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Multilateral Competition Rules

We welcome the following comments by the Commissioner for Competition Policy. "In spite of the considerable progress that has been made at the bilateral level, the fact must be faced that arrangements for international cooperation in compet-ition policy based solely on a bilateral approach entail major short-comings. It is evident that bilateral cooperation will inevitably take into account only the interests of the countries involved and, as a result, the interests of third countries are likely to be neglected. Moreover, many still have no competition legislation at all. Despite a marked increase in enthusiasm for introducing competition rules over the past decade, still only about half the WTO's member countries have competition laws. The substance of these rules, and the zeal with which they are enforced in the various countries, show wide divergence.

"The OECD's 1995 recommendation concerning competition cooperation, and the recommendation on "hard core" cartels which it adopted earlier this year, represent important guidelines for the shape which bilateral cooperation should take, particularly when several member countries are grappling with the threat posed by an international cartel. The recommendations are addressed only to OECD member countries, however, and are not binding even on them. Nor are the current WTO rules adequate for dealing with competition problems. The WTO Panel's ruling in April 1998 on the dispute between the USA and Japan, which involved allegations of anti-competitive behaviour by Fuji aimed at denying its US rival Kodak access to the Japanese market for photographic film and paper, provided a clear illustration of this inadequacy.

"A comprehensive worldwide multilateral framework, providing for the application of a basic set of common competition rules, needs to be established as a necessary complement to trade liberalisation. Because of this complementary relationship between trade and competition policy, the WTO would appear to be the multilateral organisation best suited to house such a framework. The idea of creating a supranational structure of this kind was the subject of a Commission Communication to the Council in 1996, which proposed that the WTO should set up a working group with a remit to explore the desirability of going down that path. This proposal, which was endorsed by the Council, provided the principal inspiration for the ministerial decision, taken in Singapore in December 1996, to establish a WTO working group to study the interaction between trade and competition policy. This group has already met on a number of occasions and will continue its deliberations in 1999. Although the degree of interest shown by both the industrialised and the developing countries (including some countries which have no domestic competition rules) in the discussions is very encouraging, it is too early to say whether they will ultimately lead to the launching of formal negotiations between the members of the WTO. I hope that they will, as part of the next Round of multilateral negotiations." □