UNITED NATIONS

TD

United Nations Conference on Trade and Development

Distr.
GENERAL

TD/B/WG.4/6
23 August 1993

Original: ENGLISH

TRADE AND DEVELOPMENT BOARD
Ad Hoc Working Group on Expansion
of Trading Opportunities for
Developing Countries
Second session
Geneva, 4 October 1993
Item 3 (c) of the provisional agenda

CONSIDERATION OF ISSUES ARISING FROM THE WORK PROGRAMME OF THE AD HOC WORKING GROUP

(c) Market opportunities (environmental measures, structural adjustment policies, RBPs)

Report by the UNCTAD secretariat

CONTENTS

GE.93-53017 (E)

CONTENTS (continued)

INTRODUCTION

1. The main objective of the Ad Hoc Working Group on Expansion of Trading Opportunities for Developing Countries is "to analyse prospects for, and examine ways of, expanding the trade opportunities of developing countries for the diversification and growth of their export supply capability and for the enlargement and improvement of their export market opportunities". 1/

2. Under the work programme adopted at its first session, the Group "will undertake an analysis of the prospects for, and examine ways of, expanding the export supply capabilities of developing countries and improving their export market opportunities with a view to elaborating policy recommendations for implementation at the national and international levels". 2/ The analysis will be carried out "on the basis of country presentations, the work of other UNCTAD bodies, studies of the secretariat, contributions from relevant regional and international organizations and institutions, as well as from non-governmental organizations, business and academic experts ...". 3/ These contributions will be considered both at the current session and at the third session, scheduled for December 1993, with the fourth and final session planned to take place in 1994 prior to the spring session of the Board. In this report, therefore, and in line with the provisional agenda of the second session, three aspects of market opportunities have been chosen for study, namely environmental measures, structural adjustment policies and restrictive business practices.

I. ENVIRONMENTAL MEASURES AND TRADING OPPORTUNITIES

3. From the environmental perspective, expanding the trading opportunities of developing countries can involve both mitigating any adverse effects of environmental regulations, policies and standards on exports and actively seeking new market opportunities through the promotion of environmentally friendly products. This section addresses how environmental factors may either constitute barriers to trade or create market opportunities for developing countries. In regard to the latter, special attention is given to the possible impacts of packaging and labelling and to the role of eco-labelling as an instrument for the promotion of environmentally friendly products from developing countries.

4. Developing countries are concerned that environmental regulations and standards may adversely affect their trading opportunities by reducing the competitiveness of their exports or in some cases even denying them access to certain markets. The essential task for a developing country exporter, as for other exporters, is to analyse the costs and benefits of complying with existing or emerging environmental regulations and standards in major export markets.

5. In addressing this question, developing countries may wish to consider both the static and dynamic impacts of environmental policies on their competitiveness. Increasingly, environmental features, in addition to price and performance, are becoming a factor in determining consumer demand. Moreover, during shifts in demand, early starters have a potential advantage both in terms of capturing market share and in terms of the learning advantage which accrues from cumulative knowledge built into environmentally sound production processes. Thus an important question for developing countries is when to make the capital investment - sometimes quite high in the short-run - needed in order to gain major competitive advantages in the long run.

6. Notable among environmental policies, standards and regulations with a potential impact on the trading opportunities of developing countries are eco-labelling and packaging. Failure to qualify for an eco-label may reduce the attractiveness of exports from developing countries catering to environmentally conscious consumers in the importing (particularly in the developed) countries. Conversely, developing countries may be able to gain a market advantage by demonstrating the environmental virtues of their products. Although many packaging policies have been formulated with a primary focus on the environmental concerns of developed countries, especially regarding the problem of their subsequent disposal and urban waste management, exporting developing countries may be able to create market niches by demonstrating the environmentally friendly qualities of their packaging.

7. Some developing countries, such as India, the Republic of Korea, and Singapore, have taken a proactive stand by establishing their own eco-labelling systems. Others, such as Brazil, are considering the possibility of setting up a system. The eco-labelling systems which have been initiated in the developing countries have generally followed the models of systems already in existence. Usually the criteria for eco-labelling in the developed countries are taken as a starting point; these criteria are then adapted to the domestic environmental needs of the country in question.

Though eco-labelling has been internally directed, it is hoped that it will also improve the environmental component of export products and create a "green image", thus yielding a trade advantage.

8. According to market indications the demand for environmentally friendly products is on the rise. 4/ Market surveys have also shown that, like goods, the demand for environmental services (such as laundering of non-disposable diapers) is also expected to increase in future. According to one estimate, made by the International Financial Corporation, the demand for such goods and services may double, from US$ 300 billion in the early 1990s, reaching US$ 600 billion by the year 2000. 5/

A. Green consumerism

9. "Green consumerism" may offer manufacturers and retailers market opportunities whereby they can gain the loyalty of environmentally conscious consumers. Surveys indicate that consumer interest in the environmental attributes of products is on the rise. A certain segment of the population in some developed countries is willing to pay a premium for environmentally sound products. 6/ Environmental regulations are also creating new opportunities for small- and medium-sized firms dealing with innovative, environmentally protective technologies and products. 7/ These opportunities could likewise be seized by developing countries to promote their inherently "green" products and technologies. However, so far environmentally friendly products are preferred only if other attributes such as better quality, greater effectiveness and convenience of use are also embodied. The majority of consumers are apparently not willing to pay a high premium for environmentally friendly products. 8/

10. The fashion for "Green", ecologically sound clothing may be of some export interest to the developing countries. According to a market survey, sales of eco clothes are expected to quadruple from $20 million in 1992 to $80 million in 1996. 9/

11. In general, two kinds of customers may be distinguished: individual consumers and large-scale buyers for commercial firms, institutions, and government agencies. Among individual consumers, there is a demand for clear reliable information on the environmental impact of a product. Environmentally conscious labelling, and the criteria that are set for it, aim at being both objective and a useful guide to consumers. In some cases, trusted corporate names may fulfil the same consumer need for environmental protection claims.

12. For certain product categories, the large-scale corporate buyers and government agencies are the main customers. Therefore, any programme for encouraging "green consumerism" would not be fully effective unless large-volume buyers were also targeted to get information on the environmental component of the goods and services being supplied.

B. Impact of environmental regulations on the trading opportunities of developing countries

13. "Product policies" 10/ are increasingly being used in developed countries to help achieve environmental goals. For instance, a number of developed countries have drawn up lists of priority substances to be targeted for reduction or elimination. Concentration on the environmental performance of products is intended to lead to their substitution by natural products, along with the development of other products and substances considered preferable from an environmental viewpoint. This shift could result in some trade advantages for developing countries.

14. Environmentally related product policies could also constitute a market barrier adversely affecting the exports of developing countries. There are a number of reasons. First, as developing countries are rarely involved in the process of formulating environmentally related product policies, they may have very little information on existing or emerging product policies. Moreover, because of unfamiliarity with the administrative and testing procedures for environmentally based product certification, policies such as eco-labelling might pose an obstacle. Secondly, as the regulations tend to focus on local environmental concerns (such as local waste management policies) the packaging directives so formulated may not be given high priority in developing countries. However, in order to maintain their market shares, developing countries may need to comply with standards and concerns for which they have no immediate demand in their domestic markets. Thus, the cost of compliance with standards emerging in overseas markets could be high if they have to be borne exclusively by the export trade. If standards differed significantly between various export markets this problem would be compounded. Thirdly, if environmentally sound production strategies and technologies have to be imported from developed countries, this could imply a capital outlay that is burdensome for capital-scarce developing countries.

15. Some examples of environmentally oriented product policies will help clarify this issue. Packaging is one of the most important environmentally related issues. It affects most export items from developing countries. Most packaging directives deal with a selected number of concerns: reduction of pollution at source, recycling, reuse, maximization of easy disposal, minimization of energy inputs and reduction of pollution in the process of its manufacture. 11/ Such a focus presents problems for developing countries on two levels:

- first, their packaging materials may not be accepted as recyclable in their various target markets. They may consist of materials unfamiliar as packaging materials in the developed countries (such as wood and jute). Such materials may not be included in the list of permitted packaging, though they could have a far less harmful impact on the environment than packaging produced in industrialized countries.

- secondly, their exporters may be required to use a logo on packaging materials as products not bearing a logo may no longer be accepted by retailers in some countries. Use of the logo may entail a licence fee that will subsequently lead to an increase in costs.

16. Eco-labelling of products primarily intended for the export market may also have an impact on developing countries' trade. To date not many products exported from developing countries bear eco-labels; indeed empirical evidence for a few export products indicates that this may act as a barrier to trade. This is so because the selection of criteria and thresholds for eco-labelling often focuses on narrow domestic concerns while overlooking other, environmentally friendly, processes applicable in developing countries. 12/ Although textiles are not yet included in any eco-labelling scheme, the German textile industry is investigating the possibility of introducing two "green" labels for textiles. 13/ One is a product label known as the "MST" and the other is a process label, the "MUT". 14/ The draft list of criteria for the MST seal specifies that textiles bearing this seal must not contain certain chemicals normally used in developing countries in dyeing and finishing processes. 15/ Natural dyes are not seen as an ecological alternative, even though they may be more environmentally friendly. 16/ Permissible chemicals or technologies required in order to qualify for the label may need to be imported by developing countries in the short run. They may thus experience some difficulty in complying with these criteria and carrying out the corresponding tests. It is expected that, in the long run, existing eco-standards will be tightened; some substances not as yet considered will be included and eco-standards relating to processing will become increasingly important.

C. Compliance strategies of developing countries

17. Developing countries need information on existing and emerging environmental standards in their major markets. Once this information has been obtained, government policies may need to be devised that will encourage producers and exporters to adopt environmentally benign processes and products. If environmental standards have already been adapted and compliance is expensive and affects competitiveness, developing countries might wish to consider requesting that they be granted "specified, time-limited exceptions in whole or in part". 17/ When scientific opinion is divided on an environmental issue, developing countries must ascertain that their concerns are reflected in an appropriate forum before regulations are formulated and standards set. 18/

18. Buyers and Governments of developed countries may be able to assist the efforts of Governments in developing countries in meeting environmental standards. For example, in November 1990, Germany banned the use of pentachlorophenol (PCP) chemicals in leather products. This chemical has been widely used by Indian producers for tanning leather; hence a ban would adversely affect their leather exports to Germany. One of the major bottlenecks which the Indian producers faced in complying with this standard was the lack of sufficient national testing facilities for PCP chemicals. Proposals were made through the Indo-German Export Project (a programme jointly sponsored by the Governments of India and Germany and other agencies) to provide better testing facilities for leather. This project included the transfer of technology, test equipment, and government-sponsored information

campaigns on substitutes for PCP. The time needed by the Indian leather industry to adjust to these standards was more than two years. 19/

19. Some other general features can be observed concerning the compliance strategies of developing countries with the environmental standards of their major markets. In general, access to information is easier when buyers are in direct contact with producers. It is possible to obtain technical and other forms of assistance from buyers through such channels of communication.

20. With this consideration in view, Governments may wish to facilitate a greater coordination between buyers and producers so that environmental standards and requirements are disseminated rapidly and compliance with such standards is made easier. 20/ Wholesalers and bulk buyers who transmit market impulses by mediating between retailers and producers have been keen to buy and stock products that may be demonstrated to be eco-friendly; in some cases they have even provided information to producers through workshops and meetings. 21/ This prescription is even more important for small-scale producers who are rarely in direct contact with the buyers. They have encountered even greater difficulties in complying with environmental standards, as testing facilities, information, as well as the basic environmentally friendly raw materials are more difficult for them to access (e.g. dye stuff in the case of textiles).

D. Eco-labelling and trading opportunities

21. Though eco-labelling schemes are, in principle, open to importers, in practice there may be quite disparate treatment of domestic and imported products. Several reasons could account for this but problems could be averted if importers were represented in the drafting or criteria and threshold standards, as often only domestic environmental problems are considered.

22. One approach which developing countries could take is to initiate their own eco-labelling systems. This would encourage their industries to reflect environmental concerns on their product labels and thus create or expand a "green image" in their major export markets. Experience with the existing eco-labelling systems in the developing countries shows that the cost of starting such schemes is not as high as in developed countries.

23. In the case of the Republic of Korea, for example, the primary criteria for a domestic eco-labelling scheme were not developed through laboratory research in most cases, but were rather adapted from the Blue Angel, the Japanese Ecomark and the Canadian ECP, as appropriate. The cost of development was thus limited to the cost of convening meetings with the respective Ecomark committees and subcommittees. The existing schemes of OECD countries were likewise adapted but, in terms of comparison the scheme adopted is closer to the Japanese system than to the German system. For example, the number of firms which can obtain the Ecomark within each product category is not restricted; all firms meeting the criteria can obtain the label. This runs counter to the German system and particularly to the French and Canadian systems where the criteria are such that only the top (environmentally speaking) 20 per cent of firms obtain the label.

24. The Green Label system of Singapore has drawn on existing eco-labelling schemes in designating criteria for labelling, relying on no single scheme. For example, the criteria for the labelling of paper were based on the Japanese scheme, whereas the criteria for compact fluorescent bulbs had been developed in Canada. For certain products Singapore has also taken the lead, being, for example, the first country to develop criteria for alkaline batteries.

25. In Singapore, as in other countries with eco-labelling schemes, the indirect costs to the manufacturer for meeting the eco-labelling criteria are difficult to estimate: so far enterprises have not needed to change their technologies in order to comply with the criteria. Moreover, given the fact that "green" labelled products in most cases cost no more (or not much more) than those without a green label, the indirect costs to enterprises in obtaining the label are probably not very high. Furthermore, since the scheme was intended to simplify the verification and testing procedures, the costs of testing do not appear to be onerous.

26. Market information on the existing eco-labelling schemes of developing countries suggests that the direct and indirect costs of acquiring eco-labels will not result in loss of competitiveness for their domestic producers. Evidence regarding domestic market shares also suggests that, at least for some product categories, market shares have even expanded when firms obtained the eco-labels. 22/ This suggests that developing countries may be able to obtain some trade advantages through the use of eco-labels.

27. Developing countries have begun to harmonize their criteria with those of developed countries. For instance, all three schemes cited above have, by and large, criteria similar to other schemes for similar products. Nevertheless, certain parameters important for example in OECD countries may not be important in developing countries; likewise, certain environmental problems may be of greater importance for developing countries than for developed countries. Such differences are slight, however, which suggests that there is considerable scope for mutual recognition of eco-labelling schemes; if accepted internationally, mutual recognition for one another's schemes would create conditions for a significant expansion of the trading opportunities of developing countries as consumer interest in environmentally friendly products grows in all countries.

E. Conclusions and recommendations

28. Most developing countries will in the first instance require technical assistance in understanding and complying with existing or emerging environmental regulations and standards in their export markets. One channel for obtaining such information is through the network of exporters and importers. Access to this channel may be difficult for small-scale producers who do not have direct contact with their buyers. National marketing agencies or Governments may need to provide the requisite information, raw materials, testing facilities and technologies. International organizations such as UNCTAD can also provide information on environmental regulations with potential impact on exports from developing countries.

29. UNCTAD is establishing a database on environmental measures impacting on trade. To this end, the UNCTAD secretariat is in the process of revising the UNCTAD Trade Control Measures Database, managed by its Trade Control Measures Information System (TCMIS). The Database covers a wide range of product-specific measures, such as taxes, products standards and regulations, bans, packaging requirements and eco-labelling. Most of these measures are applied equally to domestically produced and imported products. Once established, the Database could contribute to efforts to formulate export strategies reflecting environmental policies and measures in the major markets and further the activities of the Ad Hoc Working Group. 23/

30. Developing countries may be able to obtain higher prices for environmentally friendly products and services. It is thus in their interest to explore the market opportunities for expanding such exports. To assist in this process of market exploration, UNCTAD has designed a programme of work which includes identifying natural products produced by developing countries and amenable to substitution replacing some environmentally harmful products currently used in developed countries. 24/ The project calls for the preparation of a compendium of products whose utilization may be expanded. As a corollary, under this project an examination will be made of whether supplies of these environmentally friendly products can realistically be expanded. Other issues to be investigated include: opportunities for recycling specific products and commodities; the environmental and trade implications of expanded recycling; and benefits accruing to developing countries as a result of recycling.

31. UNCTAD's research has contributed to a training package on trade and environment. It is being developed in the context of UNCTAD's TRAINFORTRADE project. One component of this training package will evaluate the trends in consumer preferences and environmentally related standards that can affect imports from developing countries. Ways of anticipating such trends will also be addressed. Furthermore it will outline measures whereby environmental concerns, laws and regulations can be integrated into export policies. New trading possibilities presented by the emergence of consumer concern for the environment in most developed countries will also be explored.

32. Developing countries have voiced concern about eco-labelling programmes and other policies affecting their export products. They have thus requested information on product coverage and operational aspects. In response, UNCTAD has initiated a project (funded by the International Development Research Council of Canada) on eco-labelling and trade. This project will collect information concerning eco-labelling systems in the developed-country economies, with a view to enabling developing countries to anticipate market preferences and hence formulate and implement policies which will promote the exports of those products most likely to be awarded eco-labels. In addition, and perhaps more important, it will outline mechanisms whereby the interests and concerns of developing countries can be reflected in the formulation of internationally accepted product-related environmental measures such as eco-labelling.

33. In order to promote trade, developing countries could initiate their own eco-labelling systems which could be elaborated within national standardization bodies. It is noteworthy that the International Organization

for Standardization (ISO) has established a Technical Committee on Environmental Management: ISO/TC 207. 25/ Its subcommittees study such topics as: life cycle analysis, environmental labelling, environmental performance standards, environmental guidance for product standards. The Environmental Labelling subcommittee of ISO/TC 207 will: develop an environmental labelling database that addresses product category criteria, testing and verification methods; review documents of practitioner programmes; and support and take cognizance of the work undertaken by international organizations. This group has recommended that practitioner programmes avoid establishing trade barriers in any element of their programmes.

34. Mutual recognition of eco-marks is of critical importance. Precedents have been set in proposals for the mutual recognition of the Nordic label (the white swan) and the EC label, as well as between Canada's Environmental Choice and the United States of America's Green Seal. These schemes might readily be extended to include the labelling programmes of developing countries, since most such labelling programmes have many elements in common with those of developed countries. 26/

35. Developing countries may also wish to participate and raise their concerns in forums where environmental regulations are now being formulated. 27/ In the elaboration of internationally based environmental standards and regulations due consideration must be given to the development needs of the developing world. 28/

II. STRUCTURAL ADJUSTMENT POLICIES AND EXPORT OPPORTUNITIES OF DEVELOPING COUNTRIES

36. This chapter focuses on government-assisted structural adjustment, its potential to open up new export opportunities for developing countries and possible improvements in structural adjustment policies. The discussion is confined to adjustment policies which could affect export opportunities in manufacturing sectors.

A. Overview of industrial and employment-related support programmes of developed market-economy countries

37. The Governments of the developed countries have implemented a vast gamut of industrial and employment-related support schemes which vary among countries. In the European Community, the Maastricht Treaty provides a specific legal basis upon which the member States can take coordinated action to achieve a number of industry-related objectives, within the context of an open and competitive market. Improving the response of industry to structural change and encouraging the best exploitation of the industrial potential of innovation, research and development policies are examples of such action. In the same vein, new emphasis is being placed in the United States of America on the need for developing an explicit strategy and a more coordinated approach to industry-related matters, with a closer focus on intangible investment and human resource development.

38. In the context of its "Subsidies and Structural Adjustment" project, the OECD Industry Committee has created an information database describing support schemes implemented by 22 member countries and the Commission of the European Communities. The policy objectives of the nearly 900 support programmes covered by the information base have been classified under eight groups: (a) Sectoral programmes aimed at improving the competitiveness of particular sectors; (b) Schemes of exceptional recourse for bailing-out companies in difficulty (crisis aid); 29/ (c) Programmes dedicated to the strengthening of R & D expenditures and capabilities; (d) General investment aid, mainly provided in the form of tax concessions; (e) Support to small and medium-sized enterprises (SME); (f) Schemes supporting regional development in areas with adjustment difficulties and remoteness handicaps; (g) Employment and training support; and (h) Export-related aid measures (e.g. marketing assistance, export credit and credit insurance facilities) and programmes supporting foreign investments by domestic enterprises. 30/

39. Table 1 shows broadly how resources had been allocated under these support schemes in developed countries. A striking feature is the sharp decline in general investment and as a result of reforms which reduced tax concessions. Expenditure on general investment aid has nevertheless remained the largest cost item. Relatively large expenditures have also been incurred in support of regional development and export-related activities. Expenditures on other programmes, including sectoral support, R & D, and support for employment and training have been distinctly lower. However, it should be noted that the employment and training support shown in table 1 includes only schemes which could directly reduce the cost to enterprises of employment and training efforts.

Table 1

Industrial and employment-related support programmes in developed market-economy countries: Policy objectives of reported expenditures, 1986-1989

Policy objectives	Programmes		Net cost to government (NCG) (billion current $)				NCG (percentages)			
	Number	NCG availa/	1986	1987	1988	1989	1986	1987	1988	1989
Sectoral programmes	130	118	4.4	6.3	5.8	4.1	5.9	9.2	8.6	7.7
Crisis Aid	37	29	1.8	2.0	0.7	0.7	2.4	2.9	1.1	1.3
R & D support	159	144	6.7	7.4	6.2	6.1	9.0	10.9	9.4	11.5
Regional development	162	136	10.2	11.7	11.9	11.8	13.7	17.2	17.8	22.2
General investment aid	123	91	40.9	25.2	24.4	15.0	54.7	37.0	36.6	28.3
SME programmes	117	87	2.5	3.1	3.2	2.8	3.3	4.6	4.8	5.2
Employment and training support	60	54	1.9	2.0	3.6	2.0	2.6	2.9	5.4	3.8
Export-related skills	91	80	6.3	10.3	10.9	10.5	8.4	15.2	16.4	19.9
Total	879	739	74.6	68.1	66.9	53.1	100.0	100.0	100.0	100.0

Source: OECD, Industrial Policies in OECD countries, Annual Review, Paris, 1992.

a/ NCG avail. indicates the number of programmes for which the Net Cost to Government data is available for at least one year

40. The establishment of politically independent transparency mechanisms at national levels, as recommended in paragraph 132 of the Cartagena Commitment, would help in evaluating the implications of government support measures for the domestic economies as a whole and their effects on the export interests of developing countries. Furthermore, wider access by international organizations to the OECD database on government support measures could also contribute to greater transparency of trade-related policy-making.

B. The role of support policies of developed countries in the adjustment process and implications for export opportunities of developing countries

41. The support policies implemented in developed countries are essentially aimed at improving the competitiveness of production and exports and the responsiveness of labour markets to changing skill requirements. Creation of new export opportunities for developing countries is rarely a consideration in this context.

42. The implications of government support policies in developed countries for the export opportunities of developing economies depend on the nature of the particular adjustment strategy which enterprises pursue with government assistance. Some adjustment strategies may broaden export opportunities. Disengagement from unprofitable production sectors, shifts to higher-quality products or the relocation of declining lines of production in developing countries could open up new markets in lower and middle-market segments for exports from developing economies.

43. Certain adjustment strategies may result in increased competition for export products from developing countries. The rationalization and modernization of production, including the introduction of labour-saving technologies, can increase competitiveness in sectors which face strong import competition. If such rationalization and modernization lead to cost savings and productivity improvements, penetration of markets by developing countries is likely to suffer accordingly. The scope of developing country exporters to follow a similar adjustment path may be limited by resource constraints and differences in factor endowments.

44. Identifying how government adjustment assistance could affect the export opportunities of developing countries is challenging in the extreme. Information on the adjustment process at sectoral levels and on the pertinent support measures themselves is not readily available. 31/ In many cases, firms may combine several adjustment responses and benefit from different support measures for each one. 32/ Trying to establish a causal link between specific government support measures and adjustments by firms and between the adjustments carried out and observed increases in exports from developing countries is a complex undertaking.

45. This chapter outlines some preliminary considerations regarding the potential impact of government-supported structural adjustment on export opportunities of developing countries. Five separate areas of support are

analysed in this regard: sectoral programmes, R & D programmes, regional development policies, employment and training-related programmes and support for private foreign investment in developing countries. It needs to be kept in mind that protectionist trade barriers which continue to be maintained by developed market-economy countries hamper structural adjustment in line with shifting competitive positions and hence should be eliminated. A successful outcome of the Uruguay Round will be crucial in this regard. Clearly, many other developments influence structural change and adjustment in developed countries and hence export opportunities of developing economies. One such major development is the formation of the Single European Market. 33/

(a) Sectoral support programmes

46. Sectoral programmes have mainly targeted declining production sectors and/or sectors facing strong international competition (e.g. shipbuilding, steel, textiles, automobiles, aerospace and electronics industries). The main thrust has been to strengthen international competitiveness of the targeted sectors. 34/

47. In the context of sectoral support programmes, Governments of developed countries have sometimes encouraged rationalization measures involving disengagement from unprofitable lines of production. The European Coal and Steel Community (ECSC) has, for instance, sought capacity cutbacks in crude steel and in certain semi-finished steel products since the early 1980s. 35/ Developing countries may not in all cases have benefited. Significant overcapacities have remained in the steel industry of western Europe and steel imports by the European Community from major developing country suppliers (e.g. Brazil, Republic of Korea, Venezuela and the former Yugoslavia) have continued to be restricted by quantitative controls and voluntary export restraints. In consequence, the market penetration of iron and steel imports from all developing countries into major European countries 36/ has remained low, albeit increasing slightly from 0.8 per cent in 1980 to 2 per cent in 1990. In the case of the Republic of Korea, over the same period the market penetration ratio remained at about 0.1 per cent. Apparently, developing country steel exporters have not gained new markets commensurate with their competitive strength and supply capabilities.

(b) R & D support programmes

48. Support for research and development (R & D) aims at increasing allocations to this effort by enterprises mainly via tax concessions. Innovation and diffusion of new technologies are promoted by a wide array of specific support measures at the firm level as well. 37/ Furthermore, technology-specific support programmes focus on a number of areas considered of special importance, in particular information technology, 38/ new energy technologies, new materials and biotechnologies. Financial grants have been the main instrument for implementing technology-specific schemes. Government support for R & D which promotes up-market shifts in product offering can contribute significantly to structural adjustment. Where firms which use such support to move into higher-quality products - as footwear producers did with assistance from the European Community's BRITE programme - their withdrawal

from lower market segments should open up new export opportunities for developing countries with supply capabilities in the vacated areas.

49. R & D support can strengthen the competitiveness of mature industries in developed countries through the promotion of process innovations which reduce production cost, especially the cost of labour. In consequence, many developing countries have become concerned that they might lose the comparative advantage hitherto held in labour-intensive lines of production. Progress in the utilization of new production technologies varies of course among sectors.

50. Technological progress in spinning and weaving operations has, for example, significantly improved the competitive situation of the textile industry in the developed countries, making it a highly capital-intensive activity. Developing countries have generally retained their competitive edge in standardized mass products, but the high capital intensity of production (and the associated cost of energy inputs) has, none the less, narrowed their labour cost advantage in many segments of the textile sector.

51. The attractiveness of R & D support measures can vary for different industries and hence differ in their impact on structural change. Where R & D support meets only with a half-hearted response from particular industries, the impact on structural change be it on the creation of new markets or the generation of increased competition, will be concomitantly weak.

(c) Regional development policy

52. Regional support programmes have been aimed at facilitating adjustment in regions relying heavily on certain industries coming under strong pressure to change their structure, e.g. shipbuilding, steel and textiles. Support programmes have also been designed to promote the development of "underdeveloped" regions with generally weak economic activity and infrastructure. Major support measures have included tax concessions benefiting all enterprises investing or operating in a given region and grants in the case of more selective interventions.

53. Such programmes can generate new market opportunities for developing countries if they lead to the phasing out of production sectors in which developing economies have competitive supply capabilities. Through the Community Support Framework (CSF) of the European Social Fund the European Community assists regions experiencing adjustment problems. A major objective is to alleviate the hardship caused by the decline of certain industries. This is done by assisting with the establishment of new industries and the provision of retraining. The programme has, for instance, helped in adjusting to the closure of uncompetitive textile, clothing and steel production lines.

54. Regional support programmes which aim to promote industrial development in poorer and more peripheral areas can affect market opportunities of developing countries when assistance is provided for the establishment of industries which compete with suppliers from developing economies. As one example, substantial assistance was given by the European Community to the footwear industry in northern Portugal, thus reducing considerably the financial risks of investors. In this case exports were competing, in

particular, with those from developing countries in North Africa. However, when assistance was gradually phased out, many companies in northern Portugal encountered difficulties as their competitiveness proved to be weak. One lesson to be learned from this experience is that financial assistance under regional development programmes is likely to be wasted if important factors of competitiveness - such as sufficiently low cost labour, in the case of the footwear industry - are not in place.

(d) Employment and training-related support programmes

55. The basic orientations of labour market programmes in developed countries are aimed at enhancing the occupational and regional mobility of the labour force and improving information about job openings and skills in demand. More specifically, programmes aim to close "skill gaps" in labour markets, that is to offset any qualitative mismatch between labour supply and demand.

56. Where labour market programmes enhance the availability of skilled labour demanded in production sectors with longer-term growth potential, they help to shape patterns of production in line with competitive positions and hence contribute to structural adjustment. If labour resources can be increasingly channelled into new growth sectors, reliance on declining sectors as a source of employment is likely to decrease. Protectionist pressures can be expected to diminish accordingly, thus facilitating market opportunities for exports from developing countries.

57. The retraining of workers made redundant by shifting labour demands in declining sectors for employment in growth sectors would contribute to a smoother process of structural adjustment. Not only would labour resources be redeployed but also market opportunities would be created for products from trading partners, including the developing countries. In practice, however, experience with labour market programmes in developed countries has been somewhat disappointing in this regard.

58. Retraining has proven to be particularly difficult in the case of workers made redundant in import-competing mature industries where developing countries have strong export interests and competitive supply capabilities. The high proportion of older workers and workers with relatively low skills and educational levels has been a major hurdle. The provision of early retirement benefits has often been the only solution to mitigate the adjustment costs of older workers displaced after long job tenure in certain industries. The scope for workforce reductions through early retirement schemes is, of course, limited.

59. The steel industry in western Europe provides an illustrative example. Steel companies have traditionally relied on attrition, offering early retirement to reduce their workforces in response to adjustment pressures. Now there are no longer enough workers close to retirement age to make the further broad-based workforce cuts necessary to phase out unprofitable overcapacities on a large scale. The crisis in the steel industry is expected to slash 50,000 jobs in the coming years. Retraining of workers displaced as a result of such a squeeze will be required in order to mitigate labour market imbalances; however, successfully retraining for professionally more demanding

jobs is a daunting challenge for workers with only relatively low skill levels and the motivation to undertake a new, difficult learning process is frequently lacking.

60. The labour market programmes of the United States of America illustrate one country's experience with the operation of such schemes. Adjustment assistance to workers is provided under the Job Training Partnership Act (JTPA) and the Trade Adjustment Assistance programme (TAA) along with income maintenance payments under the unemployment insurance scheme.

61. The JTPA programme of the United States provides, under Title III, job search assistance, classroom training, on-the-job training and relocation assistance to displaced workers who are unlikely to return to their previous occupations. As in the case of labour market programmes in other developed countries, evidence indicates that older workers and those with less education have benefited less from the programme than would be expected given their representation in the population of displaced workers. This suggests that those most in need of assistance are the least likely to get it. Moreover, in the 1980s, the number of participants in the JTPA programme rarely exceeded 100,000 in any one year, while on average some 4 to 5 million workers annually involuntarily lost their jobs. The TAA programme provides income maintenance and training benefits to displaced workers in cases where increased imports have contributed importantly to their job losses. The greater part of the financial resources under the scheme has been spent on income maintenance to mitigate social hardship, but has had little effect on motivating workers to find new jobs.

62. Participation in training programmes has been relatively low in the United States. In the decade 1980-1990, the average number of workers who received training amounted to about 12,000 participants per year. The number of workers assisted with relocation in order to take up new jobs elsewhere was even lower - on average less than 2,000 per year in 1980-1990.

63. The JTPA and the TAA programmes of the United States were felt to have contributed little to labour market adjustment, e.g. to the redeployment of displaced workers in other sectors, and proved inadequate in serving as an alternative to trade protection. Many other developed countries have had similar experiences with similar efforts.

64. A number of measures may be considered with a view to enhancing the effectiveness of labour market programmes in developed countries in correcting imbalances in labour markets and in contributing to more rapid structural adjustment.

(a) Labour market policies should give a more prominent place to retraining and mobility schemes which facilitate the redeployment of labour resources in growth sectors of the economy. At present, public expenditure on "active" labour market programmes which seek to direct labour to the most productive and rewarding use amounts, in many developed countries, to less than 1 per cent of their GDP. 39/ A sound case can be made for the allocation of increased government funds to such schemes as their social benefits outweigh the private cost.

(b) Publicly supported training programmes may need to focus more rigorously on providing those skills which are in short supply and likely to promote structural adjustment more effectively. The successful integration into the labour market of retrained workers is the test of whether such programmes inculcate those skills relevant for present and future demands of production sectors. Government training programmes need to be monitored in order to ascertain whether those receiving training are subsequently able to find employment in positions matching their new skills. Governments may, in cooperation with the private sector, develop and implement special training programmes aimed at the redeployment of workers with relatively low educational levels. In the case of older workers displaced in declining industries, it may be preferable to provide more substantial financial support for early retirement schemes.

(e) Support for private foreign investment in developing countries

65. Many developed countries have implemented programmes which provide support for investments which national firms undertake abroad. Some schemes are specifically designed to favour investment in developing countries; others are applicable on a general basis. 40/ Such schemes can contribute to structural adjustment in developed countries and open up new export opportunities for developing countries. In order to achieve these goals, the support measures must induce foreign investments in developing countries. Such investments would need to involve a relocation of production in sectors where competitive advantages have shifted to developing economies. Furthermore, investments would have to be export-oriented so that developing countries can capture new markets created following the disengagement from production sectors in developed countries.

66. Schemes in support of foreign investment of national firms could be used more actively to promote a relocation of production in developing economies. Increased financial resources could be made available for facilities specifically designed to further foreign investment in these countries. Furthermore, greater attention could be paid to the promotion of export-oriented investment. Preference may be given to export-oriented ventures in low-income developing countries, 41/ rather than putting them at a disadvantage due to stringent eligibility criteria.

67. Where support schemes promote structural shifts which improve the international distribution of labour, they are mutually beneficial and, hence, meet the requirement of most schemes for investments benefiting from support to yield economic advantages to the national economy and the host developing country.

(f) Need for "positive" adjustment assistance 42/

68. Government assistance measures have to be "positive" in their approach. That is, they must be conducive to the transfer of resources out of declining sectors experiencing adjustment pressures into sectors with greater long-term growth potential and higher productivity. Government assistance in developed countries is to some extent still defensive in nature, attempting to maintain production in sectors where their economies are losing (or have lost) comparative advantage. While Governments often help with the development of

competitive "up-market" production lines, they sometimes still defend non-viable lower market segments within the same industrial sector. Such ambiguity in policy design can block resource flows and thwart the emergence of new market opportunities for trading partners, in particular in developing countries, in line with a dynamic specialization in international trade.

C. Structural adjustment policies in developing countries and implications for export opportunities of developing country trading partners

69. In a number of developing countries at relatively more advanced stages of economic development, structural adjustments, involving shifts to higher technology and higher value added products and industries, disengagements from declining sectors and the relocation of production to lower cost countries, have played a more prominent role in the development process over the past decade. Such adjustments open up new export opportunities in much the same way that market opportunities are created by structural shifts in developed countries.

70. Governments have sought to promote up-market moves in production and exports through various measures. The textile sector offers one example. In the Republic of Korea government aid has been provided to assist with the development of high-technology textiles, improvements in design and the setting up of fashion schools and a textile technology centre. Assistance along similar lines has been made available in India where, through the Textile Modernization Fund, term loans have been extended to textile mills to help with upgrading technology and the product mix. In Mexico, financial and technical assistance has been made available for improvements in product quality and design.

71. The extent to which producers have vacated lower market segments of the textile sector varies among countries. As long as countries have an abundant pool of low-cost labour, producers will not be under great pressure to disengage from "down-market" product lines. Furthermore, Governments need to continue opening their markets to external competition so that protection at the border does not thwart structural shifts out of production lines now losing their competitive edge in international trade.

72. The relocation of more labour-intensive industries by relatively more advanced developing countries to other lower-wage developing economies has generated new export opportunities for the host economies in a number of production sectors. Investments by Hong Kong, the Republic of Korea, Singapore and Taiwan, Province of China, in South and South-East Asia in response to rising labour costs at home (and, to some extent, trade barriers in developed countries) are most prominent examples. In the majority of cases, these investments have been export-oriented, aimed mostly at markets in developed countries. 43/ The main sectors of investment have been footwear, clothing and electronics and, to a lesser extent, plastic products, toys, and leather and rubber goods. Moreover, shipbuilding enterprises in Singapore have plans to relocate in neighbouring countries (Philippines, Indonesia, Thailand, Malaysia). 44/

73. Thus, the Asian NICs are passing along some of their industrial products and processes to other developing countries in the region. This has been called the flying-geese pattern of economic development. Table 2 gives an indication of the value of investments by the Asian NICs in South and South-East Asia in 1980-1989. Hong Kong was the largest investor in the region, with a heavy concentration of investments in China.

Table 2

Direct industrial investment by Hong Kong, the Republic of Korea, Singapore and Taiwan, Province of China in South and South-East Asia, 1980-1989

(US$ million)

Destinations	Sources				
	Hong Kong	Singapore	Taiwan, Province of China	Republic of Korea	TOTAL
Malaysia	243.0	639.0	1 182.0	87.9	2 151.9
Indonesia	1 361.0	281.0	652.8	179.0	2 473.8
Thailand	1 937.9	827.8	2 018.8	199.1	4 983.6
Philippines	50.5	n.a.	267.0	n.a.	317.5
China	8 400.0	292.0	4 120.6	n.a.	12 812.6
Bangladesh	47.8	17.4	n.a.	24.2	89.4
Sri Lanka	168.9	36.0	2.0	1.1	208.0
Total	12 209.1	2 093.2	8 243.2	491.3	23 036.8

Source: S. Lall, "Direct investment in South-East Asia by the NIEs: Trends and prospects", Banca Nazionale del Lavoro Quarterly Review, No. 179, (December 1991), table 1; J.R. Chaponnière, "The newly industrializing economies of Asia: International investment and transfer of technology", STI Review, No. 9 (April 1992), tables 31 and 32.

74. The relocation of down-market production from Hong Kong to lower-cost developing countries has essentially been an autonomous adjustment process, given the Government's traditional stance of non-intervention in industrial development. The Government of Taiwan, Province of China, has actively encouraged investments overseas through liberal allowances for associated capital outflows; 45/ the Government of Singapore has been directly involved in several of the country's larger investments abroad.

D. Structural change in countries of Central and Eastern Europe in transition and market changes for developing countries

75. In the countries of Central and Eastern Europe in transition (CEET), the establishment of a firm foundation for market-oriented systems of economic management has proved to be a vast undertaking. Considerable time will be needed in most of these countries before the transition process is complete. The structural shifts emerging in the patterns of production and trade are difficult to predict in a medium- to long-term perspective. Macroeconomic stability which should set the stage for the necessary restructuring at the micro-economic level has proved elusive in a number of the CEET countries. Moreover, the current lack or inadequacies of financial markets in most of them leaves many potentially productive firms without sufficient funds for restructuring. Declines in output, rising unemployment and falling real wages have so far been dominant features of the adjustment process. The sweeping reorientation of exports towards developed market-economy countries has been crucial in limiting the decline in output but the short-term outlook nevertheless remains bleak. 46/

76. Over the medium term, new market opportunities could open up for many developing countries for exports of oil and raw materials when economic expansion resumes in the CEET. Oil and raw-material importing countries in Central and Eastern Europe can in the years ahead be expected to rely less on purchases from the Commonwealth of Independent States (CIS) and turn instead to alternative competitive sources of supply as deliveries from the CIS are no longer contracted on favourable barter trade conditions or are constrained by the existing supply-side problems. Moreover, the pattern of commodity consumption in Central and Eastern Europe will probably move towards that of the developed market-economy countries; this could lead eventually to increased consumption of cotton for which some developing countries have a supply capacity.

77. The industrial sectors in the CEET will need to be restructured and modernized. In this process, production patterns in a great number of these countries could, over the long to medium term, shift towards industries producing higher quality consumer goods and technology-intensive investment goods, while the strong bias towards heavy and energy-intensive industries will most likely be corrected. Outmoded capital stock and production technologies and the switch to world energy prices have rendered many industries uncompetitive. In addition to a need for massive financial investments and acquisitions of technology, the development of competitive supply capabilities will require dramatic changes in enterprise organization and product programmes. This includes development and use of new skills, and expansion of R & D capacities.

78. Labour market policy measures aimed at work reintegration and upgrading labour and management skills have been introduced in a number of the CEET. 47/ The measures include government support for training and retraining, job-creation schemes (involving subsidies to firms recruiting school-leavers or the unemployed), and loans to encourage the unemployed to

start their own business activities. However, implementation of these programmes has been rather limited, in particular owing to budgetary constraints. 48/

79. CEET countries view technological renewal as a crucial component of the industrial restructuring process. There appears to be agreement on the broad directions of technology-related policies in support of structural adjustment. Government measures aimed at strengthening the innovation activities of industries (and curtailing the excessive centralization of research in national institutions) would help with the dissemination of new technologies across the production base. Close industrial and technological cooperation with other countries could be promoted, in particular with developed market economies. 49/ The design and implementation of such policies is still widely lacking (with the exception of cooperation agreements). This may be due in no small part to the fact that the formation of privately owned (or at least autonomously managed) industrial enterprises whose innovation efforts are to be strengthened is far from being completed. The impact of industrial and employment-related policies on export opportunities of developing countries remains uncertain. Certain relevant policies still lack clear contours. To the extent that they will lead to a more efficient allocation of resources within the CEET countries, new market opportunities for developing countries will emerge in production areas where the former are less engaged and where the latter possess comparative advantages.

80. Areas of competitiveness will, of course, vary both among the CEET and between developing countries. Progressive import liberalization in the CEET will provide an additional stimulus to improve resource allocation patterns. In a number of the CEET, trade protection has already been dismantled to a considerable extent.

81. Many industries in the CEET countries will not, in a short- to medium-term perspective, be able to meet fully their domestic market demands for a wide range of manufactured products falling within upper market segments of product quality. A number of developing countries have competitive supply capabilities both for consumer goods meeting more demanding technical standards, product designs and marketing requirements (e.g. certain consumer electronics, domestic electrical appliances and office machinery) and for more sophisticated intermediate and investment goods (e.g. special steel products, machine tools, telecommunication equipment). However, the preponderant potential suppliers of investment goods are likely to be developed market-economy countries.

82. Those CEET countries which have advanced the furthest in the transformation process (for instance, Czech Republic, Hungary, Poland) are likely to develop relatively faster the patterns of production for higher-quality segments of consumer and investment goods. In this process, they may vacate lower-market segments of production. This would lead to growing demand for imports from mass-production industries in consumer goods sectors (e.g. textiles, clothing and footwear), as well as that of intermediate goods meeting standard quality requirements (e.g. iron and steel products). Many developing countries will be competitive sources of supply for such products.

E. Concluding remarks

83. All countries have a convergence of interest in a dynamic process of change and adaptation and a common stake in policies and measures that facilitate this process. The developed market-economy countries will probably restructure or disengage from production sectors in which they are losing competitiveness in international trade. Some more advanced developing countries may find themselves increasingly in the same position. The economies in transition face a similar problem but on a larger scale. They are having to rehabilitate almost their entire productive bases and have, by and large, lost competitiveness. Many developing countries are still engaged in a development process which involves the building of supply capabilities on a broader base rather than the restructuring of individual production sectors.

84. "Positive" structural adjustment policies of developed market-economy countries can make a significant contribution to harmonious adjustment to structural changes in world trade. Defensive measures should be discouraged. Anticipatory policies which help with the reallocation of production factors in new growth sectors in line with shifting competitive positions should be strengthened. Economies in transition which are in the midst of a sweeping redesign of their economic foundations have a unique opportunity to implement structural adjustment policies that support dynamic change in their production patterns based on comparative advantage in international trade and, thus, open up new market opportunities not only for themselves but also for others. Policies of developing countries which aim to promote the expansion, diversification and upgrading of their supply capabilities should contribute to the further integration of their production bases into the international division of labour. Many developing countries still require external support in this regard.

III. RESTRICTIVE BUSINESS PRACTICES

85. The following analysis of the effects of restrictive business practices (RBPs) upon developing countries' trading opportunities examines separately the effects of anti-competitive market structures and conduct within developed countries and developing countries. A distinction is made between effects upon exports and imports of developing countries, both in terms of access to markets and products and in terms of pricing, bearing in mind that the dividing lines are not clear-cut; indeed, the same practice may affect both exports and imports. Possible policies that might be adopted by developing countries and the international community for positive action in this area are also covered.

A. Anti-competitive market structures or conduct in developed countries' markets

(a) Effects upon developing countries' exports

86. Import cartels (which, in developed countries, prevail mainly in the raw materials sector, 50/ exclusionary purchasing practices of firms, or concentrated market structures within developed country markets or trading channels may impede trade or reduce prices for exports from developing countries of goods and services to these markets. In export channels for manufactures, trading affiliates of transnational corporations (TNCs) and transnational trading corporations (TTCs) share a substantial proportion of the export trade from most developing countries. 51/ They also influence marketing and distribution. In the case of petrochemicals, for instance, it has been pointed out that reliance by some developing country producers on joint ventures with major oil companies for marketing in developed countries carries the risk that, in their own interest, the oil companies will limit imports, maintain prices and control supply. 52/

87. The prevalence of anti-competitive structures and conduct is greater in respect of exports of agricultural commodities. Vertically integrated TNCs, which exercise control over the whole chain from production to distribution, play a large role in exports of some processed agricultural commodities from certain countries (for example, processed cocoa from Brazil and West Africa, sugar and tobacco from Zimbabwe, bananas from Latin America and the Philippines, and tea from India and Kenya). 53/ Even where vertical integration is weak a significant degree of market concentration may exist. This is so for example, in coffee processing, tea blending and packing, and chocolate manufacturing industries within developed countries. 54/ In order to defend their market shares, the industry leaders in these areas rely on such strategies as price discrimination and mergers. Commodity trade is much more concentrated than commodity production. International trading companies and commodity traders are prominent in trade in certain agricultural commodities, such as tea, coffee and bananas, 55/ particularly from some African countries. 56/ Their role is also significant in distribution and service activities. The importance of TNCs in respect of exports of several commodities from developing countries has important implications for the latter's export earnings and retained value.

88. Some developing country exporters, attempting to enter new market or to expand market share, may occasionally practise discriminatory pricing within developed country markets. However, competition cases in developed countries relating to alleged predatory pricing or discriminatory pricing by developing country exporters have been rare. The concept of illegal "predatory" practices is interpreted narrowly in virtually all competition laws; generally most competition authorities do not challenge aggressive pricing practices unless there exists a substantial risk that alleged predators could acquire or reinforce market power by eliminating outsiders or by disciplining aggressive competitors. Developed countries have instead preferred to bring proceedings against alleged dumping. Hence, two quite distinct regulatory regimes relying on different methodologies are applied to the same phenomenon, with the more stringent anti-dumping regime applied only in respect of goods produced abroad by foreign producers at the point where they enter a country as imports.

(b) Effects upon developing countries' imports

89. Export cartels, collusive tendering or concentrated market structures within developed countries may affect access to imports by developing countries or, more usually, the prices of such imports. In general it would appear that, at present, the numbers of such cartels, and the overall share of world trade so affected, is small; however, in view of the lack of transparency prevailing in this area, it is difficult to get a clear picture. In the United States, for instance, 127 certificates of exemption from antitrust laws under the Export Trading Company Act 1982 had been issued by April 1991. (It is difficult to assess how many export cartels have not applied for such exemptions, relying on their immunity to liability under general antitrust law); there were 94 Webb-Pomerene associations as of January 1990. 57/ Some of the industries where they were most prevalent included motion pictures, TV films and carbon black industries. Anti-competitive effects may be exacerbated owing to the fact that larger firms are more likely to join such cartels than smaller firms. However, in most cases, Webb-Pomerene assisted cartels are not able to improve their terms of trade.

90. In some cases, developing countries may be adversely affected by cartels. Recently, the European Commission imposed fines of over ECU 15 million ($US 18 million) on 15 European shipping firms for operating cartels and market-sharing arrangements on routes between France and some West and Central African countries. Fines of over ECU 10 million were imposed on 11 "shipowners' committees" and four liner conferences for abuse of dominant positions in seeking to eliminate competitors on the shipping trade between Northern Europe and Zaire. 58/ Although the aggregate impact of such cartels may at present be relatively slight, taking into account the growing profusion of sources of supply, they may still have a significant impact on specific geographical areas of product markets, particularly where participants constitute an oligopoly or where the developing country concerned has few trading partners, or where a sector can affect an entire economy, as in the shipping case mentioned above.

91. There are grounds for believing that the impact of these practices may be increasing in some sectors because of the increase in market concentration in developed countries during the 1980s, especially in certain sectors. 59/

The top five companies in the global consumer durables market, for instance, account for 70 per cent of global sales, while concentration is also particularly high in the aerospace sector. 60/ It may also be noted that a relatively small number of large firms undertake the bulk of exports from some developed countries (i.e. export concentration is significantly higher than industrial concentration) but only some of these firms would export to individual developing countries. Such market concentration would facilitate not only restrictions on the freedom of affiliated firms to compete in certain product or geographical markets, but also affect unilateral exercises of market power and collusion.

92. A recent OECD study suggests that in a market setting where TNCs are gaining importance, the danger of spillover of export cartels onto domestic or third markets is exacerbated and the potential for collusion enhanced. 61/ A former Director-General of Fair Trading in the United Kingdom has suggested that, while the liberalization of European and international trade has diminished the possibilities to form cartels at the national level, the danger of monopolies, cartels and anti-competitive behaviour re-establishing themselves on a European or a wider international level should be taken seriously. In his view, certain industries are particularly prone to international cartelization. This is particularly so for those manufacturing industrial commodities where products and prices are uniform, production is highly concentrated, technological change is slow and most producers are TNCs which would otherwise compete across national frontiers. 62/

93. In Pakistan, for example, an investigation by the Monopolies Control Authority into why the share in imports of Kenyan tea had almost trebled within three years while prices were substantially higher than international market prices (even allowing for the high quality of Kenyan tea) found that the subsidiaries of two TNCs controlled over half of tea imports; their parent companies had been taken over by a third TNC; the price of the tea imported from their Kenyan affiliates was higher than prices paid to other sellers. 63/

94. It is in some high-technology sectors or segments where the concentration effects of overseas mergers are greatest: developing countries' limited capabilities often preclude the build-up of domestic sources of supply. In the biotechnology industry, for example, over 400 seed companies have been bought up in recent years mainly by agro-chemical and food-processing firms (which have themselves undergone a wave of mergers). 64/ In some segments of the semi-conductor, computer and electronics industries, concentration and/or vertical integration has contributed to a decline in inter-firm licensing and joint ventures, a reluctance to transfer advanced technology (including to firms from some Asian countries) and has put upward pressure on prices. 65/ The fluidity of technological change may however rapidly reduce market power in many segments within these sectors.

B. Anti-competitive market structures or conduct within developing countries

(a) Effects upon exports

95. Export cartels exist in some developing countries with the object of putting into effect voluntary export restraints (VERs) undertaken in response to pressure from trading partners, since it would be necessary to limit the volume and, in some instances, to raise the prices of the exported product. This imposes long-term losses of efficiency upon exporting countries, particularly where there is a "spillover" onto the domestic market or onto third countries, when exporting firms exchange critical information or comprise a large share of domestic industry output. For the exporting country, an export restraint arrangement may capture some of the rent from restrictions through higher unit prices, but any gain may be more than counterbalanced by a loss of market share.

96. Developing countries' exports may also be hampered by price-fixing of exports or re-export restraints imposed as a condition for agreeing to supply importers. Re-export restraints may be linked to the supply of technology and/or licenses of intellectual property rights. In recent years, for instance, 14 per cent of technology import contracts in Brazil, 30 per cent in Nigeria and 43 per cent in the Republic of Korea, contained export restrictions or limitations (before intervention by the authorities). 66/

(b) Effects upon imports

97. High concentration exists in the import channels of developing countries. Such concentration can contribute to higher prices for the consumer, reducing the beneficial effects of the import liberalization undertaken by many developing countries. Thus, in Mexico, for instance, substantial tariff reductions did not bring domestic prices down in line with international prices because, inter alia, distribution channels were limited, TNCs practised discriminatory pricing policies and the "traditional" importers held a quasi-monopoly on the limited number of distribution channels. 67/ Importing firms in developing countries may comprise both locally owned and foreign-owned firms. A significant proportion of developing country imports (particularly agricultural commodity imports of smaller countries) is channelled through the foreign trade establishments or affiliates of TNCs, or through TTCs 68/ including agency houses, commodity traders and general trading companies. TNC affiliates often act on an exclusive basis in distributing all the parent company's products. In certain markets, and particularly smaller ones, they may also hold exclusive import and distribution rights for products of other TNCs. Sometimes instead of raising import prices for developing countries, discriminatory pricing by foreign exporters may be combined with predatory pricing (i.e. "dumping"), thus adversely affecting domestic industries while bringing short-term benefits to consumers. One special issue in this connection is "transfer pricing", whereby a TNC parent might under-invoice the inputs supplied to its subsidiary, allowing it to practice predatory pricing. Export subsidies granted by foreign Governments can also have anti-competitive effects in developing-country markets.

98. Prices or availability of goods and services imported into developing countries may also be affected by such practices as fixing of prices at which they can be resold within the country, restrictions on parallel imports of goods covered by intellectual property rights and (when not for ensuring the achievement of legitimate business purposes) refusals to deal, tying restrictions, or exclusive sales or representation arrangements. Such restrictions may be particularly prevalent in relation to imports of technology or goods bearing trademarks. For instance, in recent years, there have been tying clauses in 5 per cent of technology import contracts by Nigerian firms and in 8 per cent of contracts by firms of the Republic of Korea (prior to intervention by the authorities in these countries). 69/ In Kenya, a distributor was prevented from importing a branded pharmaceutical product owing to territorial restrictions imposed by a United Kingdom patentee on a United States of America licensee supplying the distributor with the product. 70/

C. Policies to control RBPs affecting trading opportunities

(a) Measures by developing countries

99. A major step which developing countries could take to deal with RBPs affecting their trading opportunities would be to adopt and implement competition laws. Indeed, a number of developing countries have adopted competition laws, 71/ several more are in the process of adopting them. Such legislation will ensure that the economic benefits of trade liberalization are not nullified by private restrictions but further efforts may be necessary to enable States to adopt or modernize competition laws and to apply them effectively. In general, developing countries may find that they have sufficient jurisdiction to deal with RBPs undertaken overseas affecting their trading opportunities if they model the extraterritorial reach of their legislation on that asserted by developed countries, although there may be practical difficulties in enforcement.

100. Problems may arise where competition, trade and/or intellectual property regimes overlap. Reliance by some countries on anti-dumping measures to tackle problems of discriminatory or predatory pricing, for instance, may encourage developing countries to do likewise. Developing countries may also experience difficulties in preventing intellectual property rights being exercised in abusive ways. Dealing with such problems might be facilitated by the adoption of appropriate rules relating to the exhaustion of rights and parallel imports.

(b) Measures by the international community

101. Developed countries can assist developing countries in their endeavours to control RBPs which adversely affect their trading opportunities by strengthening cooperation and consultations in areas where there is an interface between trade and competition policies. Greater transparency in terms of information on export cartels would be beneficial as would narrowing the exemptions allowed in their competition laws to such export activity.

102. The United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices calls for, inter alia, each State to adopt competition legislation and to "seek appropriate remedial or preventive measures to prevent and/or control the use of restrictive business practices within their competence when it comes to the attention of States that such practices adversely affect international trade, and particularly the trade and development of the developing countries". 72/ Full implementation of all the inherent provisions would constitute useful progress.

103. Events occurring suggest that a new multilateral normative framework may be necessary in order to define and structure the links between competition and trade policies so as to take into account the increasingly global context in which competition policy is implemented and ensure the continuing development of the international trading system, as conceived in the Havana Charter. A closer relationship between the regimes governing trade and competition would have a number of advantages for both. A trade-related multilateral competition regime would lead to greater convergence in national competition laws and enforcement. This is a necessity given that enforcement efforts may be deterred by fears of reducing the competitiveness of national enterprises or of discouraging foreign investment. There is likewise anxiety that competition policy may be used in a protectionist fashion. There is also concern that extraterritorial exercises of jurisdiction to promote market access for exports may give rise to tensions and that firms subject to divergent national regimes would experience difficulties as a result.

104. Competition regimes would also benefit from the incorporation of the basic principles provided through GATT such as most favoured nation (MFN) provisions and the availability of recourse to GATT dispute settlement machinery. Effective action could be taken at the multilateral level in seeking harmony in the application of national legislation to cases involving more than one national jurisdiction. Multilateral coordination would facilitate the settlement of disputes arising from RBP cases originating abroad or where there are conflicts over jurisdiction or where coordinated enforcement seems appropriate.

105. Linking competition policy to the multilateral trading system would better enable the latter to deal with private firms' barriers to trade. This would safeguard the benefits of trade liberalization, reflect the realities of global competition and ensure a "level playing-field" for all trading firms and all countries, particularly developing countries and their firms. Trade regimes could also draw on competition concepts and philosophies in elaborating balanced and equitable rules to mitigate protectionist behaviour. Unilateral application of competition rules by individual countries in the area of trade would otherwise be inhibited by the perceived risk that other countries might obtain trading advantages. Moreover, specialized regimes which may be elaborated through the Uruguay Round negotiations on trade-related aspects of intellectual property rights and investment (TRIPs and TRIMs, respectively) would be subjected to appropriate checks and balances incorporated within a multilateral competition regime.

Notes

1/ Terms of reference of the Ad Hoc Working Group on Expansion of Trading Opportunities for Developing Countries (TD/B/1323 (Vol. II)).

2/ See, Report of the Ad Hoc Working Group on Expansion of Trading Opportunities for Developing Countries on its first session (14-18 December 1992), (TD/B/39(2)15; TD/B/WG.4/3).

3/ Ibid.

4/ For example,. coffee grown in an environmentally friendly way (among other important social factors) fetches a higher price in the market than other brands of coffee. Similarly, the demand for organically grown cotton may be on the rise. See also OECD, 1991, Environmental Labelling in OECD countries, OECD, Paris.

5/ See "Competitiveness and Environmental Standards - Some Exploratory Results", paper presented to the Conference on International Trade and the Environment, 22 and 23 March 1993, by the Austrian Federal Economic Chamber.

6/ C.f. The Roper Organization, Inc., "The Environment: Public Attitudes and Individual Behaviour", a study conducted for S.C. Johnson and Son, Inc., July 1990.

7/ See Mark Fischetti, 1992, "Green entrepreneurs", Technology Review, April 1992, p. 39.

8/ For example, a survey conducted by ABT Associates of USA revealed that, for a range of products, consumers were not willing to pay more than 6 per cent more, on average, for environmentally friendly products. (ABT Associates, Inc., Consumer Purchasing Behaviour and the Environment: Results of an Event-based Study, November 1990.) It should be noted that 6 per cent refers to the final retail price. In most cases, developing country producers receive only a small share of the final retail price. If they were to receive a greater proportion of the environmental premium, it would translate into a large incentive for producers.

9/ One definition of eco clothes suggested by the "green market alert" in the United States of America is that of garments made with the following characteristics: of "green" or "natural" cotton, conventionally grown but processed in an environmentally sensitive manner, for example by reducing the use of resins and toxic chemicals; of organic cotton grown without chemical fertilizers or pesticides and involving crop rotation and other farming methods protective of the environment; of naturally coloured cotton, grown either organically or conventionally, but not dyed; of recycled post-consumer clothing made from shredded and respun or rewoven fibres. (See Barbara Harrison, "Fashions in Green", Financial Times, 9 June 1993, p. 10).

10/ Historically, environmental policies have focused on protecting air, water, and land from "point" sources of pollution (e.g. that from big factories, deforestation leading to soil erosion, power plants). Countries now recognize the importance also of non-point sources of pollution, including product policies on the use of chlorofluorocarbons (CFCs) or pesticides. Product policies refer to product standards and regulations which specify technical aspects of the product such as performance, quality, safety, or its physical dimensions. Environmentally related product policies have various purposes such as increasing energy efficiency, minimizing use of raw materials or creation of wastes; others consider the whole life-cycle of the product. For a complete list of environmental policies relating to products in OECD developed countries, except for the United States of America, see Congress of the US Office of Technology Assessment, 1992, Green Products by Design: Choices for a Cleaner Environment, OTA-E-541, table 5-1, p. 68-69.

11/ See European Report 3 April 1993 "Call for Realistic Packaging Directive". The draft directive specifies that "(recycling) systems shall ensure the coverage of imported products under non-discriminatory conditions ...". See also UNCTAD's Contribution within its Mandate to Sustainable Development - Trends in the Field of Trade and Environment in the Framework of International Cooperation, TD/B/40/1(6), September 1993.

12/ See V. Jha, and S. Zarrilli, 1993, "Eco-labelling Initiatives as a Barrier to Trade - a viewpoint from developing countries", paper presented at an OECD Expert Group Workshop on Life-cycle Analysis and Trade, 20-21 July, Paris, 1993.

13/ See Sportswear International, "Ecology and Fashion - Greener Still", 1992. These labelling schemes are being sponsored by the German textile industry; they are not included in the "Blue Angel" eco-labelling programme of Germany.

14/ The "MST (Marke scadstoffgeprufter Textilien)" is geared to the final consumer and involves tests for chemicals, dyes, etc. The "MUT (Marke umweltschonender Textilien)" relates to the production process and is meant to be used only by garment and textile manufacturers.

15/ Limits are set for heavy metals, formaldehyde (500 ppm) and pesticides (1 ppm). Seven different tests are needed to check the quantity of formaldehyde, pentachlorophenol, heavy metals, azoics, pesticides, etc., in garments.

16/ See, T. Bunning, G. Danne, C. Hagenmaier, F. Kolling, R. Siller, A. Wender, and J. Wiemann, 1993, International eco-standards as a new challenge for industries in developing countries - The case of Indian textiles, Paper written for the German Development Institute, Berlin, February 1993.

17/ Precedents of such time-limited exemptions can be found in article 12.6 of the Technical Barriers to Trade Agreement of GATT.

18/ A case in point was the Tropical Timber legislation of Austria of 26 June 1992, which came into force on 1 September 1992. It provided for mandatory marking of tropical timber with the label "made of tropical timber", or "contains tropical timber". The ASEAN countries took issue on the grounds that tropical timber and temperate climate timber could be considered as like-products but the marking regulations applying to tropical timber did not apply to other woods and was thus not consistent with GATT provisions. The legislation was subsequently withdrawn.

19/ See Financial Express, an Indian daily, November 1990, various issues.

20/ For example, big suppliers have found it easier to get the licence number for the green dot system as they simply use their buyer's licence number; moreover information on how to change the packaging was available and was not an expensive process.

21/ See Bunning et al., 1993, op. cit.

22/ For a complete definition on Eco-labelling, the procedure for granting an eco-label, and market shares, see V. Jha, R. Vossenaar, and S. Zarrilli, 1993, Ecolabelling and International Trade - Preliminary Information from seven systems, paper prepared for the ISO-IEG subgroup on labelling, May 1993.

23/ Information is collected through staff research; studies financed through extra-budgetary resources; and directly from member States.

24/ See Commodities Division, UNCTAD, 1992, Natural Resources Management and Sustainable Development - A Programme for Implementation by UNCTAD.

25/ See ISO/IEG SAGE Sub-Group on Environmental Labelling, 1993, "Minutes of the Meeting in Toronto", International Organization for Standardization, 27/28 May 1993.

26/ See V. Jha, R. Vossenaar and Simonetta Zarrilli, 1993, op. cit.

27/ They may encounter difficulties in doing so, however, as was reflected by the attempt of the Brazilian exports of pulp and paper to attain either direct representation or an indirect voice through the participation of the International Chamber of Commerce in European Community discussions on the criteria for eco-labelling of pulp and paper.

28/ See UNCTAD, 1993 (TD/B/40/1(6)) op. cit.

29/ Crisis aid to enterprises in financial difficulties has been provided by Governments mainly in cases where enterprises were considered to be of vital economic and social importance.

30/ See OECD, Industrial Policies in OECD countries, Annual Review 1992, Paris, 1992

31/ Sectoral data tend to be incomplete, insufficiently disaggregated or limited in their comparability across countries. It is difficult to identify structural shifts which involve greater specialization of companies, modifications in product lines, changes in methods of production or expanding use of new technology.

32/ In one and the same industrial sector, adjustment strategies may comprise plant closures, termination of less profitable production lines, reduction in staffing levels, improvements in productivity through the application of the latest technology, shifts to higher-quality products and relocation of lower-range products to developing countries.

33/ Its implications for trade with developing countries have been analysed in "Follow-up to the recommendations adopted by the Conference at its eighth session: evolution and consequences of economic spaces and regional integration processes" report by the UNCTAD secretariat (TD/B/40(1)7).

34/ Sectoral programmes rely heavily on grants; a significant portion uses ad hoc combinations e.g. loans, guarantees, equity capital, tax concessions.

35/ Article 4 of the ECSC treaty prohibits State aid in EC member States. However in the first half of the 1980s, following the declaration of crisis in the industry, State aid could be granted temporarily, but was made conditional on the reduction of production capacity. Since the mid-1980s, State aid has been restricted to subsidies for R & D, environmental protection and plant closures although exceptions to the rule have been made.

36/ E.g. Denmark, France, Germany, Italy, Spain, United Kingdom.

37/ E.g. the provision of technical information and consultancy assistance to foster advanced manufacturing technologies in firms; promotion of cooperation between universities, R & D institutes and industry; encouragement of partnerships between firms for collaborative R & D; assistance with the commercialization of technologies developed through government funding; etc.

38/ Including microelectronics, computers and computer-based information, and telecommunications.

39/ See OECD, Employment Outlook 1992, chap. 2 (Organisation for Economic Cooperation and Development, Paris, 1992).

40/ Incentives provided may be broadly grouped into five categories: (a) Investment information services and investment promotion activities, including the financing of pre-investment surveys and feasibility studies; (b) Investment guarantee schemes covering non-commercial risks (e.g. war, expropriation and transfer risks); (c) Fiscal incentives; (d) Financial aid (e.g. preferential loans to firms wishing to invest in developing countries); and (e) Establishment of government-sponsored investment corporations providing equity and loan capital for joint ventures. Export credit and export credit insurance programmes which facilitate equipment exports have in many cases also been decisive factors in the financing of a private foreign investment.

41/ For instance, the Overseas Private Investment Corporation (OPIC) of the United States accords preference to low-income developing countries.

42/ See also OECD, Positive Adjustment Policies: Managing Structural Change, (Organisation for Economic Cooperation and Development, Paris, 1983).

43/ A notable exception is "China Steel" (Taiwan, Province of China) which is planning to set up a rolling mill (a US$ 259 million investment) in Malaysia to serve the local market. Conversely, "Posco" (Republic of Korea) is considering the construction of a rolling mill (US$ 1 billion) in Malaysia with strong export orientation. See J.R. Chaponnière, "The newly industrializing economies of Asia: International investment and transfer of technology", STI Review, No. 9 (April 1992).

44/ See J.R. Chaponnière, op. cit.

45/ Each individual may invest $5 million per year abroad without permission.

46/ Poland was apparently the only country among the CEET to return to growth in 1992. Unemployment fell slightly in 1992 in the Czech Republic and Slovakia, while it continued to rise in many other CEET.

47/ For instance, Bulgaria, Czech Republic, Hungary, Poland, Slovakia.

48/ See Employment Outlook 1992, OECD, Paris (1992).

49/ In Romania, a group of experts has been set up under the auspices of the Romanian Academy of Science, and is charged with the task of elaborating a long-term programme for technological renewal. Called GENERT, it focuses on energy conservation, chemicals and petrochemicals, mining, metallurgy, transportation, telecommunication, research and development.

50/ See Competition Policy and Joint Ventures, OECD, Paris, 1986.

51/ See "Concentration of market power in the markets of developing countries through mergers, take-overs, joint ventures and other acquisitions of control, and its effects on international markets, in particular the markets of developing countries" Report by the UNCTAD secretariat (TD/B/RBP/80/Rev.2).

52/ See UNIDO, "International trade and the marketing of petrochemicals", Third Consultation on the Petrochemical Industry (UNIDO/PCR8), Vienna, November 1985.

53/ See "Structural change in export marketing channels of developing countries", International Trade Centre UNCTAD/GATT, 1988; and "Transnational corporations in African trade: Major trends in primary commodities" (E/ECA/89/26).

54/ See UNCTAD, "Prospects for the world cocoa market until the year 2005" (UNCTAD/COM/5); UNCTAD, "Studies in the processing, marketing and distribution of commodities: The processing and marketing of coffee" (TD/B/C.1/PSC/31/Rev.1), United Nations Publication, Sales No. E.84.II.D.24, and UNCTAD, "The marketing and processing of tea" (TD/B/C.1/PSC/28/Rev.1), United Nations Publication, Sales No. E.84.II.D.10.

55/ See "Structural change in export marketing channels of developing countries; op. cit.

56/ Ibid.

57/ See "Obstacles to trade and competition", OECD, Paris, 1993. Webb-Pomerene associations are formed under the Webb-Pomerene Act, which grants exemption from the application of antitrust law to export trade associations formed for the sole purpose of engaging in export trade, provided they meet certain conditions.

58/ See "ECU 15 million in fines are imposed on shipping firms", Antitrust and Trade Regulation Report, 2 April 1992, vol. 62, p. 422, and "EC Commission fines shipping", Conference for Practices breaching articles 85 and 86, ATTR, 14 January 1993, vol. 64, p. 31.

59/ TD/B/RBP/80/Rev.2, op. cit.

60/ See "Multinational Survey", The Economist, 27 March 1993.

61/ See "Obstacles to Trade and Competition", op. cit.

62/ See the "Annual Report of the Director-General of Fair Trading 1988", HMSO, London.

63/ See "Corporate behaviour in restraint of trade in goods and services in Pakistan", consultant report prepared for the UNCTAD secretariat by A. Riaz (UNCTAD/ITP/66).

64/ See "Trade and development aspects of new and emerging technologies: The case of biotechnology", UNCTAD secretariat report (TD/B/C.6/154).

65/ See UNCTAD, "Annual Report 1989 on legislative and other developments in developed and developing countries in the control of restrictive business practices" (TD/B/RBP/61).

66/ See "The relevance of recent developments in the area of technology to the negotiations on the draft international code of conduct on the transfer of technology", TD/CODE TOT/55).

67/ See F. de Mateo, "Trade, technology and competitive opportunities", in Competition and Economic Development, OECD, Paris, 1991.

68/ See World Investment Report 1992 and TD/B/RBP/80/Rev. 2 op. cit.

69/ See TD/CODE TOT/55.

70/ Beecham Group v/s International Products Ltd., quoted in D. Gladwell, "The exhaustion of intellectual property rights" (1986) European Intellectual Property Review, vol. 12, p. 368.

71/ Such countries include Argentina, Brazil, Chile, Côte d'Ivoire, Gabon, Jamaica, Kenya, India, Mexico, Pakistan, Peru, Republic of Korea, Sri Lanka, Thailand, Tunisia and Venezuela.

72/ Section E, para. 4 TD/RBP/CONF/10/Rev.1.
