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**DSTI/SI/SC(97)56**  
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Organisation de Coopération et de Développement Economiques  
Organisation for Economic Co-operation and Development

**DSTI/SI/SC(97)56**

**OLIS : 23-Dec-1997**  
**Dist. : 23-Dec-1997**

**Or. Eng.**

**DIRECTORATE FOR SCIENCE, TECHNOLOGY AND INDUSTRY**  
**STEEL COMMITTEE**

**ENHANCED WORK ON STEEL TRADE AND TRADE-RELATED ISSUES:**  
**QUESTIONNAIRE**

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**Or. Eng.**

## **SUMMARY**

At its meeting on 13-14 November 1997, the Steel Committee discussed and approved the approach to be used in collecting information in support of its enhanced work on trade and trade-related issues [DSTI/SI/SC/M(97)2, paragraphs 32 to 35]. It was decided that basic information would be collected through a questionnaire that the Secretariat would prepare and circulate to delegations.

Following receipt of the questionnaires, the Secretariat would prepare a summary report, for initial consideration at the Committee's Spring 1998 meeting.

## **ACTION**

The questionnaire to be used to collect information is attached. Delegations are asked to return completed responses to the Secretariat by **2 March 1998**. In addition to a paper copy of the completed questionnaire, submission of **electronic versions** would also be greatly appreciated.

## **RELATED DOCUMENTS**

DSTI/SI/SC/M(97)2, paragraphs 32-35

DSTI/SI/SC(97)30/REV1

**ENHANCED WORK ON STEEL TRADE AND TRADE-RELATED ISSUES:  
QUESTIONNAIRE**

**Background**

1. The purpose of this questionnaire is to collect information on the situation in steel trade in the countries participating in the Steel Committee. The information will be used as a point of departure for the Committee's enhanced work on steel trade and trade-related issues.
2. The questionnaires should be submitted by **2 March 1998**. Following their receipt, the Secretariat will prepare an overview report, which will be considered initially at the Committee's May 1998 meetings, together with the individual reports submitted by countries.
3. In subsequent Committee meetings, the Committee will focus attention on more narrowly defined issues (such as trade agreements and programmes, trade trends, state aids to steel, trade remedies, tariffs, trade barriers, etc.). In support of each of these discussions, the Secretariat will prepare analytic papers on the topics to be addressed, using the country reports as a principal input.
4. The questionnaire is divided into five parts: (1) the situation in steel trade; (2) trade remedies and government assistance to steel; (3) tariffs; (4) nontariff measures; and (5) trade agreements and programmes.

**Preliminary**

5. In the space provided below, please indicate the reporting area for which the questionnaire is being submitted, and the name of a person to be contacted if there are any questions about the information provided.

<p><b>1. Name of reporting country (or area):</b></p> <p><b>2. Contact person:</b></p> <p style="margin-left: 40px;">Name: .....</p> <p style="margin-left: 40px;">Phone: .....</p> <p style="margin-left: 40px;">Fax: .....</p> <p style="margin-left: 40px;">Internet: .....</p>
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Questions concerning the questionnaire can be directed to Peter Avery at the OECD (phone: 33-1-45 24 93 63; fax: 33-1-45 24 88 65; Internet: Peter.Avery@oecd.org).

## **Part 1. The situation in steel trade**

6. The purpose of this part of the questionnaire is to gather basic information on steel trade flows. In addition to statistical information, countries are asked to provide commentary on the principal developments in imports and exports during 1995-97, and the outlook.

### ***Note on statistical information***

7. The Committee agreed it would be useful to focus on four basic categories of steel products: semifinished steel (i.e., ingots, bloom billets and slabs), flat-rolled steel (i.e., plates sheets and strip); long products (i.e., bars, rods, wire and structural shapes), and pipes, tubes and pipe fittings. It further agreed to track trade between and within seven regions: North America, South America, western Europe (including the EU-15), central and eastern Europe, the new independent states of the former Soviet Union, the Asia-Pacific area, and Africa and the Middle East.

8. Information on 1995, 1996 and 1997 is requested. Please note that for 1997, partial year data can be provided in the event full year data are not available; questionnaire respondents should indicate the period covered in footnote 1 in Table 1 and Table 2 [*The data for 1997 reflect the period January to \_\_\_\_\_ (please specify the month)*].

- Please note that data is requested in *thousands* of metric tonnes.
- If no trade has occurred, the symbol “-” should be used.
- Trade amounting to less than 500 tonnes should be reported as “0”.
- Information on product definitions and country groupings is contained in Annex 1.

### **A. Report on steel imports**

9. On a separate sheet(s) of paper, please report on the principal developments in steel imports during 1995 to 1997. Questions to be answered could include the following:

- What shifts have occurred in steel imports during 1995 to 1997, and what were the principal factors causing the shifts?

*[Commentary could cover changes in (1) the volume of steel imports, (2) the nature of the products imported, and (3) shifts in the countries supplying imports.]*

- What are the short term expectations for 1998 and 1999?
- What are the longer term expectations for imports for the year 2000 and beyond (e.g., what role are imports expected to play in the domestic market)?

### **B. Report on steel exports**

10. On a separate sheet(s) of paper, please report on the principal developments in steel exports during 1995 to 1997. Questions to be answered could include the following:

- What shifts have occurred in steel exports during 1995 to 1997, and what were the principal factors causing the shifts?

*[Commentary could cover changes in (1) the volume of steel exports, (2) the nature of the products exported, and (3) shifts in the countries to which the steel was exported.]*

- What are the short term expectations for 1998 and 1999?
- What are the longer term expectations for exports for the year 2000 and beyond (i.e., how is the role of domestic producers in world markets likely to evolve)?

## C. Statistical tables

Table 1. Steel imports

Source	Type of steel											
	Semifinished steel			Flat-rolled steel			Long products			Pipes, tubes and fittings		
	1995	1996	1997 <sup>1</sup>	1995	1996	1997 <sup>1</sup>	1995	1996	1997 <sup>1</sup>	1995	1996	1997 <sup>1</sup>
Thousands of metric tonnes												
North America												
South America												
Western Europe												
of which: EU-15												
Central and Eastern Europe New independent states of the former Soviet Union												
Asia and Pacific area												
Africa and Middle East												
Total, all areas												

1. The data for 1997 reflect the period January to \_\_\_\_\_ (please specify month).

Table 2. Steel exports

Destination	Type of steel												
	Semifinished steel			Flat-rolled steel			Long products			Pipes, tubes and fittings			
	1995	1996	1997 <sup>1</sup>	1995	1996	1997 <sup>1</sup>	1995	1996	1997 <sup>1</sup>	1995	1996	1997 <sup>1</sup>	
	Thousands of metric tonnes												
North America													
South America													
Western Europe													
of which: EU-15													
Central and Eastern Europe New independent states of the former Soviet Union													
Asia and Pacific area													
Africa and Middle East													
Total, all areas													

1. The data for 1997 reflect the period January to \_\_\_\_\_ (please specify month).

## Part 2. Trade remedies and government assistance to steel

11. The purpose of this part of the questionnaire is to collect information on the measures that governments have introduced to remedy certain situations in steel trade. The measures include those arising from the dumping or subsidisation of steel, and measures to safeguard the industry from the serious injury arising from increased imports. Information is also requested on the support measures adopted for the industry.

### A. Antidumping and countervailing duty measures

12. In Table 3, please report on any antidumping or countervailing duty proceedings that:

- are underway;
- have resulted in definitive antidumping or countervailing duty determinations; or
- have resulted in the conclusion of any undertakings, suspension agreements, or the like.

Under the column on:

- *Country/customs territory subject to investigation or measures*, report the area subject to the antidumping or countervailing duty measure or investigation;
- *Product subject to investigation or measures; Description*, describe the product involved as precisely as possible , (e.g., cold-rolled carbon sheet);
- *Product; Harmonised system code number*, report the HS item number(s);
- *Type of case*, report whether the case is an antidumping (AD) or countervailing duty (CVD) proceeding;
- *Status of proceeding*, report whether the case is “ongoing” or whether it has resulted in “definitive duties” or an “undertaking” of some sort. Further information on undertakings should be provided on a separate sheet(s) of paper.
- *For final measures (definitive duties, undertakings, etc.)*, report on the *Date entering into force* (i.e., when the measure came into effect), the *Duration of the measure* (from the date it entered into force), and the approximate *Annual trade volume* affected when the measure came into force (in thousands of metric tonnes and thousands of US dollars).



**Table 3. Antidumping and countervailing duty measures, and related undertakings**

Country/customs territory subject to investigation or measures	Product subject to investigation or measures --		Type of case (AD, CVD)	Status of proceeding (ongoing, final duties, or undertaking <sup>1)</sup> )	For final measures (definitive duties, undertaking, etc)		
	Description of product	Harmonised system code number(s)			Date entering into force	Duration of measures	Annual trade volume affected: in thousands
						Metric tonnes	US dollars

1. Please report the details of any undertaking on a separate sheet(s) of paper.

**B. Safeguard measures**

13. Report below on any safeguard measures that have been taken in steel, or any safeguard investigations that are underway. Please use one sheet for each measure.

<b>1. Description of products involved:</b> .....
.....
.....
<b>2. Harmonised system code numbers:</b> .....
.....
.....
<b>3. Status (under investigation, final measures taken, etc.):</b> .....
.....
.....
<b>4. In instances where measures have been taken:</b>  Date entered into force:..... Termination date:.....
<b>5. On a separate sheet(s) of paper, please provide:</b>  -- a description of the measure(s) taken; and  -- an assessment of the effects on trade.

**C. Government assistance to steel**

14. Report below on government assistance to steel companies that has been granted, consistent with WTO/GATT guidelines (see Annex 1 for a description of the measures to be reported).

<b>1. Title of the programme:</b> ..... ..... .....					
<b>2. Policy objective and purpose of the subsidy:</b> ..... ..... .....					
<b>3. Governmental level (international, national, regional, state, local, etc.):</b> ..... ..... .....					
<b>4. Starting date:</b> ..... <b>5. Expiration date:</b> .....					
<b>6. Financing instrument(s) used by the programme (place and “x” in the appropriate box):</b>					
Regular grant	<input type="checkbox"/>	Regular loan	<input type="checkbox"/>	Equity capital	<input type="checkbox"/>
Reimbursable grant	<input type="checkbox"/>	Conditional loan	<input type="checkbox"/>	Tax concession	<input type="checkbox"/>
Interest rate subsidy	<input type="checkbox"/>	Loan guarantee	<input type="checkbox"/>	Other <sup>1</sup> (describe below)	<input type="checkbox"/>
<b>7. On a separate sheet(s) of paper, please provide details on:</b>  <div style="margin-left: 40px;">                     the terms and conditions of the subsidy;                       the gross and net cost to the government (in US dollars), and                       the parties to whom is the subsidy available.                 </div>					

1. Other: .....  
 .....  
 .....

### Part 3. Tariffs

#### A. MFN tariffs

15. Report information on steel tariffs applicable to WTO members on a most-favoured-nation basis, in Table 4. *Bound rates* refer to the legal maximum rates applicable to imports, as agreed to in the GATT; *applied rates* refer to the rates actually being applied to imports. Please note that information is requested on *range of rates*. In instances where multiple rates apply within a product area, the lower and upper rate should be indicated (e.g. 3 to 8 per cent).

Table 4. Tariffs

Product	Tariffs as of 1 January 1998		
	As classified under harmonised system item	Range of rates (Per cent <i>ad valorem</i> )	
		Bound rates	Applied rates
Carbon, flat-rolled steel -- hot-rolled	7208		
Carbon, flat-rolled steel -- cold-rolled	7209		
Coated or plated carbon steel	7210		
Carbon steel bars and rods	7213, 7214, 7215		
Carbon steel shapes	7216		
Carbon steel wire	7217		
Flat-rolled stainless steel	7219		
Stainless steel bars, rods and shapes	7221, 7222		
Stainless steel wire	7223		
Seamless steel pipes and tubes	7304		
Welded steel pipes and tubes	7305, 7306		

**B. Concessionary rates**

16. Report on any concessionary steel tariff rates applied to countries (please use one sheet for each programme).

<b>1. Title or nature of programme:</b> .....	
.....	
.....	
<b>2. Objective:</b> .....	
.....	
.....	
<b>3. Steel products included in the programme (indicate HS item number and describe the product briefly):</b> .....	
.....	
.....	
<b>4. Country(ies) benefiting from the concessionary rates:</b>	
.....	
.....	
<b>5. Starting date:</b> .....	<b>6. Expiration date:</b> .....
<b>7. Estimated volume of trade benefiting from the concessions in 1997:</b>	
<b>In thousands of metric tonnes:</b> .....	<b>In thousands of US dollars:</b> .....
<b>8. On a separate sheet(s), please describe the nature and conditions of the concession(s).</b>	

**Part 4. Non-tariff measures**

17. Please report on non-tariff measures applicable to steel.

<b>Does your country/area maintain any of the following:</b>	<b>Yes</b>	<b>No</b>
<i>1. Quantitative measure(s), such as:</i>		
Voluntary restraint agreements or other agreements affecting the patterns of steel trade?		
Quantitative restrictions on steel import or exports?		
Measures that have the effect of controlling the production or supply of steel products, thereby affecting imports or exports?		
Other measures having an equivalent effect on imports or exports (such as non-automatic licensing and tariff quotas)?		
Import balancing requirements affecting steel?		
<i>2. Financial and investment measures, to the extent that they differ from accepted GATT/WTO practices, such as:</i>		
Measures to regulate the price or financing of steel imports or exports?		
Customs or reference prices used to calculate tariffs?		
Import charges and taxes on steel imports that are not generally applied to all imports (other than import duties)?		
Governmental pricing or marketing arrangements affecting steel imports or exports?		
Foreign investment policies as applied to steel (limitations and incentives) <sup>1</sup> ?		
<i>3. Administrative procedures, such as:</i>		
Marking or labelling requirements applicable only to steel imports or exports?		
Registration, documentation, and customs procedures for steel that are not generally applied to all imports or exports?		
Import /export licensing for steel products?		
<i>4. Competition measures, such as:</i>		
National or local government procurement provisions that provide different treatment for domestically-produced and imported steel?		
Local content requirements affecting steel?		
Competition policy as applied to steel -- anti-trust legislation enforcement decisions?		
Import/export cartels involving steel?		
<i>5. Other measures, such as:</i>		
Import /export surveillance affecting steel?		
Standards and other technical requirements affecting steel imports or exports?		
State trading companies responsible for co-ordinating or overseeing steel imports or exports?		
Measures affecting the importation or exportation of steelmaking materials (such as ferrous scrap)?		
Other measures (please describe)?		

1. See Annex II.

18. For each of the items marked “yes”, please provide the following information (please use one sheet for each measure):

<b>1. Name of the measure:</b> ..... ..... .....	
<b>2. Objective:</b> ..... ..... .....	
<b>3. Steel products covered by measure (indicate HS item number and describe the product briefly):</b> ..... ..... .....	
<b>4. Country(ies) affected by the measures:</b> ..... .....	
<b>5. Starting date:</b> .....	<b>6. Expiration date:</b> .....
<b>7. On a separate sheet(s), please describe the nature of the measure.</b>	

**Part 5. Trade agreements, programmes and multilateral negotiations**

**A. Trade agreements and negotiations**

19. Please report on any other (i.e., other than those already reported in parts one to four) trade programmes adopted for steel, and describe any formal or informal agreements or understandings entered into with foreign entities involving steel (please use one sheet for each agreement or programme).

<b>1. Title of agreement or programme:</b> ..... ..... .....	
<b>2. Country(ies) involved:</b> ..... ..... .....	
<b>3. Products involved (indicate the HS items number(s) and describe the product(s) briefly:</b> ..... ..... .....	
<b>4. Objectives or purpose of the agreement or programme:</b> ..... ..... .....	
<b>5. Date entered into force:</b> .....	<b>6. Termination date:</b> .....
<b>7. Assessment of the effects on trade:</b> ..... ..... .....	
<b>8. On a separate sheet(s), please describe the nature and conditions of the agreement of programme.</b>	

**B. Multilateral negotiations**

20. On a separate sheet(s), please report on any multilateral negotiations or discussions that have been held, or are scheduled to be held, on steel that have not been reported above.



## ANNEX I

### Product definitions:

- *Semifinished steel*: ingots bloom billets and slabs, as defined under HS items 7206; 7207; 7218 and 7224.
- *Flat-rolled steel*: plates, sheets and strip, as defined under HS items 7208; 7209; 7210; 7211; 7212; 7219; 7220; 7225; and, 7226.
- *Long products*: 7213; 7214; 7215; 7216; 7217; 7221; 7222; 7223; 7227; 7228; 7229; 7301; and 7302.
- *Pipes, tubes and fittings*: as defined under HS items 7304; 7305; 7306; 7307.21; 7307.22; 7307.23; 7307.29; 7307.91; 7307.92; 7307.93; and 7307.99.

### Country groupings

- *North America*, including Canada, the United States and Caribbean and central American countries.
- *South America*, including Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Falkland Islands (Malvinas), French Guiana, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela.
- *Western Europe*, including the European Union, Iceland, Norway, Switzerland, Turkey, Bosnia and Herzegovina, Croatia, Slovenia, the former Yugoslav Republic of Macedonia and the Federal Republic of Yugoslavia
- *EU-15*, including Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the United Kingdom
- *Central and eastern Europe*, including Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland and Romania
- *New independent states of the former Soviet Union*, including Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russia, Ukraine, Uzbekistan and other CIS republics
- *Asia and Pacific area*, including Bangladesh, Bhutan, Brunei, Cambodia, the Peoples Republic of China, East Timor, India, Indonesia, Japan, the Democratic People's Republic of Korea, the Republic of Korea, Laos, Macau, Malaysia, Mongolia, Myanmar, Nepal,

Pakistan, Philippines, Singapore, Sri Lanka, Chinese Taipei, Thailand, Vietnam and Oceania (Australia, New Zealand, Melanesia, Micronesia and Polynesia)

- *Africa and Middle East*, including African countries, Bahrain, Iran, Iraq, Israel, Jordan, Lebanon, Oman, Qatar, Kuwait, Saudi Arabia, Syria, United Arab Emirates and Yemen

### Definition of subsidy

The WTO requires the following subsidies to be notified: (1) all specific subsidies defined in Articles 1 and 2 of the *WTO Agreement on Subsidies and Countervailing Measures*; and (2) all other subsidies which operate directly or indirectly to increase exports of any products from, or to reduce imports of any products into the territory of the Member granting or maintaining the subsidies (pursuant to Article XVI:1 of GATT 1994).

Article 1 of the *WTO Agreement on Subsidies and Countervailing Measures*, deems a subsidy to exist if:

“(a)(1) there is a financial contribution by a government or any public body within the territory of a Member (referred to in this Agreement as "government"), i.e. where:

- (i) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees);
- (ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits);
- (iii) a government provides goods or services other than general infrastructure, or purchases goods;
- (iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (i) to (iii) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments;

or

(a)(2) there is any form of income or price support in the sense of Article XVI of GATT 1994;

and

(b) a benefit is thereby conferred.”

[Extract from Article 1 of the Agreement]

When the subsidies defined above are *specific*, they must be notified to the WTO. Specificity is defined in Article 2 of the Agreement as follows:

“1. In order to determine whether a subsidy, as defined in paragraph 1 of Article 1, is specific to an enterprise or industry or group of enterprises or industries (referred to in this

Agreement as "certain enterprises") within the jurisdiction of the granting authority, the following principles shall apply:

- (a) Where the granting authority, or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises, such subsidy shall be specific.
  - (b) Where the granting authority, or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to. The criteria or conditions must be clearly spelled out in law, regulation, or other official document, so as to be capable of verification.
  - (c) If, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in subparagraphs (a) and (b), there are reasons to believe that the subsidy may in fact be specific, other factors may be considered. Such factors are: use of a subsidy programme by a limited number of certain enterprises, predominant use by certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy. In applying this subparagraph, account shall be taken of the extent of diversification of economic activities within the jurisdiction of the granting authority, as well as of the length of time during which the subsidy programme has been in operation.
2. A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific. It is understood that the setting or change of generally applicable tax rates by all levels of government entitled to do so shall not be deemed to be a specific subsidy for the purposes of this Agreement.”

[Extract from Article 2 of the Agreement]

3. The following subsidies are also considered specific:
- “(a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those illustrated in Annex I;
  - (b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.”

[Extract from Article 3 of the Agreement]

Article XVI:1 of GATT 1994 provides the following further guidelines:

“If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the Contracting Parties in writing of the extent and nature of the subsidisation, of the estimated effect of the subsidisation on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidisation necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidisation, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the Contracting Parties, the possibility of limiting the subsidisation.”

[Article XVI:1 of GATT 1994]

Further information can be obtained via the Internet at <http://www.wto.org>. The full text of the *Agreement on Subsidies and Countervailing Measures*, which includes an illustrative list of export subsidies, is accessible at this site, as is the full text of GATT 1994.

## ANNEX II

Foreign investment is subject to rules and guidelines established in the *WTO Agreement on Trade and Trade-Related Investment Measures* and, for OECD countries, the *Declaration on International Investment and Multilateral Enterprises* and the *Code of Liberalisation of Capital Movements*. Moreover, efforts are now underway in the OECD to conclude a *Multilateral Agreement on Investment* (MAI) which would provide a comprehensive framework for international investment with high standards of liberalisation and investment protection, and with effective dispute settlement procedures.

### WTO Agreement on Trade and Trade-Related Investment Measures

The *WTO Agreement on Trade-Related Investment Measures* (TRIM) provides that no contracting party shall apply any measure inconsistent with Articles III (national treatment) and XI (prohibition of quantitative restrictions) of the GATT. A WTO summary of the Agreement states:

“The agreement recognises that certain investment measures restrict and distort trade. It provides that no contracting party shall apply any TRIM inconsistent with Articles III (national treatment) and XI (prohibition of quantitative restrictions) of the GATT. To this end, an illustrative list of TRIMs agreed to be inconsistent with these articles is appended to the agreement. The list includes measures which require particular levels of local procurement by an enterprise ("local content requirements") or which restrict the volume or value of imports such an enterprise can purchase or use to an amount related to the level of products it exports ("trade balancing requirements").”

The illustrative list alluded to above is contained in the Annex to the Agreement; its text is as follows:

“1. TRIMs that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which require:

- (a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or
- (b) that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports.

2. TRIMs that are inconsistent with the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article XI of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which restrict:

- (a) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports;
- (b) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or
- (c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.”

[Extract from the Annex to the Agreement on Trade-Related Investment Measures]

## **OECD instruments**

### ***Declaration on International Investment and Multilateral Enterprises***

The Declaration establishes the principle of “national treatment” for investment. It states:

- “1. That Member countries should, consistent with their needs to maintain public order, to protect their essential security interests and to fulfil commitments relating to international peace and security, accord to enterprises operating in their territories and owned or controlled directly or indirectly by nationals of another Member country (hereinafter referred to as ‘Foreign-Controlled Enterprises’) treatment under their laws, regulations and administrative practices, consistent with international law and no less favourable than that accorded in like situations to domestic enterprises (hereinafter referred to as ‘National Treatment’);
2. That Member countries will consider applying ‘National Treatment’ in respect of countries other than Member countries;
3. That Member countries will endeavour to ensure that their territorial subdivisions apply ‘National Treatment’;
4. That this Declaration does not deal with the right of Member countries to regulate the entry of foreign investment or the conditions of establishment of foreign enterprises; ...”

The full text of the Declaration is available via the Internet at the following address:  
<http://www.oecd.org/daf/cm/codes/declarat.htm>.

### ***Code of Liberalisation of Capital Movements.***

The Code indicates that the direct investment described below shall be free, subject to two reservations:

- “1. an investment is of a purely financial character designed only to gain for the investor indirect access to the money or financial market of another country; or

2. in view of the amount involved or of other factors, a specific transaction or transfer would have an exceptionally detrimental effect on the interests of the Member concerned.”

The investment covered includes:

“Investment for the purpose of establishing lasting economic relations with an undertaking such as, in particular, investments which give the possibility of exercising an effective influence on the management thereof:

In the country concerned by non-residents by means of:

1. Creation or extension of a wholly-owned enterprise, subsidiary or branch, acquisition of full ownership of an existing enterprise;
2. Participation in a new or existing enterprise;
3. A loan of five years or longer. ”

The full text of the Code is available via the Internet at <http://www.oecd.org/daf/cm/s/codes/clcmart.htm>.