate protection should be considered in an economy-wide context. As discussed in the previous section in relation to the APEC EVSL process, failure to consider and allow for linkages in the production chain could increase disparities in assistance and lead to some adverse resource allocation effects. However, any such effects associated with the elimination of ‘nuisance’ tariffs or tariffs on specific inputs are unlikely to be very large in an environment of generally low tariffs. Furthermore, to the extent that the elimination of these tariffs is part of a broader policy of removing all remaining tariff assistance over time, as recommended by the Commission in its report on the *Stocktake of Progress in Microeconomic Reform* (PC 1996), any negative resource allocation effects will be minimised.