Foreword

The 2010 Trade Policy Agenda and 2009 Annual Report of the President of the United States on the Trade Agreements Program are submitted to the Congress pursuant to Section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213). Chapter II and Annex II of this document meet the requirements of the World Trade Organization in accordance with Sections 122 and 124 of the Uruguay Round Agreements Act. In addition, the report also includes an annex listing trade agreements entered into by the United States since 1984. Trade data for 2009, where listed, are annualized based on January to November data. Services data by country are only available through 2008.

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report, which was written by USTR staff. The Office of the U.S. Trade Representative gratefully acknowledges the contributions of the Environmental Protection Agency, the Departments of Agriculture, Commerce, Health and Human Services, Justice, Labor, and State.

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LIST OF FREQUENTLY USED ACRONYMS

AD	Antidumping
AGOA	African Growth and Opportunity Act
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
ATPA	Andean Trade Preferences Act
ATPDEA	Andean Trade Promotion & Drug Eradication Act
BIA	Built-In Agenda
BIT	Bilateral Investment Treaty
BOP	Balance of Payments
CACM	Central American Common Market
CAFTA	Central American Free Trade Area
CARICOM	Caribbean Common Market
CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CFTA	Canada Free Trade Agreement
CITEL	Telecommunications division of the OAS
COMESA	Common Market for Eastern & Southern Africa
CTE	Committee on Trade and the Environment
CTG	Council for Trade in Goods
CVD	Countervailing Duty
DDA	Doha Development Agenda
DSB	Dispute Settlement Body
EAI	Enterprise for ASEAN Initiative
DSU	Dispute Settlement Understanding
EU	European Union
EFTA	European Free Trade Association
FTAA	Free Trade Area of the Americas
FOIA	Freedom of Information Act
GATT	General Agreement on Tariffs and Trade
GATS	General Agreements on Trade in Services
GDP	Gross Domestic Product
GEC	Global Electronic Commerce
GSP	Generalized System of Preferences
GPA	Government Procurement Agreement
IFI	International Financial Institution
IPR	Intellectual Property Rights
ITA	Information Technology Agreement
LDBDC	Least Developed Beneficiary Developing Country
MAI	Multilateral Agreement on Investment
MEFTA	Middle East Free Trade Area

MERCOSUL/MERCOSUR	Southern Common Market
MFA	Multifiber Arrangement
MFN	Most Favored Nation
MOSS	Market-Oriented, Sector-Selective
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
NAFTA	North American Free Trade Agreement
NEC	National Economic Council
NIS	Newly Independent States
NSC	National Security Council
NTR	Normal Trade Relations
OAS	Organization of American States
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
PNTR	Permanent Normal Trade Relations
ROU	Record of Understanding
SACU	Southern African Customs Union
SADC	Southern African Development Community
SME	Small and Medium Size Enterprise
SPS	Sanitary and Phytosanitary Measures
SRM	Specified Risk Material
TAA	Trade Adjustment Assistance
TABD	Trans-Atlantic Business Dialogue
TACD	Trans-Atlantic Consumer Dialogue
TAEVD	Trans-Atlantic Environment Dialogue
TALD	Trans-Atlantic Labor Dialogue
TBT	Technical Barriers to Trade
TEP	Transatlantic Economic Partnership
TIFA	Trade & Investment Framework Agreement
TPRG	Trade Policy Review Group
TPSC	Trade Policy Staff Committee
TRIMS	Trade Related Investment Measures
TRIPS	Trade Related Intellectual Property Rights
UAE	United Arab Emirates
UNCTAD	United Nations Conference on Trade & Development
UNDP	United Nations Development Program
URAA	Uruguay Round Agreements Act
USDA	U.S. Department of Agriculture
USITC	U.S. International Trade Commission
USTR	United States Trade Representative
VRA	Voluntary Restraint Agreement
WAEMU	West African Economic & Monetary Union
WB	World Bank
WTO	World Trade Organization

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THE PRESIDENT'S 2010 TRADE POLICY AGENDA

I. THE PRESIDENT'S TRADE AGENDA

Our Goal: Making Trade Work for America's Working Families

President Obama's economic strategy halted the slide into a deep economic crisis and laid the foundation for renewed American prosperity that is more sustainable, fairer for more of our citizens, and more competitive globally. This progress required bold policy decisions at home, bolstered by efforts abroad to keep world markets open and economies moving toward greater stability.

During the most severe recession since 1945, the nations of the world decisively rejected a protectionist panic. The steady resolve of the world's leadership preserved the basis of the global trading system – and the potential of that system to aid economic recovery – through the worst of the downturn. The G-20 nations each pledged to honor their obligations on trade and to work toward a balanced and ambitious outcome in the Doha Round of World Trade Organization (WTO) negotiations. In the United States, while crafting measures together to stimulate the American economy, Congress and the President reaffirmed our commitment to international trade obligations.

As we reiterated the U.S. commitment to the rules-based global trading system, we exercised American rights within that system to bring more of its promised benefits – jobs and economic opportunities – home to American families and businesses. Fighting for market access abroad and responding to unfair foreign competition at home sometimes required new dispute proceedings at the WTO or action through other venues; in other cases, long-standing disputes that had paralyzed American ranch and farm exports were resolved through reinvigorated negotiations. We also found new market opportunities in existing vehicles for trade consultations – for instance, through a Joint Commission on Commerce and Trade agreement to further open China's market to American wind energy products.

In 2010, American exports will be critical to the creation and support of new American jobs. Accordingly, President Obama has set a goal of doubling U.S. exports in the next five years – an increase that will support 2 million additional jobs in America. Smart trade policies will play an important role in helping to meet the President's goals as part of the new National Export Initiative.

As part of our daily focus on spurring economic growth and putting Americans back to work, the Administration began several months ago to craft a comprehensive plan for reaching the President's goal of increasing exports over the next five years. Key cabinet agency officials including the United States Trade Representative and the Secretary of Commerce, along with the Council of Economic Advisers, the National Economic Council, and the National Security Council carefully analyzed growth trends in the world economy and policies the Administration could pursue to help improve U.S. export performance over the 2009-2014 period.

The President's National Export Initiative includes a newly created Export Promotion Cabinet, an enhancement of funding for key export promotion programs, the mobilization of government officials to engage in export advocacy activities, the launch of export tools for small- and medium-sized businesses, the reduction in barriers to trade, and the opening of new markets.

Creating and implementing these and other forward-leaning policies requires a frank conversation with Congress and with the American people about the benefits and challenges of engagement with global trade and investment.

The President's Trade Policy Agenda for 2010 advances a robust American role in the global trading system by further outlining what trade can mean for American exports, jobs, and economic growth – and also for global economic recovery and well-being. It discusses policies that implement our commitment to the rules-based trading system and the enforcement of our rights within that system. It outlines the steps that we will take to further stimulate jobs and growth here at home and around the world, and how we are building on existing trade agreements and pending pacts. It addresses how our trade policy partners the United States with the developing countries of the world. And it examines the Administration's commitments to the American people on energy and the environment, to making trade policy more reflective of American values – including the fundamental rights of workers – and to political transparency in trade policy.

Trade and American Jobs

Effective trade policy helps increase exports that yield well-paying jobs for Americans – a win both for our companies and for our working families. Whether businesses are large or small, studies show that firms engaged in trade usually grow faster, hire more, and on average pay better wages than those that do not. In recent years, exports of manufactured goods have become an important source of employment, supporting almost one in five of all manufacturing jobs.

Commerce Department estimates suggest that over 10 million jobs were supported by exports in 2008 and doubling exports from 2009 to 2014 could help exports support millions more jobs. Export expansion will also bring broader benefits for American recovery: the U.S. economy began to expand again in the last six months of 2009, at a rate of 4 percent (on an annualized basis) – and rapidly growing U.S. exports contributed nearly 2 percentage points to this growth rate.

Trade is also the lifeblood of many American farms and ranches. Compared to the general economy, U.S. agriculture is twice as reliant on overseas markets. And our traditionally high levels of exports of such crops as wheat, rice, and corn are being joined by growing exports of fruits, vegetables, and animal products. The Agriculture Department estimates that our agricultural exports currently support jobs for more than 800,000 Americans.

To improve American prosperity, we must match other countries in seeking new international markets aggressively. About 95 percent of the world's customers and almost 80 percent of its economic production are already outside U.S. borders. International Monetary Fund forecasts indicate that nearly 87 percent of world growth over the next 5 years will take place outside of the United States. America cannot reach its full potential for generating jobs without selling more goods and services globally. As the President said in the State of the Union, "If America sits on the sidelines while other nations sign trade deals, we will lose the chance to create jobs on our shores."

We have to be frank in recognizing that some Americans lose jobs as markets shift in response to trade competition. Working with Congress, the President was able to sign into law in 2009 expanded eligibility and much-needed advances in Trade Adjustment Assistance (TAA), including covering service workers for the first time. There is more we can and must do to limit the impact of dislocations and to support new jobs for workers in transition, and we will continue our ongoing work with Congress to ensure adequate funding for TAA programs and to ensure that U.S. workforce programs complement each other.

Effective trade initiatives can open markets and ensure that more of trade's benefits accrue to American workers. Trade promotion policies can help to meet expanded export goals with new advocacy assistance

for American firms, more trade related financing, and policies designed to stimulate innovative technologies. But trade policy alone cannot achieve our goals. Our policies for education, investment, labor markets, health care, energy, the environment and innovation also have to respond to changes in the world economy. American workers will prosper and American firms will compete strongly only if we improve competitiveness at home.

A broad international effort is also vital. As President Obama said in November 2009, for the sake of a stable and balanced global prosperity, the major economies must work together to rebalance the world economy and avoid the boom and bust cycle that has plagued us. Trade policy has a key role in this rebalancing. As an economy, the United States needs to slow the rate of consumption growth, while it saves, invests, produces and exports more. Countries with large trade surpluses should increase their domestic consumption and imports as part of a more balanced growth strategy. Collectively, the community of nations has to break down long-standing barriers to trade and investment as well as newer impediments that obstruct trade and slow economic integration. Competitive global markets, governed by effective rules for trade and sound domestic policies, can advance our broader economic agenda for sustainable growth and prosperity shared by farmers, workers, ranchers, entrepreneurs large and small, and those who struggle economically here and around the world.

Our Policy Priorities

Support and Strengthen a Rules-Based Trading System

In a time of global economic challenge, the United States has reaffirmed its commitment to the rules-based trade system anchored by the WTO's system of multilateral trading rules and dispute settlement. The WTO is both a venue for multilateral liberalization through negotiation and a defense against protectionism. The alternative to respect for the rules is growing mutual suspicion and conflict among trade partners.

Strengthening of the trade system can occur through better enforcement of existing rights and through new rules negotiated to respond to changing economic conditions. Enforcement actions both increase public confidence in the fairness and effectiveness of trade rules, and they provide an equitable way to handle disagreements in a mature trade relationship. The WTO's system of dispute settlement is a vital avenue for countries to resolve difficult disagreements while maintaining solid working relationships. Just as importantly, a strong dispute settlement system gives countries an incentive to negotiate earnestly to avoid the risk of litigation.

It is not enough just to preserve past progress in trade liberalization and enhance public confidence in existing rules. We seek to continue the process of reducing trade barriers in order to strengthen the commerce that yields good jobs.

Although there are many avenues for trade negotiation, the WTO remains the most comprehensive venue and influences the functioning of the rest of the trade system. As the President made clear in a November 2009 speech in Japan, the United States is "working toward an ambitious and balanced Doha agreement – not any agreement, but an agreement that will open up markets and increase exports around the world." This is why we strongly support the work to complete an ambitious and balanced Doha Round agreement. A successful Doha Round will embrace a process of balanced and ambitious give and take among established or newly emerging trading powers, while giving due consideration to the special interests and circumstances of developing economies, including major achievements in regard to their development agenda.

There should be no mistake about the context for the Doha Round. The United States is the most open major market in the world. Similarly, the United States provides significant duty-free and quota-free market access to least-developed countries. The question is how to move forward based on this foundation, and whether advanced developing economies will accept responsibility commensurate with their growing economic influence.

In terms of what is currently on the table in the Doha negotiations, the value of what the United States would give in market opening, along with a reduction of U.S. agriculture support, is well-known and easily calculable. In contrast, the value of new opportunities for our businesses, workers, farmers, and ranchers remains vague because of the broad flexibilities available to key emerging markets, like China, India, and Brazil that are fast growing economies and important markets of the future. To achieve further progress, it is essential to gain more clarity in the level of market access contributions by advanced developing countries, and ensure that the results provide significant market opportunities for American entrepreneurs and workers in agriculture, goods, and services. Such market access contributions also will underpin the development goals of the negotiations given that 70 percent of the tariffs developing countries pay are paid to other developing countries.

The Doha negotiations, launched in 2001, had been stalled for years when President Obama took office in 2009. Strict focus on the effort to negotiate broad, generally-applicable formulas for tariff reduction (so-called "modalities") had produced no final agreement at ministerial gatherings in 2006, 2007, and 2008. Rather than agreeing to replicate the past negotiating process that had led to weak results, the United States has supported a different approach to the end game in order to gain a stronger outcome.

Since a review of the negotiations at the outset of this Administration, the United States clearly has indicated ways to advance the negotiations through a variety of mechanisms. These include pursuing negotiations focusing on tariff liberalization in selected industrial goods sectors (*e.g.*, chemicals, electronics, health care products, industrial machinery) and improved packages in services (providing new market access in key infrastructure services sectors such as financial services, information and communications technology, distribution, energy and express delivery). Meaningful progress on reducing non-tariff barriers that inhibit our exports is critical. The United States has led the way with proposals on remanufactured goods, and in sector-specific areas such as the automotive sector and electronics. The United States also remains a leader in advancing the Doha negotiations on trade facilitation aimed at reducing red tape and addressing other unwarranted customs barriers at the border – matters which especially concern U.S. exporters.

We remain convinced that a Doha success can be achieved if all major economies are willing to come to the negotiating table. Recent U.S.-led innovations in the negotiating process have supplemented the broad-based multilateral negotiations with direct bilateral engagement among key Members. The purpose is to achieve more clarity and to bridge gaps – especially with regard to ensuring sufficient market access contributions by advanced developing countries. In the Doha Round, the least developed countries are not being asked to make any commitments. In 2009, G-20 Leaders directed that a stock-taking of the Doha negotiations be conducted in early 2010, and the United States is committed to ensure that this be done in the most efficient and appropriate format that contributes to further progress.

A sound Doha agreement that provides meaningful liberalization in all three core market access areas – agriculture, goods and services – could boost the world economy, support many good jobs, assist poorer countries, and reinforce confidence in a rules-based trading system. In short, it would be good for the

world and for the United States. But a weak agreement would not serve these interests and ultimately would weaken the WTO.

Enforce Our Rights in the Rules-Based System

The American people expect firm pursuit of our rights in the rules-based trading system in order to ensure fair competition with global trading partners. Americans succeed in global competition when partners play by the established rules for exporting and importing.

Our trade rights include protection of intellectual property, the ability to address a wide array of market access barriers to U.S. goods and services, and recourse to trade remedies when necessary. Taken together, these rights guarantee the economic opportunities of trade by reducing critical barriers to our exports and leveling the playing field among trading partners. Our rights also include the upholding of the American values embodied in basic international labor standards and in the implementation of international environmental agreements.

During 2009, this Administration responded to the call of the American people for more vigilant trade enforcement, and exercised our discretion to assert America's trade rights. Whether addressing a harmful surge of Chinese tire imports into the United States, challenging unjustified restrictions on U.S. exports of agricultural products in multiple countries, acting to implement a finding that Canada violated the softwood lumber agreement, winning distribution rights for American content companies in China, or filing suit over Chinese export quotas and duties on raw materials needed by core U.S. industrial sectors from steel and aluminum to chemicals, the Administration has taken actions under the legal remedies authorized by our trade agreements.

At the same time, we have made it clear that we welcome rapid and pragmatic resolution of trade disputes rather than prolonged uncertainty. In this spirit, we maintained some WTO-authorized trade sanctions, but refrained from imposing sanctions on new European Union products while working with the EU to address the long-standing American claims against policies that restricted imports of American beef.

We continue to strengthen our capacity to monitor markets and strongly enforce our rights and benefits under our trade agreements. This year, we will report and act on new measures instituted in 2009 to spot and address trade barriers that particularly affect America's agricultural producers and manufacturers, such as sanitary and phytosanitary measures restricting U.S. agricultural exports and technical barriers impeding our producers' ability to trade worldwide. We will continue to increase coordination between USTR and the Departments of State, Labor, Commerce, Agriculture, and other federal agencies to spot and respond to violations of our trade rights more quickly and effectively.

Many of the most troublesome problems for our exporters involve behind the border barriers that are co-mingled with legitimate rules for important social purposes such as privacy, consumer protection, and food safety goals. These purposes are recognized fully and supported under trade agreements, but they sometimes serve as an excuse to introduce discriminatory trade measures. Too frequently, scientific judgments and internationally accepted guidelines are ignored when making policies for agricultural products, including rules governing poultry sanitation, restrictions on pork and pork products in response to the H1N1 virus, non-science-based restrictions on the import of U.S. beef, and regulations governing some genetically modified food products. Even in trading partners with sophisticated regulatory systems, such as the European Union and Japan, certain regulations and enforcement actions are inconsistent with scientific evidence and internationally accepted guidelines. More vigorous enforcement of existing trade rules may address some trade related problems for such high-growth industries as biotechnology. When

making decisions to enforce our trade rights, we will be careful to consult with other U.S. agencies to ensure consistency with, and the protection of, our own domestic policy interests. Because the foundations of global agricultural trade depend on economies' adherence to scientific evidence and internationally accepted guidelines, we will continue to rely on the best scientific advice when making our decisions.

Over the last year, we also instituted more vigorous scrutiny of foreign labor practices and began to redress practices that impinge upon labor obligations in our trade agreements, deny foreign workers their internationally recognized rights, and tilt the playing field away from American workers. We will enhance monitoring by USTR and other agencies of labor practices in FTA partner countries, ensure thorough review of all public submissions under FTA labor chapters, directly engage other governments to address areas of concern through dialogue and technical cooperation programs as appropriate, and invoke FTA consultation and arbitral panel provisions as needed. In addition to enforcement of labor provisions in trade agreements, we will intensify dialogue with key trade partners to ensure the discussion of labor rights as part of our trade discussions. In doing so, we will seek regular, high-level dialogue with key trade partners, including China, India, Mexico, Canada, and the EU, to elevate the discourse on the relationship between respect for labor rights and enhanced trade.

Monitoring our FTA partners' implementation of, and compliance with, environment chapter obligations is an important part of USTR's mission. USTR gathers information on implementation and compliance issues through regular meetings with our FTA partners, active engagement with our advisory committee members, and by engaging civil society in both the United States and our FTA partner countries. Recently, USTR created a Subcommittee of the Trade Policy Staff Committee (TPSC) to focus exclusively on monitoring of implementation and compliance issues for FTA environment chapters. These mechanisms and high-level dialogue on trade and environment issues with our FTA partners will provide USTR with the tools necessary to ensure our FTA partners are faithfully and fully adhering to their FTA environmental obligations.

We will enforce fully labor and environmental rights specified in our trade agreements, including through dispute settlement as necessary.

Enhance U.S. Growth, Job Creation and Innovation

American trade policy has to emphasize the pursuit of the most significant new market opportunities in ways that enhance sustainable growth, innovation, and good jobs through expanded trade.

Deepening engagement with major emerging markets is critical for American trade prospects. We placed a particular emphasis on countries such as China, India, Brazil, and Russia in 2009; these and other large emerging markets will figure prominently in the future. As a region, the Asia-Pacific will weigh much more prominently in American trade and world economic activity in the future, and it will take multiple initiatives to maximize the opportunities for the region. Deepening and strengthening our longstanding and vital trade ties with the European Union will build upon the already immense benefits of that relationship. Beyond geographic opportunities, we plan to target specific classes of market barriers that impede our trade, and focus on sectors that provide special opportunities for enhanced growth of jobs and innovation, working within and enhancing key bilateral and regional arrangements.

The U.S.-China Joint Commission on Commerce and Trade (JCCT) addressed numerous issues with our second largest trading partner in 2009. Some significant progress emerged on issues involving

intellectual property (*e.g.* combating Internet piracy), better access for American wind energy companies, and agriculture (*e.g.* working to dismantle the barrier to U.S. pork products created over fears concerning the H1N1 virus), but many matters influencing market access remain unresolved including China's approach to industrial policies such as indigenous innovation. A greater understanding of best practices regarding government policies for intellectual property protection, the setting of industry standards, and government procurement practices could promote government policies that foster, rather than hamper, the development of technology markets. China's industrial policies in various sectors, particularly steel, involve substantial government involvement in production and investment decisions, contributing to production overcapacity and unnecessary trade frictions. Concerns about transparency also continue. We must continue to improve the management of the U.S.-China relationship to address concerns in a timely, proactive way. In 2010, we will make the JCCT more effective by ensuring our priorities reflect evolving market conditions and changing Chinese policies and develop work plans with clear outcomes and responsibilities. A successful and productive JCCT in 2010 will reinforce the United States' other work with China, including the Strategic and Economic Dialogue.

Similarly, in 2009 the Administration sought to strengthen frameworks for America's growing relationship with India. U.S.-India trade has doubled in the last five years. To accelerate this trend, the most recent ministerial meeting of the U.S.-India Trade Policy Forum set out a significantly expanded work program and refreshed its advisory groups. In 2010, as part of the Trade Policy Forum, we intend to address key trade irritants and develop cooperative initiatives – especially on issues related to innovation, services, agriculture, market access, and investment. Our plans also include work on a commercial space launch agreement and continued negotiation of a Bilateral Investment Treaty.

After years of emphasis on the multilateral dimension and bilateral concerns in the U.S. trade relationship with Brazil, this Administration sought a more collaborative focus in 2009. U.S. exports and imports with Brazil more than doubled between 2001 and 2008 in a balanced trading relationship. We can do even better with a stronger bilateral mechanism for engagement, and in 2010 we will explore options for the creation of a more robust formal framework for trade dialogue between the United States and Brazil.

In 2009, the United States worked with Russia to develop a well-functioning and more mature trade relationship in keeping with the objective of both our governments for a stronger overall partnership. Even as we pressed strongly for changes in Russian policy to end significant barriers to American farm products and other exports, we still worked diligently with Russia on how it could achieve its goal of accession to WTO membership. Since the apparent reversal of Russia's announced plan to accede to the WTO as part of a customs union with Kazakhstan and Belarus, we have awaited clearer signals on its trade plans in 2010, including its intentions on how to resume work on its WTO accession and to resolve a bilateral trade concern. We will continue to work with Russia to ensure that trade and investment priorities keep pace with other important aspects of our bilateral relationship.

Bilateral relationships are crucial. But as we know, multi-faceted regional economic relationships are of major, and even growing, importance for United States and for the world.

The Asia-Pacific region, encompassing Asia and the Americas, already constitutes the largest share of the world economy, and that share will continue to grow in the coming decade. If the United States is to benefit from more exports, job expansion, and accelerated innovation through trade, the Asia-Pacific must take a central place in our trade agenda. And countries in that region must see the United States as a committed and engaged trading partner if we are to remain similarly at the center of its network of intensifying trade relationships.

Given the region's diverse institutions, an Asia-Pacific strategy necessarily must include multiple, complementary approaches. Finding the right vehicles for achieving our interests was a critical task for our trade agenda in 2009. Two initiatives with different approaches and constituencies will be central to our regional efforts in 2010 and 2011.

After a careful analysis and extensive consultation with Congress and with stakeholders, the United States announced in December 2009 that it intends to enter into negotiations of a regional, Asia-Pacific trade agreement, known as the Trans-Pacific Partnership (TPP) Agreement, with Australia, Brunei, Chile, New Zealand, Peru, Singapore, and Vietnam. The Administration believes that the TPP is the strongest vehicle for achieving economic integration across the Asia-Pacific region and advancing U.S. economic interests with the fastest-growing economies in the world. Building on the most forward-looking aspects of existing Free Trade Agreements (FTAs) and on the emerging special opportunities and challenges characterizing the Asia-Pacific market, the United States intends to shape a broad, deep, and high quality 21st century regional trade agreement. We believe that the dynamic economies of the countries involved in the negotiation, and its strong policy ambitions, will lead other countries to seek to join the undertaking.

The Administration will develop its negotiating objectives for the TPP Agreement consistent with its pledge to engage fully with diverse stakeholders in America. To that end, this Administration has embarked upon an unprecedented scale and scope of consultative outreach related to TPP involving all 50 states and key Congressional committees. We will organize advice not just by traditional industry boundaries, but also in response to cross-cutting concerns involving matters ranging from labor and the environment to the efficiency of regional supply chains and the concerns of small- and medium-sized businesses. This effort will also demonstrate that a properly designed process of expanded consultation with stakeholders and Congress does not have to slow down trade negotiations, but can in fact energize talks. We plan to participate in the first two negotiating sessions of the TPP in the first half of 2010, even as the consultative process progresses.

At the same time, we will continue work with our trading partners in the Asia Pacific Economic Cooperation (APEC) forum to build consensus and advance work on critical trade and investment issues leading up to 2011 when the United States will host APEC. To this end, we are coordinating with the 2010 host nation, Japan, on an ambitious agenda that engages APEC's broad membership on crucial trade and investment topics for the region's future. Initiatives in APEC are a successfully demonstrated way of building a stronger and constructive American role in the Asia-Pacific market.

The expanded APEC agenda addresses many of the key prospects for growing jobs through expanded exports and faster rates of economic growth and innovation. For example, in 2009 APEC concluded work on an initiative co-sponsored by the United States, aimed at enhancing the cross-border trade of services that has become so vital for American exporters. APEC members also took steps to make it cheaper, easier, and faster for businesses to conduct trade in the region in order to expand exports and grow jobs. Specifically, we worked to simplify rules of origin and documentation, making it easier to take advantage of preferential trade deals in the region; to reduce the time, cost, and uncertainty of moving goods and services through the region by improving logistics and transportation networks; and to improve the transparency and accessibility of APEC economies' customs information and regulations. We believe that these new APEC work programs will stimulate the trade-driven growth of small- and medium-sized enterprises that particularly need less red tape and more cost-effective logistics. Additionally, APEC members agreed on an ambitious plan to address barriers to trade and investment in environmental goods and services.

The TPP and APEC initiatives will be complemented by other undertakings in the region. For example, we are committed to continue working with the ten Southeast Asian countries that comprise the Association of Southeast Asian Nations (ASEAN) to build our economic relationships in this region of commercial and strategic importance to the United States and to support ASEAN integration.

The Administration recognizes the maturity, stability, and immense mutual benefits of the U.S. trade relationship with the European Union. The instances of transatlantic trade tensions are dwarfed by the depth of our investment and trade ties, much of which translates directly to jobs and which signifies the leadership of the United States and Europe in a 21st century innovation economy. A deepening of this partnership and removal of remaining impediments promises even greater returns. We will look for ways to respond more fully to the shared challenges we face as an innovation-driven transatlantic market, especially as other major trading partners assume a more prominent role in global trade. While fully respecting those who regulate on behalf of the health and safety of American and European citizens, we must also find means of minimizing trade conflict in the regulatory sphere, particularly in areas where technology is presenting new challenges. We also are confident that the United States and the EU can benefit from a fuller sharing of experiences about the vital roles of small- and medium-sized enterprises (SMEs) in our trade relationship. For example, a larger percentage of European SMEs export globally than do U.S. SMEs, and we will seek to identify lessons to help U.S. small businesses enjoy similar export successes.

Even as we address trade in bilateral and regional contexts, a smart trade policy must also pursue new ways to enhance our prospects in the high-growth, high-value-added markets at the core of American competitive strength in goods, services, and many parts of agriculture. This leads us to another set of trade initiatives focused on our biggest growth opportunities.

The significance of non-tariff barriers has increased in the global trading system as tariffs have declined. While enforcing existing rules governing non-tariff barriers is essential, we will pursue new initiatives on non-tariff barriers that bolster the legal protections of our exporters and investors within the rule-making and judicial processes of our trading partners. We will propose agreements on improving transparency in decision-making because they reinforce the right of American firms to be full players in the process. We will advocate for agreements reinforcing the rights of American firms to the same treatment as the firms of the host country, including the state-owned enterprises that often receive privileged treatment under national industrial policies.

We will tackle one of the most vexing problems for American firms on world markets: the costly and time-consuming regulatory review of products across many national markets. Whenever the prospects for success are reasonable and our own ability to regulate in the public interest can be fully protected, we will use trade policy to help American firms get their products to market more simply and more efficiently. For example, winning recognition of testing results issued by qualified U.S. laboratories by regulators in other countries could reduce costs and simplify safety certification while upholding safety standards.

Because fostering innovation is essential to our prosperity and to the support of countless jobs in the United States, we will protect American inventiveness and creativity with all the tools of trade policy. Insufficient protection of intellectual property rights undermines key U.S. comparative advantages in innovation and creativity, to the detriment of American businesses and workers. We will address insufficient protection of intellectual property rights by negotiating and enforcing effective intellectual property protection in a manner compatible with basic principles of the public welfare. This will also advance global welfare, as the innovation rewarded by creation of intellectual property rights will be

essential for solving pressing global energy and environmental issues. At the same time, we will continue to recognize the need for timely transparency and public consultation when addressing intellectual property problems in rapidly changing markets, as our domestic legislation on intellectual property represents a careful and complex balancing of competing equities. This is why we have committed this year, with our trading partners, to assure meaningful public input on the proposed Anti-Counterfeiting Trade Agreement.

We will also pursue opportunities to improve trade rules in global and regional markets that present the largest opportunities for boosting innovation that can benefit American exports and even improve well-being around the world. For example, a 1990s trade initiative on e-commerce cleared the way for the global expansion of markets that was newly possible due to the emergence of the World Wide Web. This created major opportunities for American exports of information products and services. Today, another wave of major change in information and communications technology goods and services has expanded people's opportunities to benefit from powerful information services around the world, enabling sweeping innovations ranging from smart energy grids to vastly expanded telemedicine. We will discuss with our trading partners how trade policy could best enhance these new infrastructure services and technologies that are the digital foundations for the global innovation at which American firms particularly excel. When trade policy can advance these or other large opportunities for growth, such as energy and environmental technologies, we will respond by being flexible about the forum and the means.

Work to Resolve Outstanding Issues with Pending Free Trade Agreements and Build on Existing Trade and Investment Arrangements

Like other members of the WTO, the United States has created an extensive series of bilateral and regional trade and investment agreements. Last year, we pledged to seek paths forward on three pending Free Trade Agreements, and to build on important existing agreements to better achieve our goals of more jobs, higher growth, and the promotion of our core values. We seized the opportunities offered by current Free Trade Agreements and Trade and Investment Framework Agreements to discuss problems and launched new initiatives with a number of partners. We promised a careful review of the North American Free Trade Agreement (NAFTA) and of the model text guiding our negotiators on Bilateral Investment Treaties (BITs).

The Administration continues to believe that proper resolution and implementation of Free Trade Agreements with Panama, Colombia and Korea can bring significant economic and strategic benefits. However, there have been serious questions in America about some aspects of these pending pacts. Rather than brush these questions aside, we conducted extensive consultations with Congress, stakeholders, and the public on the pending Agreements, including a *Federal Register* Notice on Colombia and Korea to more precisely identify issues. We will continue to engage with the Governments of Panama, Colombia, and Korea as we further refine our analysis of these issues.

With Panama, we are tackling issues involving reform of its labor regime to achieve consistency with the pending trade agreement and are pursuing an understanding on tax transparency rules. We have begun working with Colombia to assess and improve the labor code and the measures to address violence against labor union officials to ensure that union rights in that country can be fully and freely exercised. With Korea, we are determining how best to address outstanding issues, particularly related to automobiles and beef, in light of the recent agreement between President Obama and President Lee to work together to move the agreement forward. If these outstanding issues can be successfully resolved,

we will work with Congress on a timeframe to submit them for Congressional consideration so our producers can take full advantage of the opportunities presented by these agreements.

Our partnership with Canada and Mexico is strong. We will seek opportunities to further strengthen this relationship both bilaterally and through the NAFTA process during the coming year. Last year's trade agenda promised to examine how to recalibrate the NAFTA, so that it better responds to the challenges facing North American competitiveness and the needs of our societies in the United States, Canada, and Mexico. The task now is to determine how best to make improvements in labor practices and policies, and environmental practices and policies, into complements to our common NAFTA goal of accelerating job creation and economic growth. Our trade ministers have agreed to seek closer cooperation to strengthen our undertakings with regard to labor and environmental issues related to our trade relationships.

With all NAFTA commitments to eliminate duties and quotas now fully phased in, regulatory cooperation is the next big opportunity to facilitate trade in North America and increase our global competitiveness. Our three governments agreed to focus in 2010 on cooperating to reduce unnecessary regulatory differences on matters such as standards and technical regulations. This priority is in keeping with the Administration's commitment to increase exports by small- and medium-sized American enterprises, as they disproportionately experience the costs of regulatory disparities when seeking to expand exports throughout the NAFTA region.

Substantial investment in foreign markets has become an indispensable foundation for supporting many American exports. Bilateral Investment Treaties are important tools for protecting the interests of American enterprises in overseas markets. As a result, these treaties have taken on greater significance for promoting American jobs and prosperity. We have to keep these agreements attuned to changing market conditions while maintaining their consistency with broader American values.

The Administration began a review of the "Model Bilateral Investment Treaty," co-led by the Office of the United States Trade Representative (USTR) and the Department of State, in spring 2009. It particularly assessed the proper balance of investor and government rights under the BIT and the adequacy of investor protections in markets featuring a prominent role for state-owned enterprises. Extensive public outreach contributed to the analysis. The Administration is working to conclude the BIT review expeditiously, so that the United States can resume negotiations with carefully chosen countries, including with key emerging economies, such as China, India, Vietnam, and Mauritius.

Facilitate Progress on National Energy and Environmental Goals

The President is working with Congress to advance new energy and environmental policies for the United States, including a strong response to the challenge of climate change, investment in alternative energy supplies and improved sustainability of key natural resources. Good trade policy can accelerate the success of sound energy and environmental initiatives.

The United States will back trade initiatives that will lower the cost and enhance the efficacy of our energy and environmental strategies. For example, we fully support fast-tracking action with willing partners in the WTO's work on liberalizing trade in innovative, climate-friendly goods and services through tariff reductions that will stimulate their global markets. These technologies can make our societies more energy efficient and less dependent on imported fossil fuels. This is a good environmental policy with strong jobs potential through greater exports.

Trade policy can complement sustainable growth. By promoting investment in clean energy technologies, we can create jobs at home and reduce greenhouse gas emissions around the world. A smart and comprehensive approach to climate change will respect our international trade obligations and help U.S. industries gain a competitive edge in the new clean energy economy. And, we can continue to work to ensure emerging and less developed economies will reduce carbon emissions while protecting the intellectual property rights that provide incentives for firms to innovate.

There are many other possibilities for complementary progress on trade and the environment. The management of sustainable natural resources could benefit strongly from trade rules that help to balance competitive markets with sustainable yields. Improving efficiency, reducing production subsidies, and curbing trade in illegally produced products can reduce costs while strengthening responsible resource management. For this reason, we are advocating strong rules in the WTO on fisheries subsidies, which can effectively curb overcapacity and overfishing. We have also championed the APEC Framework for Environmental Goods and Services and have used our trade dialogues with China and countries in Southeast Asia to introduce new initiatives on promoting trade in legally-harvested forest products. We will explore other trade measures to address the problem of illegal logging.

Foster Stronger Partnerships with Developing and Poor Nations

This Administration supports expanding trade opportunities to stimulate market-led growth in the poorer countries of the world and to lift their national income levels. Trade expansion can also be a powerful tool for restoring jobs to a nation devastated by natural disaster, such as Haiti. At the same time, the Administration recognizes that opportunities created by open markets require complementary measures to achieve the greatest boost for these countries.

Much can be done through the WTO. The United States stands by our Hong Kong commitment to provide duty-free and quota-free market access to least-developed countries as part of the implementation of a successful conclusion to the Doha Round. We also will champion the WTO's work on trade facilitation, as simplifying and modernizing customs procedures enhances trading opportunities, improves the investment climate and helps better integrate developing countries, particularly least developed countries (LDCs), into global supply networks. We also will continue support for the Enhanced Integrated Framework through bilateral trade capacity building assistance and on-the-ground presence in LDCs. This will include the work of USAID and the Millennium Challenge Corporation. We will work with developing countries to help prioritize trade in their development plans, particularly in critical undertakings such as food security. Entrepreneurs in developing countries are important champions for creating market-based prosperity.

Trade preference programs, such as the Generalized System of Preferences (GSP) and the African Growth and Opportunity Act (AGOA), help developing countries to find a place in the world trading system. We will continue to work with the Congress and other stakeholders to implement and improve these programs, and to better focus benefits on the poorest countries. We also will continue to provide trade-related technical assistance for these programs. Even as the United States retains its role as the world's largest donor of "aid for trade," countries benefiting from preference programs must also make the critical reforms and investments needed to diversify their exports and improve their competitiveness in the United States as well as regional and global markets.

In the world's poorest countries, ranging from Haiti to Sub-Saharan Africa, we will make special efforts to link trade and economic opportunity for countries that have been particularly ravaged by disaster or

violence. For example, we will work with the Haitian government, the private sector and international institutions to promote the recovery of Haiti's job-generating export sectors. We will help Haiti to take maximum advantage of opportunities in the U.S. market, particularly through the implementation of the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE II) Act and will explore further steps that can be taken to encourage investment in Haiti and the development of a vibrant private sector.

Sub-Saharan Africa is the location of the world's largest cluster of extremely poor countries, but the beginnings of growth and reform are evident. The United States will continue to partner with African countries to perpetuate positive changes. Building on the success of last summer's AGOA Forum in Nairobi, USTR will work with Congress and stakeholders toward a new U.S.-Africa trade paradigm that takes into account new and evolving global trade developments. The next AGOA Forum of U.S. and African trade ministers, to be hosted by the United States this year, can promote the benefits of U.S.-Africa trade to the American public, develop plans to better incorporate small- and medium-sized businesses into trade with Africa, and work with Congress to help African countries take better advantage of AGOA and other trade opportunities. The United States also will continue to work on a bilateral investment treaty with Mauritius, to work with African partners through existing Trade and Investment Framework Agreements (TIFAs), and to consider what other types of trade arrangements the United States can advance with African nations.

Finally, as the United States creates opportunities in developing economies, we will use trade policy and promotion measures to open markets for American businesses that are promising partners for comparable firms in developing countries. Credit for trade financing is critical. The United States strongly supported the G-20 call for international financial institutions and export credit facilities to assure adequate financing. The Administration is also coordinating all U.S. agencies to strengthen financing of small- and medium-sized American exporters.

Reflect American Values in Trade Policy

As trade's share in the national economy has grown – approximately tripling since 1970 to 30 percent of GDP – the consequences of trade policy for American governance and society have grown as well. The growing scope and impact of trade policy led this Administration to pledge greater transparency in the crafting of a trade policy that is more reflective of American values. We have turned these pledges into actions and these values inform our approach to the broad range of activities we pursue, ranging from market opening measures, enforcing trade agreements, and ensuring that regulatory regimes are consistent with trade obligations.

Reflecting American values in our trade policy begins with a keen appreciation of the relationship between trade and our workers, firms, farmers, and ranchers. It requires regular and thorough examination of how trade policy can best respond to the real people behind the shifting contours of the American economy – for instance, through increased attention to job-creating small- and medium-sized firms as the shift toward more sustainable and equitable growth for the United States decreases domestic consumption and increases the importance of exports. During the last 15 years, small- and medium-sized businesses have generated approximately 65 percent of all new jobs. It is for this reason that the U.S. Trade Representative designated an Assistant U.S. Trade Representative for Small Business, Market Access and Industrial Competitiveness, who will coordinate the agency's work on small- and medium-sized business trade priorities and enhance outreach to those firms, and why USTR has also requested extensive studies for delivery this year by the U.S. International Trade Commission on the export activities and potential of these key drivers of employment in the United States. We will continue to

expand our focus on small and medium-sized firms' concerns across the broad range of initiatives we are pursuing to open markets.

We also have acted on this Administration's commitment to greater transparency in trade policy. In the past year, USTR has revamped its public information and public outreach efforts, with a completely new website at http://www.ustr.gov and an embrace of social networking tools. This has improved the information available to the public about trade policy, while inviting a broader range of stakeholder comments.

Membership on official trade advisory groups was reviewed to increase the diversity of perspectives from citizens with expertise on the issues. New membership rosters will be announced as committees come up for re-chartering, beginning in the first quarter of this year. In keeping with the President's goal of reducing the influence of special interests on U.S. policy, the Administration also has announced that registered lobbyists will not be appointed (or reappointed) to these committees in the future.

No trade policy can succeed without close cooperation with the Members and leadership of Congress. There is a lively debate in Congress over American trade policy. We promise to continue to fully inform and consult with all Members of Congress on all aspects of our trade policy, and will work closely with our committees of jurisdiction when defining priorities. We will fully and respectfully engage with Congress on finding ways to advance the goals and policies outlined in this Agenda. We are confident that the American people and their representatives in Congress can support trade agreements and policies that live up to the standards set in this Agenda, and we will seek appropriate Congressional authorities when needed.

In addition, we have undertaken a review of the transparency policies for trade negotiations. Confidentiality remains an essential tool of diplomacy; but, timely public debate and review of major agreements is also essential. In the case of significant agreements that do not require Senate advice and consent or Congressional approval, USTR is introducing other means to assist meaningful public comment. For example, in the Anti-Counterfeiting Trade Agreement, USTR has laid out the policy premises for the negotiation and the details of the negotiating process more fully than in the past. USTR sought advice from a broad group of experts, including representatives of intellectual property rightsholders, Internet intermediaries, NGOs, and others, about prospective U.S. positions on IPR enforcement in the digital environment. And it won an endorsement from the countries in the negotiation of the importance of providing for meaningful public input to the negotiating process before its conclusion.

We also have extended the expansion of comment and advice into the Special 301 process that pinpoints key challenges for U.S. intellectual property-based businesses affected by piracy, counterfeiting, and other forms of IPR theft. In 2010 we will introduce a more far-ranging public hearing to assure that Special 301 decisions are based on a robust understanding of complicated issues involving intellectual property. Our commitment to public engagement will contribute to the development and implementation of sound, well-balanced trade policies to ensure the protection and enforcement of intellectual property rights. And we reaffirm our commitment to preserving developing countries' ability to protect public health and, in particular, to promote access to medicines for all, consistent with the principles laid out in the WTO Doha Declaration on the TRIPS Agreement and Public Health.

Conclusion

A trade policy focused on the largest opportunities for increasing American exports and jobs, on opening markets and boosting innovation, and based on the principles of a rules-based global trading system can contribute powerfully to the President's economic agenda for America. Our goal is sustainable economic growth that brings home the benefits of trade – including well-paying jobs – while also advancing global recovery. This will be done consistently with our goals for American values, including the rights of workers, environmental sustainability, and political accountability.

This Administration is committed to the hard work necessary to harness trade policy as an engine of growth and prosperity for America and for the world.

Ambassador Ron Kirk
United States Trade Representative
March 1, 2010

II. THE WORLD TRADE ORGANIZATION

A. Introduction

This chapter reviews the impact of the World Trade Organization (WTO) over its 15 year history, and outlines the work of the WTO in 2009 and the work anticipated for 2010. This work includes the multilateral trade negotiations launched at Doha, Qatar in November 2001, known as the Doha Development Agenda (DDA or Doha Round). This chapter details the ongoing work under the DDA as well as that of the WTO standing Committees and their subsidiary bodies and provides a review of the implementation and enforcement of the WTO Agreement. The chapter also covers the accession negotiations to expand the WTO's membership to include governments seeking to reform their economies and join the rules-based global trading system.

The United States remains strongly committed to the rules-based multilateral trading system, which advances the well-being of the people of the United States and of our trading partners. The World Trade Organization (WTO) continues to serve as the multilateral foundation of U.S. trade policy, playing a vital role as a vehicle for ensuring the ability of American farmers, ranchers, manufacturers and service providers to pursue new economic opportunities while also enabling global growth and development. The United States continues to operate in a leadership role at the WTO, working to ensure that trade fulfills its potential as a powerful contributor to the revival of the global economy and the renewal of growth in which benefits are broadly shared. The WTO provides a forum for enforcing U.S. rights under the WTO agreements to ensure that Americans receive the many benefits of WTO membership. The WTO Agreements also provide a foundation for high standard U.S. bilateral and regional agreements that make a positive contribution to a dynamic and open global trading system based on the rule of law. On a day-to-day basis, the WTO provides opportunities for advancing U.S. interests through its more than 20 standing Committees (not including numerous additional Working Groups, Working Parties, and Negotiating Bodies). These groups meet regularly to permit Members to exchange views, work to resolve questions of Members' compliance with commitments, and develop initiatives aimed at systemic improvements.

The DDA is the ninth round of multilateral trade negotiations to be carried out since the end of World War II. The DDA negotiations remain, along with the day-to-day implementation and enforcement of the rules governing world trade, a U.S. priority reflecting the imperative of continued multilateral trade liberalization as part of the foundation that contributes to stability and growth in a dynamic world economy.

Throughout 2009, the United States worked to advance the Doha Round trade negotiations on to a course that would move the DDA forward toward a successful final agreement, and rallied other WTO Members to stay focused on achieving an ambitious market-opening outcome that would yield meaningful new trade flows and economic opportunities worldwide. WTO Members had in each of the previous three years sought to move the Doha negotiations into the end game through meetings of Ministers intended to reach agreement on modalities for agriculture and non-agricultural market access (NAMA). Each such effort failed. Therefore, in 2009, the United States introduced a fresh approach. In meetings of Leaders and Ministers in various fora throughout the year, as well as through the work of senior officials in Geneva, the United States promoted not only a reenergized multilateral work process, but also supplemented such work with sustained, direct bilateral engagement between key players to close gaps on core issues of market access in industrial goods, agriculture, and services. The fall of 2009 saw these efforts begin to pay off.

2009 also offered an important demonstration of the WTO's role as an effective bulwark against "protectionist" impulses. "Protectionism" was first recognized as a danger by G20 Leaders at the Summit in Washington, DC in November 2008, when Leaders specifically committed not to raise trade barriers for a twelve month period. Immediately following this Summit, WTO Members decided at a December 2008 meeting of the WTO General Council that the WTO would monitor and report on newly imposed restrictive trade measures, utilizing the WTO's existing Trade Policy Review Body (TPRB) to fulfill the task. The United States actively participates in this monitoring and reporting process, which is not limited to G20 countries, but tracks the actions of all WTO Members and Observers.

In January, March, July, and November 2009, the WTO Director-General and WTO Secretariat issued reports on trade and trade-related policy developments as related to the global financial and economic crisis. WTO Members reviewed the first three reports (issued in January, March, and July) at TPRB meetings in February, April, and July 2009, respectively. The November 2009 report is to be reviewed at a February 2010 TPRB meeting.

The Director-General's early reports articulated fears of "significant slippage" in the fight against protectionism. However, reports later in the year noted that the resort to so-called "high intensity" protectionist measures had been contained overall and that there have been numerous instances of countries taking trade liberalizing and facilitating measures in response to the crisis. Put to the test, the multilateral trading system has held firm. Both the presence of WTO rules and very visible monitoring efforts at the WTO contributed to creating an environment in which Members were able to reshape and reconsider measures that might otherwise have triggered a protectionist spiral. However, continued vigilance remains important. In addition to work done at the TPRB, the day-to-day work of the WTO remains instrumental in buttressing multilateral efforts to contain protectionist impulses. Members must continue to use the standing WTO committees and other WTO bodies to shine a spotlight on individual Members' actions. Through discussions in these fora, Members seek detailed information on these actions and collectively consider them in light of WTO rules and their impact on individual Members and the system as a whole. The Members whose actions are being considered are then better able to factor trade concerns into domestic policy-making and avoid these concerns when pursuing various initiatives.

G20 Leaders renewed their commitment to resist "protectionism" at Summits in London in April 2009 and in Pittsburgh in September 2009. Similar political commitments were also repeated in 2009 in APEC and by other WTO Members. As 2009 ended, the economic crisis continued to highlight the importance of maintaining and expanding open markets, setting the stage for further efforts in 2010 to successfully conclude the Doha Round negotiations. In order to support the G-20 Leaders' commitments to resist protectionist measures, the public monitoring by the WTO of Members' trade measures aimed at restricting trade will also continue in 2010.

Finally, the WTO held its seventh Ministerial Conference, from November 30 to December 2, 2009. Held in Geneva, the conference's theme was "The WTO, the Multilateral Trading System, and the Current Global Economic Environment". The Ministerial Conference served as a low-key forum to allow Members to reflect on the role of the WTO and to review its ongoing work, including the Doha negotiations. The meeting featured a Plenary Session that lasted the entire session, along with two parallel Working Sessions. The Working Sessions focused on two broad sub-themes: Review of WTO activities, including the Doha Work Program; and the WTO's contribution to recovery, growth and development. Ministers agreed that the next Ministerial Conference will be held in 2011.

B. The WTO at 15 and American Interests

2010 marks 15 years since the United States became an original member of the World Trade Organization. In that time, the WTO has proven its worth as the bedrock of an open, rules-based global trading system. Through the rules and institutions that are already in place, the WTO has served to advance the interests of America's farmers, ranchers, manufacturers and service providers by providing them with certainty, transparency and stability in their efforts to compete for the business of the 95 percent of consumers who live outside the United States. Through its ongoing committee work and dispute settlement procedures, the WTO has provided a vehicle to address unfair foreign trade practices to ensure that the United States receives the benefits of WTO rules. And as a forum to pursue further multilateral trade liberalization in the Doha Round, the WTO provides Americans and people throughout the globe with the opportunity to pursue new economic opportunities for growth and development.

Created in 1995 as part of the results of the Uruguay Round of multilateral negotiations, in 2009 the WTO and its Members were called upon to fulfill a core role for which the organization and its predecessor General Agreement on Tariffs and Trade (GATT) were created – ensuring stable, open markets in the face of financial and economic crisis. Through the rules and monitoring efforts of the WTO, the world took a very different path in 2009 from that in the 1930s, when market-closing protectionist actions and reactions served to deepen and lengthen the Great Depression. Determined to avoid this dynamic, and to strengthen global security and peace through economic opportunity and growth in living standards, 20 founders created the GATT in 1947. That number reached 119 when the WTO was established in 1995, and now stands at 153, as the economic benefits of participation in the rules-based, multilateral trading system embodied in the WTO continue to attract new Members.

While the multilateral trading system has proven its worth by helping to maintain open markets in a time of economic crisis, its principal contribution since the signing of the GATT has been to expand open markets and create economic opportunity. The positive negotiating agenda of the GATT and WTO has been the expansion of economic opportunities through sustained reductions in global barriers to international commerce and enhanced trade and economic prosperity, in the context of a rules-based global trading system. The Uruguay Round (1986-1993) was the eighth such round since GATT was signed to pursue this objective, and brought new areas such as services, intellectual property rights (IPR) and agriculture fully into the global trading system. As described further below, the United States is pursuing further market-opening benefits through the achievement of an ambitious and balanced outcome to the Doha Round negotiations.

Multilateral trade negotiations under the GATT were central to post-War trade liberalization, and broader post-War institution-building aimed at enhancing global stability and security. The creation of the WTO was a central element of the success of six decades of negotiating efforts under the GATT. The creation of the WTO was a major step in the building of an open, rules-based global trading system that has greatly benefitted Americans. According to the 2005 findings of the Peterson Institute for International Economics, which considered a number of studies, cross-border trade and investment liberalization added roughly $1 trillion to Americans' annual income by 2003. The range of various estimates reported was between "$2,800 to $5,000 additional income for the average person and between $7,100 and $12,900 for the average household."[1]

A recent investigation by the U.S. International Trade Commission, reporting on U.S. trade policy since 1934, reviewed formal academic studies of the income gain to the United States from the Uruguay Round

[1] The United States and the World Economy, C. Fred Bergsten and the Institute for International Economics, January 2005, Washington, DC, page 68.

alone. The income gains to Americans from the Uruguay Round in the 5 studies reviewed ranged from 0.1 percent and 0.9 percent of GDP[2], which, in terms of 2008 GDP is between $14 billion and $130 billion.

Organizationally, the WTO continues to stand out within the world of international organizations by continuing to maintain a 'lean' approach to secretariat staffing, avoiding the growth of any bloated bureaucracy. With the United States leading the way at various points, the WTO has taken steps to increase the transparency of its operation across the board, from document availability to public outreach. Work continues on new and creative ways to bring further improvements in openness. WTO Members continue to set the course for the organization, and the Members themselves remain responsible for compliance with rules. U.S. leadership within the WTO will continue to be critical to advancing U.S. interests in the global trading system, to help restore global economic recovery and growth and to expand economic opportunity and the rule of law.

1994-2008: Performance of the U.S. Economy

Since the establishment of the WTO in1995, the overall performance of the U.S. economy has been consistent with the view that the WTO has served the interests of America and the American people. In 2009, U.S. participation in the WTO continued to serve American interests, in particular through its contribution to preventing protectionist responses to the financial and economic crisis that could have deepened that crisis. Because this contribution is not fully reflected in the broad economic trends since 1994, and to highlight the critical importance of the WTO in 2009, the following discussions first focus on the period 1994-2008 and then on 2009.

From 1994 to 2008 real gross domestic product (GDP) of the United States increased by 50 percent (2.9 percent annual average), with an average per capita real income increase by 30 percent (1.9 percent annual average).

Within the GDP, real manufacturing output increased by 50 percent between 1994 and 2008, apace with the overall growth of the economy. This increase was led by a better than 1,500 percent increase in U.S. output of computer and electronic equipment.

Non-farm employment in the United States increased by nearly 20 percent, or by 22.8 million, between 1994 and 2008. The rate of unemployment averaged a little less than 5.1 percent over the period. Real hourly work compensation rose by 21 percent for employees of non-farm U.S. business between 1994 and 2008.

Despite substantial growth in manufacturing output and overall employment, employment in manufacturing has shrunk considerably, by 21 percent, or by nearly 3.6 million jobs. In 1994, manufacturing accounted for 1-in-7 U.S. jobs, a figure that had fallen to 1-in-10 jobs in 2008.

The decline in manufacturing employment reflects in part, much more rapid increases in output per hour worked (productivity) in the U.S. manufacturing sector than in the economy as a whole. Between 1994 and 2008, output per hour worked in manufacturing increased by 70 percent, much more rapidly than the still strong 40 percent increase in output per hour in the entire U.S. non-farm economy.

[2] The Economic Effects of Significant U.S. Import Restraints, Sixth Update 2009, United States International Trade Commission, Publication 4094, August 2009, Washington, DC, page 103.

Productivity growth is among the most important factors influencing how rapidly real incomes grow and living standards rise. Among the expected benefits of trade liberalization is to shift economic resources toward more productive uses and to encourage investment in competitive industries. WTO rules, dispute settlement procedures and the predictability they provide, along with Uruguay Round trade liberalization, have likely played a positive role in some of the favorable developments in the U.S. economy for much of the period since 1994.

Further reductions in trade barriers since 1994, many of which stem from the phase-in of Uruguay Round commitments, have helped increase the value of trade relative to the U.S. economy. U.S. trade in goods and services (exports plus imports) has risen from 22 percent of U.S. GDP to 30 percent in 2008. Real exports over the period increased rapidly, by 112 percent, while real imports increased more rapidly still, at 143 percent.

Exports and Jobs. In 2010 and beyond, increased exports are one of our most promising avenues to support additional jobs for Americans. The President has committed to doubling exports in the next five years, an increase that will support two million jobs in America. With a return of the U.S. economy to positive growth, exports contributed 1.9 percentage points to the annualized growth rate of 4.0 percent in the second half of 2009.

The U.S. trade deficit in current dollars rose from $93 billion in 1994 (1.3 percent of GDP) to a peak of $769 billion in 2006 (5.7 percent of GDP), before falling back to $708 billion (4.9 percent of GDP) in 2008. The rise of the aggregate trade imbalance reflects many, largely macroeconomic factors, such as differential growth rates, different rates of saving and investment, international capital flows and monetary policy.

Market-opening trade policy in general should be assessed in areas where it does have effect: in expanding opportunities for trade, contributing to higher productivity and earnings, lowering prices and increase choice for household consumers and business purchasers alike, encouraging beneficial investment, and helping to enhance domestic living standards and rates of economic growth. Against these measures, U.S. economic performance in 1994-2008 is consistent with a country drawing advantage from more open markets, freer trade and a more predictable international trading system, manifested by not only the Uruguay Round outcome but in particular the WTO.

2009: Performance of the U.S. Economy

In 2009, the world economy slipped into deep recession and major counter-recessionary economic policy actions were taken by governments around the globe. Among these actions were repeated commitments by Leaders to resist the increase in barriers to international trade. In the 1930s, government policy actions had not been able to avert the worst of a major global depression. Among the more notable policy mistakes of the 1930s was the widespread reversion to highly restrictive trade policies, as countries sought to restore economic activity and jobs at home by driving out imports. There was no WTO then to restrain these trade restrictive actions. As many resorted to such trade restrictive actions, individual countries and the global economy suffered all the more, contributing to overall international instability during the years leading up to World War II.

The lessons of the 1930s were not lost in the last two years, in part because of 60 years of bipartisan U.S. leadership and broad-based multilateral efforts to build an open, rules-based global trading system through the GATT and then the WTO. The WTO and U.S. participation in that organization have proved extremely valuable to U.S. efforts to contain the recession, by avoiding the resort to protectionism in global markets.

Looking ahead, the Administration has underscored that exports promise to play an important role in U.S. economic recovery. Exports contributed 1.9 percentage points to the annualized real GDP growth rate of

4.0 percent in the second half of 2009. Pronouncements by Leaders at G-20 summits in 2009 made clear that, for the sake of stable and growing prosperity, major economies must work together to rebalance the world economy, in part by moderating the size of global deficits and surpluses in trade. For the United States this may mean less rapid growth of current consumption for a period as the country saves, invests, produces and exports more. Counterpart measures in large surplus countries include raising domestic consumption and increasing imports.

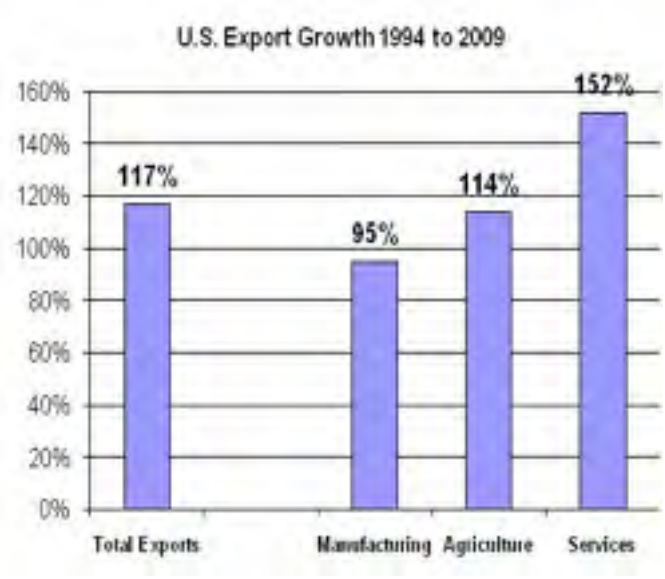
The rules-based trading system under the helm of the WTO is at the core of U.S. efforts to ensure that all countries respect their commitments and play by the rules. For the United States, which is likely to experience considerable export growth, the rules-based trading system assuring foreign market access is a necessity. Competitive global markets, a rebalanced world economy and sound economic policies can help assure future prosperity at home. The WTO is among the institutions which work in favor of such an outcome for the United States.

1994 to 2009: Changes in Trade Flows

Reflecting severely recessionary conditions, the volume of global trade fell sharply over the last year, down roughly 12 percent in 2009, according to estimates of the International Monetary Fund. The world recession similarly affected the volume of U.S. goods and services trade, down 15 percent in 2009 (annualized based on the first 3 quarters) as well as the nominal value of U.S. goods and services trade, down by 22 percent in 2009 (annualized based on the first 11 months on 2009). Despite this downturn in 2009, nominal U.S. trade in goods and services has increased during the 15-year timeframe of the existence of the WTO, up 126 percent between 1994 and 2009, with U.S. exports of goods and services up 117 percent and U.S. imports of goods and services up 135 percent. U.S. goods exports, accounting for nearly 70 percent of U.S. goods and services exports, are up 103 percent while U.S. services exports are up 152 percent. U.S. goods imports, accounting for 80 percent of U.S. goods and services imports, are up 127 percent while U.S. services imports are up 177 percent.

For U.S. goods exports, both U.S. manufacturing exports and U.S. agricultural exports grew strongly between 1994 and 2009, up 95 percent and 114 percent, respectively, despite each suffering nearly 20 percent declines in 2009 (see Annex 1, Table 1). Manufacturing exports accounted for over 80 percent of the $1 trillion in U.S. goods exports in 2009 (under Census definitions), while agricultural exports accounted for 10 percent and mineral fuels and mining products accounted for 9 percent. U.S. exports of high technology products grew by 98 percent during the past 15 years and accounted for 23 percent of total goods exports. Non-automotive capital goods, the largest U.S. end-use export category accounting for 37 percent of total goods exports in 2009, grew by 88 percent between 1994 and 2009. Industrial supplies, the second largest U.S. end-use export category accounting for 28 percent of U.S. goods exports in 2009, grew by 135 percent during the past 15 years.

Regionally, U.S. goods exports to developing countries grew by 141 percent between 1994 and 2009, significantly higher than the 70 percent growth to industrial countries (as defined by the International Monetary Fund) (see Annex 1, Table 2). Due to this rapid growth in exports to developing countries, the majority of U.S. exports (51 percent) are to developing countries. Among major countries and regions, exports to China exhibited the fastest growth, nearly 612 percent over the past 15 years to an estimated $66 billion in 2009. During this period, U.S. exports to Mexico more than doubled, while exports to Canada and the EU grew by 74 percent and 98 percent, respectively. However, weak economic conditions in Japan were a factor toward limiting the growth in that country, with U.S. exports falling by 7 percent between 1994 and 2009.



All of the major services export categories have grown between 1994 and 2009 (see Annex 1, Table 5). Export growth has been led by the statistical "private services category consisting of: education services, financial services, insurance, telecommunications, business, professional and technical services; and other unaffiliated services (up 277 percent), and the royalties and licensing fees category (up 210 percent). Of the nearly $304 billion increase in U.S. services exports between 1994 and 2009, the other private services category accounted for 55 percent of the increase and the royalties and licensing fees category accounted for 19 percent.

Since 1994, the United States continued to be a strong catalyst for global growth for most of these years, reflecting the strong growth of the U.S economy (up an overall 45 percent between 1994 and 2009 despite a 3.3 percent decline in 2009). U.S. goods imports more than doubled between 1994 and 2009, with U.S. manufacturing imports up 108 percent, U.S. agricultural imports up 175 percent, and high technology imports up 199 percent (see Annex 1, Table 3). U.S. imports increased substantially in all of the major end-use categories with the strongest growth exhibited in consumer goods (up 189 percent) and industrial supplies (up 170 percent). These two sectors combined accounted for 57 percent of the total level of U.S. goods imports. Within U.S. industrial supplies, petroleum imports increased 362 percent, from 8 percent of total goods imports in 1994 to 16 percent in 2009.

Regionally, U.S. import growth in 1994 to 2009 was more than three times as strong from developing countries as from industrial countries (220 percent to 60 percent) (see Annex 1, Table 4). Due to this growth, the total level of U.S. goods imports from developing countries was greater than industrial countries in 2009 (60 percent to 40 percent), reversing what the situation was in 1994 (43 percent to 57 percent). As with exports, the strongest import growth was from China, up 655 percent, and from Mexico, up 245 percent. U.S. imports from Japan, however, declined by 22 percent between 1994 and 2009.

The growth in services imports, up $236 billion between 1994 and 2009, was driven by the other private services category (accounting for 52 percent of the increase) (see Annex 1, Table 6). U.S. imports from this category were up 386 percent between 1994 and 2009. All of the other major services categories also grew since 1994, with categories such as the royalties and licensing fees category up 312 percent and direct defense expenditures category up 248 percent.

C. The Doha Development Agenda under the Trade Negotiations Committee

The DDA was launched in Doha, Qatar in November 2001, at the Fourth WTO Ministerial Conference where Ministers provided a mandate for negotiations on a range of subjects and work in WTO Committees. In addition, the mandate gives further direction on the WTO's existing work program and implementation of the WTO Agreement. The goal of the DDA is to reduce trade barriers in order to expand global economic growth, development, and opportunity. The main focus of the negotiations under the DDA is in the following areas: agriculture; industrial goods market access; services; trade

facilitation; WTO rules (i.e., trade remedies, fish subsidies, and regional trade agreements); and development.

The Trade Negotiations Committee (TNC), established at the WTO's Fourth Ministerial Conference in Doha, oversees the agenda and negotiations in cooperation with the WTO General Council. The WTO Director General serves as Chairman of the TNC and worked closely with the Chairman of the General Council for 2009, Ambassador Mario Matus of Chile. Through formal and informal processes, the Chairman of the General Council, along with the WTO Director General, plays a central role in steering efforts toward progress on the DDA. (Annex II identifies the various negotiating groups and special bodies responsible for the negotiations, some of which are the responsibility of the WTO General Council.)

Discussions under the DDA in 2009 occurred against the backdrop of global efforts to address the international financial crisis, underscoring the importance of an ambitious Doha result that would result in new trade opportunities and thereby contribute to global economic recovery and growth.

As 2009 began, WTO Members were coming off the third successive year of unsuccessful efforts by small groups of Ministers to move the negotiations into the final stage by reaching a comprehensive agreement on modalities – the framework of variables that would define the depth of tariff cutting and other commitments and the extent of flexibilities in agriculture and non-agricultural market access (NAMA). Going into 2009, the core challenge of Doha remained unresolved, i.e., whether negotiators could secure the meaningful new market access in agriculture, NAMA and services necessary—particularly in terms of contributions by advanced developing countries—to fulfill the promise of Doha to create new economic opportunities and contribute to global development and growth. The recent emergence of China, Brazil, and India as recognized "majors" within the WTO represented an important step forward, moving the overall negotiating dynamic to more closely reflect the dynamic economic reality of today's trading system. As today's fastest growing economies, China, Brazil and India have enjoyed a new level of influence and each will be expected to take-on an increased level of responsibility to make the trade liberalizing decisions and contributions that would benefit not only its own economic interests, but also promote global economic growth and development to the benefit of all developing countries – as well as ensuring that the global trading system operates consistent with global economic realities.

Faced with previous failed attempts to move the Doha negotiations forward, the United States led efforts throughout 2009 to reorient the negotiating process onto a path to success, by pursuing new approaches to address significant gaps on core market access issues. The goal, as encapsulated by President Obama in a mid-November speech in Japan, is to work towards "an ambitious and balanced Doha agreement—not any agreement, but an agreement that will open up markets and increase exports around the world." The United States concluded that the most effective means of reaching this goal is to supplement multilateral negotiating efforts with sustained, direct, bilateral engagement between key players, including advanced emerging economies such as China, Brazil, and India. Working with other Members in Geneva and elsewhere, the United States developed this approach over the course of the year and undertook efforts to begin this process of engagement.

In a May visit to Geneva, Ambassador Ron Kirk urged exploration of ways to put the negotiations on a path to success, emphasizing the ultimate objective of delivering meaningful new market access, and not simply preserving the status quo. Ambassador Ron Kirk continued to press for a more positive direction in the Doha negotiations on the margins of Ministerial meetings of the Cairns Group in early June, the OECD in late June, APEC in late July and the AGOA Forum in early August, as well as in early September, when India hosted an informal meeting of over 35 Ministers in Delhi.

From July 8-10, the Leaders of the G-8 and G-5 meeting in L'Aquila, Italy expressed their commitment to a Doha success, in 2010. Recognizing the need for new approaches to the negotiations, Leaders instructed Ministers to explore immediately all possible avenues for direct engagement within the WTO, ahead of the September G-20 Leaders meeting in Pittsburgh. APEC Ministers echoed these sentiments in a July 22 statement following meetings in Singapore. On September 25, the G-20 Leaders also expressed their determination to seek a 2010 conclusion to the Doha Round, and again emphasized the need for direct engagement, stating, "We understand the need for countries to directly engage with each other, within the WTO bearing in mind the centrality of the multilateral process, in order to evaluate and close the remaining gaps."

In Geneva, various negotiating groups gradually reenergized their work over the course of the year, meeting in various formal and informal settings to advance work on technical and substantive issues. In particular, the fall witnessed numerous meetings of several groups including the Agriculture, NAMA, Services, Rules and Trade Facilitation negotiating groups. Much of this work proceeded according to work plans developed by the Chairs of these groups, and included monthly meetings in Geneva by Senior Officials.

The Seventh WTO Ministerial Conference took place in Geneva from November 30 to December 2, 2009, with the theme "The WTO, the Multilateral Trading System, and the Current Global Economic Environment". The Ministerial Conference was not intended to be a Doha negotiating session, but instead operated as a low-key forum to allow Members to reflect on the role of the WTO and to review its ongoing work, including the Doha negotiations. Ministers spent substantial time in their statements commenting on the importance of the Doha Round and expressing their views on various aspects of the negotiations. In his summary of Member discussions at the meeting, the Chair of the Ministerial Conference, Chilean Trade Minister Andrés Velasco, noted that Ministers reaffirmed the aim to conclude the Round in 2010 and for a stock-taking exercise to take place in the first quarter of 2010.

Prospects for 2010

As the negotiations under the DDA continue in 2010, the linchpin to Doha Round success will remain securing meaningful market access commitments in agriculture, NAMA and services, particularly from key advanced developing countries that have been the fastest growing economies and are increasingly key players in the global economy. To generate the kind of economic growth, development, and poverty alleviation that WTO Members committed to when they launched the Doha Round in 2001, key emerging markets must take on the additional responsibilities that come with their increased influence in the global economy and make commitments that result in meaningful new trade flows.

The United States will continue to play a leadership role and work with other WTO Members in various configurations in pursuit of a successful conclusion to the Doha Round that opens new markets and creates new trade flows. The challenge in 2010 will continue to be how to translate the expressions of political will, into concrete and specific details that will enable WTO Members to complete the work begun with the launch of negotiations at the Doha meeting.

1. Committee on Agriculture, Special Session

Status

Negotiations in the Special Session of the Committee on Agriculture are conducted under the mandate agreed upon at the Fourth WTO Ministerial Conference in Doha, Qatar that calls for "substantial

improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support." This mandate, calling for ambitious results in three areas (so-called "pillars"), was augmented with specific provisions for agriculture in the framework agreed by the General Council on August 1, 2004, and at the Hong Kong Ministerial Conference in December 2005.

Major Issues in 2009

Throughout 2009, the United States continued to lead the effort to move the DDA agriculture negotiations forward toward a successful final agreement and to rally other WTO Members to stay focused on achieving an ambitious market-opening outcome that would yield meaningful new trade flows.

Ambassador David Walker assumed the Chair of the Agriculture Negotiations in the spring of 2009 and chaired meetings through the remainder of the year in various formal and informal settings seeking to advance work on technical and substantive issues.

Ambassador Walker organized his efforts into two separate tracks: the "template" work on formats for schedules, and efforts to resolve the outstanding issues in the draft agriculture text. The template exercise focuses on identifying the precise data sets and specifying the common formats Members will use to prepare the schedules of commitments on domestic supports, export subsidies and market access. This activity occurred in the broad-based multilateral forum. Ambassador Walker also initiated Senior Official discussions on certain outstanding issues in the December 2008 draft text, specifically on the bracketed elements, or elements that the previous Chair explicitly identified as unresolved. Work on both tracks continued though the end of 2009.

Prospects for 2010

As the work on scheduling templates and outstanding modality issues continues in 2010, the linchpin to Doha Round success will remain securing meaningful market access commitments in agriculture and other areas, particularly from key advanced developing countries that have been the fastest growing economies and are increasingly key players in the global economy.

The U.S. objectives for agriculture reform will continue to focus on the principles of greater harmonization across WTO Members, substantial overall reforms, and specific commitments of interest in key developed and developing country Member markets. The United States seeks balanced, ambitious results for each of the three pillars. An ambitious outcome is the best way to fulfill the promise of the Doha Round.

2. Council for Trade in Services, Special Session

Status

The Special Session of the Council for Trade in Services (CTS-SS) was formed in 2000 pursuant to the Uruguay Round mandate of the General Agreement on Trade in Services (GATS) to undertake new multi-sectoral services negotiations. The Doha Declaration of November 2001 recognized the work already undertaken in the services negotiations and set deadlines for initial market access requests and offers. The services negotiations thus became one of the core market access pillars of the Doha Round, along with agriculture and non-agricultural goods. A strong and ambitious result in services is essential for a successful outcome of the Doha Round.

The 2005 Hong Kong Ministerial Declaration called for the negotiations to proceed to conclusion with a view to promoting the economic growth of all trading partners, with due respect for the right of Members to regulate in their domestic markets. The Hong Kong Declaration provided a framework for intensifying the negotiations, with the goal of encouraging Members to improve their commitments by removing significant limitations and covering a broader range of service sectors and supply channels (i.e., cross-border supply, consumption abroad, commercial presence, and presence of natural persons). To complement the existing bilateral request-offer process, the Hong Kong Declaration also encouraged negotiations to proceed on a plurilateral basis. Members subsequently developed a "plurilateral request process," through which like-minded Members joined together to develop collective market access requests for 21 sectors and issues of interest. The United States joined in co-sponsoring requests in the following 13 areas: architectural, engineering and integrated engineering services; audiovisual services; computer and related services; construction and related engineering services; distribution services; private education services; energy services; environmental services; financial services; legal services; Mode 3 (commercial presence); postal/courier services including express delivery; and telecommunication services.

Major Issues in 2009

The Council was relatively inactive during 2009, as several advanced developing country Members such as Brazil and China continued to resist advancing the services negotiations until there were breakthroughs in the NAMA and agriculture negotiations. Efforts to re-energize the services negotiations in the fall of 2009 succeeded in bringing negotiators together for two series (so-called "clusters") of services meetings in October and November. However, the tenor of those meetings was subdued. The topic of rules for the special treatment of least-developed country Members received additional attention toward the end of 2009 as more Members became involved in the development of a draft waiver from the most-favored-nation obligation.

Overall, progress to date in the negotiations has been incremental, such that considerably more work will be necessary to achieve the extent of services liberalization necessary for a positive outcome of the negotiations. The United States continues to press for a high level of ambition for services liberalization, particularly from the major emerging markets, in such key areas as computer and telecommunication services; distribution and express delivery; energy and environmental services; and financial services. Efforts by the United States in the CTS-SS to promote new ideas for propelling the negotiations forward have thus far met with resistance from other Members.

Prospects for 2010

Progress in 2010 will depend in large part on the willingness of other Members to move forward on services, which in turn will be influenced by the work in other areas of the single undertaking. The United States will continue to pursue new ideas and approaches for achieving a successful outcome to the services negotiations. In addition, work is likely to continue on the draft waiver for least-developed countries.

3. Negotiating Group on Non-Agricultural Market Access (NAMA)

Status

In the negotiations on Non-Agricultural Market Access (NAMA), which cover industrial goods, fish, and fish products, the United States continues to seek significant new competitive opportunities for U.S.

businesses through cuts in applied tariff rates, and the reduction of non-tariff barriers. USTR negotiators are pursuing these market access goals through multilateral, plurilateral, and bilateral channels.

Trade in industrial goods accounts for over 90 percent of world merchandise trade[3] and more than 90 percent of total U.S. goods exports. An ambitious outcome in the NAMA negotiations is thus critical, as it would provide an important opportunity to lower tariffs on manufactured products in key emerging markets like Brazil, India, and China, which are among the fastest growing economies in the world. Many emerging economies still retain prohibitive tariffs on manufactured goods, with ceiling tariff rates exceeding 150 percent in some cases. And because roughly 70 percent of the tariffs on goods traded by developing countries are paid to other developing countries, tariff liberalization under the Doha Round will have a direct and significant development impact.

Tariff Profiles for Selected WTO Members

Markets	% of Tariffs with WTO Ceiling	WTO Ceiling Tariff Average*	2008 Applied Tariff Average
United States	100%	3.9	3.9
European Union	100%	3.9	4
Argentina	100%	31.8	11.9
Brazil	100%	30.8	14.1
China	100%	9.1	8.7
Egypt	99.2%	27.7	9.2
India	69.8%	34.7	10.1
Philippines	61.8%	23.4	5.7
South Africa	96.1%	15.7	7.6

Source: WTO World Tariff Profiles 2009, U.S. International Trade Commission

* This calculation excludes products with no legal WTO ceiling rate.

Major Issues in 2009

In 2009, the Negotiating Group on NAMA focused primarily on advancing the agenda on non-tariff barriers (NTBs), which are an integral and equally important component of the NAMA negotiations. In line with the 2005 Hong Kong Ministerial Declaration, WTO Members continued to consider how NTBs could be addressed horizontally across all sectors, vertically within a single sector, and through a bilateral request/offer process. The United States sponsors NTB proposals on autos and automotive products; electronics; textiles, apparel, footwear, and travel goods labeling (with the EU, Mauritius, and Sri Lanka); remanufactured goods (with Japan and Switzerland); and transparency in export licensing (with Japan, Chinese Taipei, and the Republic of Korea).

Work throughout the year focused on priority NTB proposals agreed by Senior Officials in June 2008 and reflected in the NAMA Chair's draft texts of both July and December 2008. These proposals include autos and automotive products, electronics, textiles labeling, remanufactured goods, the "horizontal mechanism" (an additional procedure Members could use after the Round to address NTBs), and chemicals. Early in 2009, as a way to promote substantive discussion, the Chair invited Members to submit detailed questions on the priority proposals. In July 2009, the Chair set out a robust agenda for the fall, with negotiating weeks in September, November, and December. In addition to continuing the question and answer process, proponents were encouraged to submit revised negotiating texts. In September, the U.S. submitted revised texts on each of its sponsored proposals. The EU submitted proposals on automotive products and electronics, both of which diverge from the U.S. texts on the same sectors. Throughout the fall, Members engaged in detailed technical discussions – both within the negotiating group and domestically with experts and industries – to gain a better understanding on the substance of the proposals and to work towards consensus on them. The United States continues to engage fully in these discussions and remains a major proponent of eliminating or reducing NTBs in the DDA.

[3] WTO, International Trade Statistics 2009

On tariffs, there are several negotiating elements under discussion that will determine the market opening outcome in NAMA: (1) the tariff-cutting formula and specifics on the level of ambition to be achieved by developed and developing country Members; (2) the scope of exceptions available to developing countries applying the tariff-cutting formula; (3) flexibilities to be provided for least-developed country (LDC) Members and other developing country Members; and (4) a sectoral tariff component.

The Chair's text from December 2008 proposed a choice between three coefficients[4] (20, 22 and 25 depending on the level of flexibilities taken) for the approximately thirty self-designated developing countries[5] that are expected to apply the tariff cutting Swiss formula, and a coefficient of 8 for developed countries. This package presents a fundamental imbalance, whereby the United States and other developed countries would reduce all tariffs to below eight percent, while emerging economies would not only maintain much higher tariff rates, but extensive exclusions from the general tariff cutting rules would permit them to avoid making tariff reductions on hundreds, and sometimes thousands of important manufactured products. In order to correct this imbalance and effectively achieve the market access objectives laid out in the Doha mandate, the United States has continued to promote multilateral sectoral tariff elimination initiatives. To date, Members have proposed fourteen sectors that are being considered for such agreements. U.S. negotiators have also reached out to key emerging markets – namely China, Brazil, and India – to engage in direct bilateral discussions on how these countries can make a more economically meaningful market-opening contribution that will benefit U.S. exporters.

Throughout 2009, the United States and like-minded Members continued efforts to build momentum for sectoral initiatives by focusing on the technical aspects of individual sectors. Sector co-sponsors have provided Members with detailed trade and tariff information on each sector, as well as global trade and investment trends, to allow major traders and producers to evaluate the significant commercial benefits that could be realized through meaningful and broad-based sectoral liberalization. This technical information will be the basis for further discussions aimed towards crafting sectoral modalities that can work for all potential participants and ultimately yield ambitious and meaningful outcomes that will benefit the entire WTO Membership.

Work continues on the following sectoral tariff initiatives, proposed by various Members:

- chemicals;
- electronics/electrical products;
- industrial machinery;
- forest products;
- healthcare products (pharmaceuticals and medical equipment);
- fish and fish products;
- autos and related parts;
- bicycles and related parts;
- gems and jewelry;
- sports equipment;
- textiles, clothing and footwear;
- hand tools;
- raw materials; and
- toys

[4] A Swiss formula is a progressive non-linear formula under which high tariffs are cut more than low tariffs. The Swiss coefficient sets a ceiling that tariffs approach but never reach, thus determining the overall level of ambition of the formula. The lower the number, the more aggressive the tariff cuts. Members are negotiating the coefficients to be used in the Swiss formula to determine the depth of tariff cuts for developed country Members and the depth of the tariff cuts for developing country Members.

[5] Argentina; Bahrain; Brazil; Chile; China; Chinese Taipei; Colombia; Costa Rica; Croatia; Egypt; Hong Kong China; India; Indonesia; Israel; Korea; Kuwait; Malaysia; Mexico; Morocco; Oman; Pakistan; Peru; Philippines; Qatar; Singapore; South Africa; Thailand; Tunisia; Turkey; Venezuela; and UAE. There is some discussion on the development status of Chinese Taipei, Korea, and Croatia for the purposes of these negotiations.

Prospects for 2010

In 2010, U.S. negotiators will continue to press for economically meaningful new market access for U.S. manufactured goods – both in terms of reduced foreign tariffs and non-tariff barriers – and will engage with key advanced developing trading partners both bilaterally and multilaterally to achieve that objective. The United States remains committed to the view that true development gains can best be achieved through further real market liberalization by both developed and developing Members.

4. Negotiating Group on Rules

Status

At the Doha Ministerial Conference in 2001, Ministers agreed to negotiations aimed at clarifying and improving disciplines under the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement) and the Agreement on Subsidies and Countervailing Measures (the SCM Agreement), while preserving the basic concepts, principles, and effectiveness of these Agreements and their instruments and objectives. Ministers also directed that the negotiations take into account the needs of developing and least-developed country Members. The Doha Round mandate also calls for clarified and improved WTO disciplines on fisheries subsidies.

The Negotiating Group on Rules (the Rules Group) has based its work primarily on written submissions from Members, organizing its work in the following categories: (1) the antidumping remedy, often including similar issues relating to the countervailing duty remedy; (2) subsidies, including fisheries subsidies; and (3) regional trade agreements. Since the Rules Group began its work in 2002, numerous papers and proposals have been submitted and have been subject to focused discussions in various settings. In 2005, the Chair also established a Technical Group as part of the Rules Group's work to examine in detail certain technical issues relating to antidumping.

The Rules Group received further direction at the Hong Kong Ministerial Conference in December 2005. On fisheries subsidies, Ministers acknowledged broad agreement on stronger rules, including a prohibition of the most harmful subsidies contributing to overcapacity and overfishing, and appropriate effective special and differential treatment for developing country Members. Ministers also directed the Rules Chairman to prepare consolidated texts of the Antidumping and SCM Agreements, taking account of progress in other areas of the negotiations. In November 2007, the Chairman of the Rules Group issued draft consolidated texts on antidumping, on subsidies and countervailing measures ("horizontal subsidies", *i.e.* subsidies that apply across all sectors of the economy), and on fisheries subsidies.

Prior to the meeting of Ministers in July 2008, the Chairman of the Rules Group issued a report to the Trade Negotiating Committee. In this report, the Chairman stated his intention to circulate revised texts on antidumping and horizontal subsidies as soon as possible after modalities in agriculture and NAMA were achieved, even though Members' positions on key issues remained far apart. The Chairman stated that these texts would reflect a bottom-up approach and would include draft legal language in areas of consensus and other areas where he believed convergence could potentially be achieved. The Chairman cautioned, however, that the new texts would not offer any "magic solutions" in the many areas where Members' positions differ dramatically. Regarding fisheries subsidies, the Chairman stated that further input from Members was necessary before he could issue a revised text. The Chairman noted that, to facilitate the process, he would issue a specific "road map" for moving forward, at the same time as he intended to issue a revised text on antidumping and horizontal subsidies. This road map would identify key questions that need to be addressed in order to advance the negotiations towards a new fisheries text. Although modalities were not achieved in agriculture and NAMA, on December 18, 2008, the Chairman

issued revised texts on antidumping and horizontal subsidies and a roadmap for fisheries subsidies. In keeping with his earlier pronouncements, the draft texts of December 18, 2008 reflect a "bottom-up" approach, with the most contentious issues contained in brackets with no legal text provided.

The Doha Declaration also directed the Rules Group to clarify and improve disciplines and procedures governing Regional Trade Agreements (RTAs) under the existing WTO provisions. To that end, the General Council in December 2006 adopted a decision for the provisional application of the "Transparency Mechanism for Regional Trade Agreements" to improve the transparency of RTAs. A total of 33 RTAs have been considered under the Transparency Mechanism since then. Pursuant to its mandate, in the past, the Rules Group has explored the establishment of further standards governing the relationship of RTAs to the global trading system. However, such discussions have failed to produce common ground on how to clarify or improve existing RTA rules.

Major Issues in 2009

Antidumping

In February 2009, the Chair called a plenary session of the Rules Group, in which Members provided their initial overall reactions to the Chair's latest text. Nearly all Members expressed general support for the Chair's bottom-up approach and indicated that the revised text provided an adequate basis for future discussion. The United States expressed conditional support for the revised text but reminded Members that additional time would be needed for the new Administration to review the revised text. The United States therefore reserved the right to provide additional comments and proposals at a later point. The United States also noted that it continues to maintain the position that any final agreement on antidumping must address issues where the Appellate Body has overreached, such as the critical issue of zeroing.

Five additional plenary sessions on antidumping were held in 2009. The Chair established a three-pillared approach to these sessions, with particular topics for discussion drawn from (1) the bracketed items in the text, which the Chair perceived to be the most contentious or politically sensitive issues; (2) the un-bracketed items in the text, which the Chair considered to be issues on which there is some degree of consensus; and (3) Member proposals that were not reflected in the text. The Rules Group nearly completed its review of the antidumping text, though the most contentious and politically sensitive issues, such as zeroing and sunset, remain to be discussed in 2010. For the most part, Members were constructively engaged in the process, though Members took few new positions. Some progress has been made on technical issues, but there has been no sign of significant convergence on the most contentious issues.

A group calling itself the Friends of Antidumping (or FANs[6]), has been very active in the antidumping area since the beginning of the negotiations, and has generally sought to impose limitations on the use of antidumping remedies. The FANs group has submitted proposals on a variety of issues, some of which are reflected in the Chair's text and others that are not. Those that are not reflected in the text include: increasing the standing threshold from 25 percent to 50 percent of domestic production; increasing the *de minimis* dumping margin standard from two percent to five percent; increasing the negligible imports threshold for injury purposes by calculating import volumes as a percentage of total domestic consumption rather than import share; including a public interest test; including a mandatory lesser duty rule; and requiring authorities to "separate and distinguish" the effects of dumped imports versus other

[6] The FANs group is comprised of Brazil, Chile, Colombia, Costa Rica, Hong Kong China, Israel, Japan, Korea, Mexico, Norway, Singapore, Switzerland, Chinese Taipei, Thailand, and Turkey.

factors (such as non-dumped imports) for causation of injury purposes. The United States is strongly opposed to each of these proposals.

The United States has continued working to build support among Members for proposals it had previously submitted, including those on issues such as injury causation, anticircumvention, new shipper reviews, facts available, and seasonal and perishable products, as well as a number of proposals aimed at improving transparency and due process in antidumping proceedings.

Subsidies/CVD

As in the antidumping negotiations, the Chair generally followed his "three pillars" approach in horizontal subsidies, covering a selection of bracketed and unbracketed issues and proposals not reflected in the draft text in each of the meetings held in 2009. The important bracketed issues included: low-cost financing (*i.e.,* state-owned banking practices), export credit rules, and a proposed redefinition of export competitiveness. The major unbracketed issues included: dual/regulated pricing, subsidy pass-through rules, and subsidy calculation methodologies. By the end of the year, the Rules Group finished its first review of the Chair's draft text on horizontal subsidies, although there was little movement towards consensus on any of the major issues. As a general matter, the United States continued to express concern throughout the year that the Chair's draft text would result in little, if any, strengthening of the current general subsidy disciplines, despite the Doha Rules negotiating mandate to clarify and improve the rules and address trade-distorting practices.

In September 2009, the Rules Group began the process of considering whether certain provisions in the Antidumping Agreement and the Chair's draft antidumping text should be "transposed" into or "harmonized" with the SCM Agreement. The initial phase of this exercise examined whether existing differences between the Antidumping and SCM Agreements are justified by inherent distinctions between the antidumping and countervailing duty remedies and if not, whether the differences are appropriate topics for possible transposition/harmonization. By the end of the year, the Rules Group finished its initial review of all the differences between the two existing agreements, but as a range of views was expressed, no definitive conclusions were reached.

Fisheries Subsidies

Discussions in 2009 focused on the questions contained in the Chair's "roadmap," which were drawn from elements of the draft text issued by the Chair in November 2007. That text sets out a broad range of prohibited subsidies that contribute to fleet overcapacity and overfishing in wild marine capture fisheries, as well as a prohibition of subsidies that affect fishing on "unequivocally overfished" stocks. The text also provides for a limited list of general exceptions available to all Members and additional exceptions for developing countries. Subsidies under both sets of exceptions would remain actionable under the existing SCM Agreement. In addition, the text requires Members not to cause depletion of or harm to, or create overcapacity with respect to, the fisheries resources of another Member. Finally, the text contains provisions concerning fisheries management systems, peer review through the UN Food and Agricultural Organization (FAO), notification and surveillance of Members' fisheries subsidies, dispute settlement, and transition arrangements.

The roadmap discussions were completed at the December 2009 meeting. The discussions were generally constructive, and some progress was made on technical issues (for example, clarifying the core elements of a fisheries management system that must be in place as a condition for granting most subsidies). However, the discussions produced little movement in fundamental positions. The United States and other Friends of Fish (including Australia, Argentina, Chile, Ecuador, Mexico, New Zealand, and Peru)

coordinated on a joint statement supporting the high level of ambition in the Chair's text, including a broad prohibition on subsidies. Japan, Korea, Chinese Taipei, and the European Union continued to object to the scope of the Chair's prohibition, particularly with respect to subsidies to cover operating costs such as fuel.

The issue of appropriate and effective treatment for developing countries was an important focus of the roadmap discussions, as of the negotiations overall, and continued to prove very difficult. The Chair's text provided considerable flexibility for subsistence level and small-scale developing country fishing, while limiting exceptions for developing countries to fishing activities within each country's Exclusive Economic Zone. Brazil, with support from China, Ecuador, and Mexico, argued that developing country flexibilities must be extended to include fishing activities on the high seas; India pressed for greater flexibilities for its large poor population engaged in fishing. Given the prominence of developing countries in the global fishing industry, these positions among the major developing country players have the potential to create large carve outs that could undermine the objective of the negotiations to curb subsidies promoting overcapacity and overfishing.

Regional Trade Agreements

There were no substantive discussions on regional trade agreements in the Rules Group in 2009. At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs (WT/L/671), which was agreed upon in the Negotiating Group on Rules and implemented in 2007. At the time of the adoption of the transparency mechanism, the Chairman of the General Council had noted that Members intended to conduct an initial review of the mechanism within one year. However, in December 2009, the United States and other Members acknowledged that there was not yet enough experience, particularly with regard to RTAs falling under the Enabling Clause, for the review to take place.

Prospects for 2010

In 2010, the United States will continue to pursue an aggressive affirmative agenda building upon the U.S. proposals submitted thus far with respect to, *inter alia*, preserving the effectiveness of the trade remedy rules; improving transparency and due process in trade remedy proceedings; and strengthening the existing subsidies rules. With respect to the transposition/harmonization exercise, the Rules Group will discuss unbracketed language that currently appears in the Chair's draft antidumping text that may also be relevant to countervailing duty proceedings. Concerning fisheries subsidies, the United States will continue to press for an ambitious outcome and work with others to further improve and refine many of the provisions included in the Chair's draft 2007 text. The Chair has indicated that he will issue a revised text on fisheries subsidies when he deems that the time is appropriate.

On RTAs, the transparency mechanism will continue to be applied in the consideration of additional RTAs. The initial substantive review of the mechanism, as foreseen by the Chair of the General Council, may take place subject to Members' views on whether there is enough experience under the mechanism to provide a basis for identifying areas where the mechanism may be improved. The United States will continue to advocate increased transparency and strong substantive standards for RTAs that support and advance the multilateral trading system.

5. Negotiating Group on Trade Facilitation

Status

An important U.S. objective was met when WTO negotiations on Trade Facilitation were launched under the August 1, 2004 Decision by the General Council on the Doha Work Program. The inclusion of negotiations on Trade Facilitation has greatly enhanced the market access aspect of the Doha Round negotiating agenda. Opaque border procedures and unwarranted delays faced at the borders of key export markets can add costs that are the equivalent of a significant tariff and are the non-tariff barriers that are most frequently cited by U.S. exporters.

The agreed negotiating mandate includes the specific objective of "further expediting the movement, release, and clearance of goods, including goods in transit," while also providing a path toward ambitious results in the form of modernized and strengthened WTO commitments governing how border transactions are conducted.

Major Issues in 2009

The work of the Negotiating Group on Trade Facilitation (NGTF) continued to have as its hallmark in 2009 broad-based and constructive participation by Members of all levels of development—a positive negotiating environment that is seen as offering "win-win" opportunities for all. Of particular note was continued active leadership within the NGTF from Members representing significant emerging markets, including India, Brazil, the Philippines, and China which, by working closely with the United States and other Members, has helped to steer the negotiations forward in a practical, problem-solving manner. The "Colorado Group", consisting of the United States, Australia, Canada, Chile, Colombia, Costa Rica, the EU, Hong Kong China, Japan, Korea, Morocco, New Zealand, Norway, Paraguay, Singapore, and Switzerland, also continued to play a valuable role in the negotiations.

As recent Free Trade Agreements (FTAs) undertaken by the United States have been implemented, there has been a positive synergy with the WTO negotiations on Trade Facilitation. With partners as diverse as Chile, Singapore, Australia, Morocco, Bahrain, South Korea, Peru, Panama, Costa Rica, and Colombia, each FTA negotiated by the United States has included a separate, stand-alone chapter that contains significant commitments on customs administration, most of which are reflected in proposals at the NGTF. Each of the United States' current and future FTA partners has become an important partner and champion in Geneva for moving the negotiations ahead and toward a rules-based approach to trade facilitation.

For many developing country Members, results from the negotiations that bring improved transparency and an enhanced rules-based approach to border regimes will be an important element of broader ongoing domestic strategies to increase economic output and attract greater investment. There is also a growing understanding that such an outcome would squarely address one of the factors holding back increased regional integration and south-south trade. Most Members see the negotiations as bringing particular benefits to the ability of small and medium-sized businesses to participate in the global trading system.
The modalities for conducting the trade facilitation negotiations, set forth as part of the August 1, 2004 General Council decision launching the negotiations, include the following: "Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII, and X of the GATT 1994 with a view to further expediting the movement, release, and clearance of goods, including goods in transit. Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues."

The modalities also include references that underscore the importance of addressing implementation issues such as costs, potential implications with regard to infrastructure, capacity building, the status of LDC Members, and the work of other international organizations.

The work of the NGTF during 2009 was characterized by intensive, Member-driven, text-based negotiations. The group met in February, April and June to review individual Member proposals, then switched its focus in October and November to assembly of a draft consolidated negotiating text. Work proceeded quickly, and a complete draft text was issued in December. Significantly, the text was not a "Chair's text", based on the Chair's perception of Members' desired outcomes. Rather, the text includes all proposals on the table and modifications to those proposals that Members have suggested. Consistent with the Member-driven, bottom-up approach that has characterized the NGTF from the outset, future work will require continued engagement of Members with each other to resolve differences.

The proposals reflected in the draft negotiating text cover each of the areas provided for in the NGTF modalities. There are a number of proposals to promote transparent rules and procedures, including publication requirements such as a U.S. proposal on internet publication, proposals to promote appeal procedures and enquiry points, and a U.S. proposal on advance administrative rulings. There are also several proposals to expedite release and clearance of goods, including through pre-arrival processing, separation of release and clearance, and expedited shipment procedures (the latter a U.S. proposal), and to simplify and eliminate fees and formalities, such as through the Ugandan-U.S. proposal to eliminate consularization requirements. Likewise the draft consolidated negotiating text includes proposals on transit procedures and customs cooperation.

During 2009, the NGTF also continued its work on addressing the challenge of implementing the results of the negotiations that will face many developing country Members. The draft consolidated negotiating text includes new textual proposals from the United States and other Members on transition provisions for developing and least-developed country Members, intended to provide these Members with the flexibility necessary for them to fully implement the negotiating outcome, as well as the assurance that they will have the time and assistance to do so. In this connection, as part of the substantial assistance already being provided in this area, the WTO and assistance organizations, including the U.S. Agency for International Development, continued training programs with developing country Members to help them undertake assessments of their individual situations regarding capacity and make progress in implementing the proposals submitted. The Member assessments have made it apparent that many of the developing country Members have implemented—or are taking steps to do so—a number of the concrete measures proposed as new WTO commitments. At the same time, it is also clear that a number of developing country Members openly recognize that they have an "offensive" interest in seeking implementation by their neighbors of any future new commitments in this area. This realization has led to broad developed and developing country Member alliances on some of the proposals, such as the U.S. joint proposal with Uganda calling for elimination of consularization formalities and fees.

The proposals by Members for specific new and strengthened WTO commitments submitted thus far to the NGTF generally reflect measures that would capture forward-looking practices that would bring improved efficiency, transparency, and certainty to border regimes, while diminishing opportunities for corruption.

Prospects for 2010

In 2010, the NGTF will begin reviewing and refining the draft consolidated negotiating text in a continuation of the Member-driven, bottom-up process aimed at achieving a timely conclusion of the negotiations. As negotiations toward new and strengthened disciplines move forward, it will remain

important that work proceeds in a methodical and practical manner on the issue of how all Members can meet the challenge of implementing the results of the negotiations—including with regard to the issues of special and differential treatment and technical assistance.

6. Committee on Trade and Environment, Special Session

Status

Following the 2001 WTO Ministerial Conference at Doha, the TNC established a Special Session of the Committee on Trade and Environment (CTESS) to implement the mandate in paragraph 31 of the Doha Declaration. Paragraph 31 of the Doha Declaration includes a mandate to pursue negotiations, without prejudging their outcome, in three areas:

i. the relationship between existing WTO rules and specific trade obligations (STOs) set out in Multilateral Environmental Agreements (MEAs) (with the negotiations limited to the applicability of existing WTO rules among parties to such MEAs and without prejudice to the WTO rights of Members that are not parties to the MEAs in question);

ii. procedures for regular information exchange between MEA secretariats and relevant WTO committees, and the criteria for granting observer status; and

iii. the reduction or, as appropriate, elimination of tariff and non-tariff barriers to trade in environmental goods and services.

Major Issues in 2009

In 2009, the CTESS met informally, and the Chair, Ambassador Manuel Teehankee (Philippines) held several small group consultations, most of which focused on DDA sub-paragraph 31(iii) of the negotiating mandate. In addition, the WTO Secretariat sponsored a workshop in September on environmental goods and services, with presentations from public and private sector speakers from the renewable energy, wastewater management and air pollution control sectors. The workshop also covered cross-cutting areas of interest, such as technology transfer and non-tariff barriers. Presentations from the workshop are available on the WTO website at http://www.wto.org/english/tratop_e/envir_e/wksp_goods_sept09_e/wksp_goods_sept09_e.htm.

In October, Senior Officials endorsed the CTESS Chair's work program for the Committee, as originally outlined in the Chair's report to the TNC in July 2008 (TN/TE/18). The work program provides for a detailed work plan under sub-paragraph 31(iii), which is underway, and which is aimed at identifying a "universe of environmental goods" of interest, as well as cross-cutting issues, by February 2010. The Chair's work program also calls for text-based negotiations to begin under sub-paragraphs 31(i) and 31(ii) in February 2010 based on Members' proposals.

While Members have voiced strong support for the Chair's work program, there have been relatively few new proposals, particularly in terms of identifying environmental goods of interest. The United States has led the way in terms of identifying goods of interest and environmental relevance and looks forward to having more detailed discussions on these and other identified goods.

Multilateral Environmental Agreements (MEAs)

Regarding sub-paragraph 31(i) on the relationship between MEAs and WTO rules, a large majority of Members, including the United States, Australia, and Argentina, have underscored the value of experience-sharing to enhance the mutually supportive relationship of trade and environment, as well as the importance of national coordination between trade and environment experts, and believe that these elements should form an integral part of any outcome under sub-paragraph 31(i). These same Members have opposed outcomes that would go beyond the sub-paragraph 31(i) and paragraph 32 mandates by altering Members' WTO rights and obligations (e.g., a proposal from the EU would reduce the independence of WTO panels when deciding disputes involving environmental matters).

Regarding sub-paragraph 31(ii), discussions have progressed significantly; however, there remain a few outstanding issues that will require further consultations (e.g., a proposal from the EU for automatic observer status to be granted to a number of MEA Secretariats that have participated in the CTESS' work).

Environmental Goods

Regarding sub-paragraph 31(iii), there continues to be, at this stage, a divergence of views among Members as to which goods would ultimately fall within the mandate. Moreover, there is still no agreement among delegations at this stage on the particular modalities for cutting tariffs. The Chair's work program is without prejudice to the proposals currently on the table.

Members made several new submissions during 2009: an expansive list of environmental goods in the clean energy category by Saudi Arabia; a nonpaper by Brazil outlining a process for a request-offer negotiation; a proposal by Argentina (TN/TE/W/74) calling for tariffs to be reduced or eliminated on goods used in projects under the Kyoto Protocol's Clean Development Mechanism (CDM); and a paper from Japan (TN/TE/W/75) on energy efficient goods.

Prospects for 2010

In 2010, the CTESS is expected to continue to move toward fulfillment of all aspects of the mandate under Paragraph 31 of the Doha Declaration, according to the Chairman's work program agreed among Senior Officials, and taking into account the progress made in related negotiating groups.

Under sub-paragraph 31(i), Members are expected to rely on previous discussions of their real world experiences in the negotiation and implementation of STOs set out in MEAs to draw conclusions for any text-based negotiations. The United States continues to view this experience-based exchange as the best way to explore the relationship between WTO rules and specific trade obligations contained in MEAs and maintains that these national experiences should form the basis for an outcome in the negotiations.

Discussions under sub-paragraph 31(ii) are likely to move to text in conjunction with sub-paragraph 31(i). Several Members have also noted their interest in exploring linkages between sub-paragraphs 31(i) and (ii), in light of the view that enhanced cooperation between the WTO and MEA secretariats could contribute to improving both international and national coordination, and could further contribute to a mutually supportive relationship between trade and environment regimes.
Finally, the CTESS is expected to continue to identify environmental goods of interest and related cross-cutting issues. The United States will continue to show leadership in advancing a robust outcome in the negotiations, including further development of an environmental goods and services agreement (EGSA), which we proposed in November 2007 in an effort to open markets for environmental goods and advance Members' environmental and development policies. In addition, as highlighted by Ambassador Ron Kirk

and several other trade ministers at the WTO Ministerial Meeting in December, we will work with other like-minded and ambitious Members to explore approaches to fast-track the elimination of tariffs on goods directly relevant to addressing climate change, such as solar panels and stoves, and wind and hydraulic turbines. We believe that such action could make an important contribution to both the DDA and the global climate negotiations, which will continue in 2010.

7. Dispute Settlement Body, Special Session

Status

Following the Doha Ministerial Conference in 2001, the Trade Negotiations Committee established the Special Session of the Dispute Settlement Body (DSB) to fulfill the Ministerial mandate found in paragraph 30 of the Doha Declaration which provides: "We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter." In July 2003, the General Council decided that: (1) the timeframe for conclusion of the negotiations on clarifications and improvements of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) be extended by one year (i.e., to aim to conclude the work by May 2004 at the latest); (2) this continued work will build on the work done to date, and take into account proposals put forward by Members as well as the text put forward by the Chair of the Special Session of the DSB (DSB-SS); and (3) the first meeting of the DSB-SS when it resumed its work be devoted to a discussion of conceptual ideas. Due to complexities in negotiations, deadlines were not met. In August 2004, the General Council decided that Members should continue work toward clarification and improvement of the DSU, without establishing a deadline.

Major Issues in 2009

The DSB-SS met five times during 2009 in an effort to implement the Doha mandate. In previous phases of the review of the DSU, Members had engaged in a general discussion of the issues. Following that general discussion, Members tabled proposals to clarify or improve the DSU. Members then reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals. The Chair of the review issued a chair's text in July 2008 "to take stock of" the work to date and to provide a basis for its continuation. In 2009, Members continued their discussions in light of the chair's text.

The United States has advocated two proposals, both of which are reflected in the chair's text. One would expand transparency and public access to dispute settlement proceedings. The proposal would open WTO dispute settlement proceedings to the public as the norm and give greater public access to submissions and panel reports. In addition to open hearings, public submissions and early public release of panel reports, the U.S. proposal calls on WTO Members to consider rules for "*amicus curiae*" submissions—submissions by non-parties to a dispute. WTO rules currently allow such submissions, but do not provide guidelines on how they are to be considered. Guidelines would provide a clearer roadmap for handling such submissions.

In addition, the United States and Chile submitted a proposal to help improve the effectiveness of the WTO dispute settlement system in resolving trade disputes among Members. The joint proposal contained specifications aimed at giving parties to a dispute more control over the process and greater flexibility to settle disputes. Under the present dispute settlement system, parties are encouraged to resolve their disputes, but do not always have all the tools with which to do so. As part of this proposal,

the United States has also proposed guidance for WTO Members to provide to WTO adjudicative bodies in three particular areas where important questions have arisen in the course of various disputes.

Prospects for 2010

In 2010, Members will continue to work to complete the review of the DSU. Members will be meeting a number of times over the course of 2010.

8. Council for Trade-Related Aspects of Intellectual Property Rights, Special Session Status

With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) on the implementation of Article 23.4 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), Ministers agreed at the 2001 Doha Ministerial Conference to negotiate the establishment of a multilateral system of notification and registration of geographical indications (GIs) for wines and spirits. At the 2005 Hong Kong Ministerial Conference, Ministers agreed to intensify their work in order to complete these negotiations within the overall time-frame for the conclusion of the Doha negotiations. This matter is the only one before the Special Session of the TRIPS Council.

Major Issues in 2009

The TRIPS Council Special Session held three formal meetings in 2009, as well as several informal consultations. During that time, there was no significant shift in WTO Members' positions, nor any movement towards bridging sharp differences between competing proposals. Key positions are reflected in a 2005 WTO Secretariat document (TN/IP/W/12), which contains a side-by-side presentation of the three proposals before the Special Session. The Secretariat expanded this document in May 2007, with an addendum that describes the various arguments, and that presents questions raised by proponents of the proposals (TN/IP/W/12/Add. 1). In a July 2008 report to the Trade Negotiations Committee (TN/IP/18), the Chair of the TRIPS Council Special Session highlighted, in particular, ongoing divergences with respect to participation in the multilateral register system (i.e., whether the system would apply to all Members or only to those opting to participate in it) and to the nature of the legal obligations provided for in the system (i.e., the extent to which legal effects at the domestic level determine the effect of registration of a GI for a wine or spirit in the system). In 2009, the Chairman of the TRIPS Council Special Session delivered a report on the status of the negotiations and proposed ideas for future work.

The United States, together with Argentina, Australia, Canada, Chile, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Japan, Mexico, New Zealand, Nicaragua, Paraguay, and Chinese Taipei continued to support the Joint Proposal under which Members would notify their GIs for wines and spirits for incorporation into a register on the WTO website. During 2008, the Republic of Korea and the Republic of South Africa formally associated themselves as co-sponsors of the Joint Proposal. Several Joint Proposal co-sponsors have submitted a Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits to the Special Session to set out clearly in draft legal form, a means by which Members could implement the mandate from paragraph 18 of the Doha Ministerial Declaration and Article 23.4 of the TRIPS Agreement. Members choosing to use the system would agree to consult the system when making any decisions under their domestic laws related to GIs or, in some cases, trademarks. Implementation of this proposal would not impose any additional obligations—with regard to GIs—on Members that chose not to participate, nor would it place undue burdens on the WTO Secretariat.

The EU, together with a number of other Members, continued to support their alternative proposal for a binding, multilateral system for the notification and registration of GIs for wines and spirits. The current EU position on geographical indications combines two proposals: the multilateral GI register for wines and spirits, and an amendment to the TRIPS Agreement to extend Article 23-level GI protection to products other than wines and spirits. The effect of this proposal would be to expand the scope of the negotiations to all GI products and to propose that any GI notified to the EU's proposed register would benefit from a presumption of protection as a GI in other WTO Member countries. In addition, the notified GI would be presumed valid against a competing rightholder, including a prior rightholder. Essentially, the system proposed by the EU could, as a practical matter, enable one Member to mandate GI protection in another Member simply by notifying that GI to the system. Such a proposal would negatively affect pre-existing trademark rights, as well as investments in generic food terms, and would directly contradict the principle of territoriality with respect to intellectual property in favor of a system based upon the unilateral and extraterritorial application of domestic law and national intellectual property regimes. While the EU has informally indicated possible modifications to its proposals, it has not presented these formally in the negotiations.

A third proposal, from Hong Kong China, remains on the table, although during 2009, this proposal was not discussed as extensively as the others.

Prospects for 2010

The United States will aggressively pursue additional support for the Joint Proposal in the coming year, and will seek a more flexible and pragmatic approach on the part of the EU, so that the negotiations can be completed.

9. Committee on Trade and Development, Special Session

Status

The Special Session of the Committee on Trade and Development (CTD-SS) was established by the TNC in February 2002, to fulfill the Doha Round mandate to review all special and differential treatment (S&D) provisions "with a view to strengthening them and making them more precise, effective, and operational." Under existing S&D provisions, Members provide developing country Members with technical assistance and transitional arrangements toward implementation of the WTO Agreement. S&D provisions also enable Members to provide developing country Members with better-than-MFN access to markets.

As part of the S&D review, developing country Members have submitted 88 proposals to augment existing S&D provisions in the WTO agreement. Following intensive negotiations in 2002 and 2003, the CTD-SS agreed *ad referendum* on nearly a third of those proposals for consideration at the Fifth Ministerial Conference in Cancun, Mexico in 2003. Due to the breakdown of the DDA negotiations, these proposals were not adopted at Cancun. Since Cancun, WTO Members have taken no action to adopt them, and in November 2005, the Africa Group submitted a paper to the CTD-SS repudiating the agreed texts of these proposals. In 2004 and early 2005, the focus of the CTD-SS shifted to discussions on new approaches to address the mandate more effectively, and reflected a desire to find a more productive approach than that associated with the specific proposals that individual Members or groups tabled. Despite extensive discussions, Members were unable to reach agreement on an alternative framework for approaching the mandate of the CTD-SS.

Leading up to the 2005 Hong Kong Ministerial, Members focused in the CTD-SS on five S&D proposals put forth by the LDC Members. These included proposals on: access to WTO waivers; coherence; duty-free and quota-free treatment (DFQF) for LDC Members; Trade Related Investment Measures (TRIMS); and flexibility for LDC Members that have difficulty implementing their WTO obligations. At the Hong Kong Ministerial Conference, Members reached agreement in these five areas. The decisions on these proposals are contained in Annex F of the Hong Kong Ministerial Declaration.

Following the Hong Kong Ministerial, the CTD-SS conducted a thorough "accounting" of the remaining agreement-specific proposals. Though the number of proposals had been reduced considerably since their introduction in 2002 and 2003, divergences among Members' positions on the remaining proposals were quite wide. The Chair of the CTD-SS continues to work closely with the Chairs of the other negotiating groups and Committees to which the proposals had been referred due to their technical complexity. The Chairs report that there has been very little development on these proposals. However, some of the Chairs of the negotiating bodies indicate that a number of the issues raised in the proposals form an integral part of the ongoing negotiations. In addition, there are a number of bodies in which discussions on the proposals are continuing on the basis of revised language tabled by the proponents.

With respect to the remaining proposals still under consideration in the CTD-SS, Members have continued to focus their text-based discussions on six of the 16 remaining Agreement-specific proposals. These proposals cover issues relating to Article 10.2 of the Agreement on Sanitary and Phytosanitary Measures (SPS Agreement), Article 10.3 of the SPS Agreement, and Article 3.5 of the Agreement on Import Licensing.

Major Issues in 2009

The Special Session held four formal meetings in March, July, October, and December 2009 and a large number of informal plurilateral consultations. As Members were still in disagreement with respect to language in the Agreement-specific proposals, work in the Special Session focused primarily on the Monitoring Mechanism in 2009.

The Hong Kong Declaration directs the CTD-SS to "resume work on all other outstanding issues, including the cross-cutting issues, the Monitoring Mechanism and the architecture of WTO rules." The possible elements of a Monitoring Mechanism continued to be discussed during formal and informal meetings, where Members continued to emphasize the need for the mechanism to be simple, practical, and forward looking. There continues to be disagreement as to whether other negotiating groups and Committees with technical expertise should be involved in the monitoring of Agreement-specific S&D provisions and whether the scope of the mechanism should be broadened beyond monitoring S&D implementation.

Prospects for 2010

In 2010, work will continue on the remaining S&D proposals and on the underlying issues inherent in them. As in 2009, much of the practical work on S&D in 2010 is likely to take place in the other Negotiating Groups, for example the Negotiating Groups on Agriculture, Non-Agricultural Market Access, Services, and Trade Facilitation. However, it is also likely that discussions will continue in the CTD-SS toward a mechanism to monitor implementation of S&D provisions and other cross-cutting issues.

D. Work Programs Established in the Doha Development Agenda

1. Working Group on Trade, Debt, and Finance

Status

Ministers at the 2001 Doha Ministerial Conference established the mandate for the Working Group on Trade, Debt, and Finance (WGTDF). Ministers instructed the WGTDF to examine the relationship between trade, debt, and finance, and to examine and make recommendations on possible steps, within the mandate and competence of the WTO, to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed country Members. Ministers further instructed the WGTDF to consider possible steps to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability.

Major Issues in 2009

The WGTDF held two formal meetings in 2009. The first meeting was held on March 31, 2009. During this meeting, Members raised issues for discussion relating to a WTO Secretariat report that was based on an earlier Secretariat report on the WTO-hosted Expert Group on Trade Finance that met on March 18th, 2009 and other information gathered at the preparatory meeting of G-20 experts on trade finance, held in Washington, DC, on March 25, 2009. The Members also discussed general issues related to the current market conditions and trade finance.

The second meeting was held on September 22, 2009. During this meeting, Members discussed issues relating to trade finance, and the WTO Secretariat debriefed the Working Group on the outcome of the meeting of the Expert Group on Trade Finance convened by the WTO on September 15, 2009.

Prospects for 2010

In 2010, the WGTDF will continue to be a forum for discussing trade finance issues. In addition, the WGTDF will examine the relationship between trade, debt, and finance, and may make recommendations on possible steps that might be taken within its mandate and the competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and LDC Members.

2. Working Group on Trade and Transfer of Technology

Status

During the 2001 Doha Ministerial Conference, WTO Ministers agreed to an "examination… of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries." To fulfill that mandate, the TNC established the Working Group on Trade and Transfer of Technology (WGTTT), under the auspices of the General Council, and tasked the WGTTT to report on its progress to the 2003 Ministerial Conference at Cancun. At that meeting, Ministers extended the time period for the WGTTT's examination. During the 2005 Hong Kong Ministerial Conference, WTO Ministers recognized "the relevance of the relationship between trade and transfer of technology" and further agreed that, "building on the work carried out to date, this work shall continue on the basis of the mandate

contained in paragraph 37 of the Doha Ministerial Declaration." The WGTTT met four times in 2009, continuing its work under the Doha Ministerial mandate to examine the relationship between trade and the transfer of technology. Members have not reached consensus on any recommendations.

Major Issues in 2009

In the period since the Doha Ministerial, the WGTTT has considered submissions from the Secretariat, WTO Members, other WTO bodies, and other inter-governmental organizations.

In 2003, a group of developing country Members, led by India and Pakistan, circulated a paper entitled "Possible Recommendations on Steps that Might be Taken within the Mandate of the WTO to Increase Flows of Technology to Developing Countries." The United States and several other Members have objected to much of the analysis in this paper, which suggested that some WTO agreements were hindering the transfer of technology. In particular, the United States and other Members expressed the strong view that effective intellectual property rights protections promote the transfer of technology by private firms; that market-based trade and investment are the most efficient means of promoting technology transfer; and that governments should generally not mandate the transfer of technology. The United States has also argued that the contribution of commerce to technology transfer reinforces the case for continued trade and investment liberalization.

In 2008, India, Pakistan and the Philippines revised an earlier set of proposals, and these proposals continued to be the focus of discussion in 2009. One proposal under discussion is to improve the WTO website to allow Members to search more easily for submissions relating to technology transfer, and to establish a forum for governments and the private sector to exchange information about technological needs and offers. The United States has welcomed this constructive approach to the work of the WGTTT, and has requested more information on the changes proposed for the WTO web site.

During 2009, the working group also continued its discussion of presentations by Members and outside bodies on their experience and research regarding technology transfer. The working group continued the discussion begun last year of the World Bank's 2008 Global Economic Prospects Report as it related to technology transfer. The working group also considered a presentation by the Food and Agriculture Organization of a report on "The Linkage between Technology Transfer and Productivity Gains in Agriculture." This report focused on the improved productivity brought about through new technologies and methods in agriculture. In response, the U.S. noted the importance of this subject and the need for tools beyond technology transfer mechanisms to manage growing demand, such as post-harvest techniques, private sector growth, support for small and woman-owned farming, increasing trade flows, and good governance.

Prospects for 2010

No WGTTT meetings have been scheduled yet for 2010. It is expected that, in response to a request from the Chairman of the Group, developing country Members will make presentations on their national experience with technology transfer, and that the group will continue its examination of issues raised in the 2008 India/Pakistan/Philippines paper.

3. Work Program on Electronic Commerce

Status

Pursuant to the Hong Kong Ministerial Declaration, Members continue to explore ways to advance the Work Program on Electronic Commerce. To that end, Members decided during the 2009 Ministerial to reinvigorate the Work Program addressing development-related issues and the trade treatment, *inter alia*, of electronically delivered software. In addition, Members extended the moratorium on imposing customs duties on electronic transmission, first agreed to in 1998, until the next Ministerial Conference, scheduled for 2011.

Since 2001, the Work Program on Electronic Commerce has held several dedicated discussions under the auspices of the General Council. These informal discussions examined cross-cutting issues that the various sub-bodies of the General Council identified as affecting two or more of the various WTO legal instruments. The most controversial cross-cutting issue has been whether to classify electronically-delivered products (e.g., software, music and video) as a good or a service. Resolution of that issue has not been reached, but Members may examine it more thoroughly in the coming year.

Major Issues in 2009

The Work Program on Electronic Commerce remains an item in the Doha mandate. The Seventh Dedicated Discussion under the auspices of the General Council relating to the Work Program on Electronic Commerce took place in October and November 2009. The recommendations developed during the Seventh Dedicated Discussion were adopted by the Ministerial Conference on December 2, 2009. There has been no activity in any of the other WTO bodies charged with carrying out work under the Work Program.

Prospects for 2010

At the 2009 Ministerial Conference, Members decided that a reinvigorated Work Program should include development-related issues, basic WTO principles including among others non-discrimination, predictability and transparency, and discussions on the trade treatment, *inter alia*, of electronically delivered software. The United States will support these efforts, examining ways to make the moratorium permanent and binding, and ensuring that trade rules relevant to electronic commerce help maintain a liberal trade environment for electronically traded goods and services, including for electronically-delivered products. At the Ministerial Conference, Members agreed to have periodic reviews based on written reports of this Work Program in the General Council meetings of July 2010, December 2010 and July 2011.

E. General Council Activities

Status

The WTO General Council is the highest level decision-making body in the WTO that meets on a regular basis during the year. It exercises all of the authority of the Ministerial Conference, which is required to meet no less than once every two years.

Only the Ministerial Conference and the General Council have the authority to adopt authoritative interpretations of the WTO Agreements, submit amendments to the Agreements for consideration by Members, and grant waivers of obligations. The General Council or the Ministerial Conference must

approve the terms for all accessions to the WTO. Technically, both the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are General Council meetings that are convened for the purpose of discharging the responsibilities of the DSB and TPRB, respectively.

Four major bodies report directly to the General Council: the Council for Trade in Goods, the Council for Trade in Services, the Council for Trade-Related Aspects of Intellectual Property Rights, and the Trade Negotiations Committee (TNC). In addition, the Committee on Trade and Environment, the Committee on Trade and Development, the Committee on Balance of Payments Restrictions, the Committee on Budget, Finance and Administration, and the Committee on Regional Trade Agreements report directly to the General Council. The Working Groups established at the First Ministerial Conference in Singapore in 1996 to examine investment, trade and competition policy, and transparency in government procurement also report directly to the General Council, although these groups have been inactive since the Cancun Ministerial Conference in 2003. A number of subsidiary bodies report to the General Council through the Council for Trade in Goods or the Council for Trade in Services. The Doha Ministerial Declaration approved a number of new work programs and working groups which have been given mandates to report to the General Council, such as the Working Group on Trade, Debt, and Finance and the Working Group on Trade and Transfer of Technology. These mandates are part of DDA, and this report reviews these groups' work in sub-sections of Section D entitled *Working Group on Trade, Debt, and Finance* and *Working Group on Trade and Transfer of Technology*.

The General Council uses both formal and informal processes to conduct the business of the WTO. Informal groupings, which generally include the United States, play an important role in consensus-building. Throughout 2009, the Chairman of the General Council, together with the Director General, conducted extensive informal consultations with both the Heads of Delegation of the entire WTO Membership and a wide variety of smaller groupings. These consultations were convened with a view towards making progress on the core issues in the DDA, as well as towards resolving outstanding issues on the General Council's agenda. In 2009, the main focus of work in the DDA negotiations was in the individual negotiating groups. Reports on those groups are set out in other sections of this chapter.

Major Issues in 2009

Ambassador Mario Matus served as Chairman of the General Council in 2009. In addition to work on the DDA, activities of the General Council in 2009 included:

Accessions and Observerships: New chairmen were appointed to the Working Parties established to examine the accession requests of Afghanistan, Iraq, Lao PDR, Samoa, Bahamas, and Seychelles. There were no new requests submitted to the General Council in 2009 to initiate accession negotiations. Gabon, on behalf of the Informal Group of Developing Countries, submitted a proposal to start a process of considering improvements to the existing institutional mechanism of accession and that progress reports be sent to the General Council. No formal action was taken by the General Council on this proposal. The Palestinian Authority, an observer at both the Sixth (Hong Kong) and Seventh (Geneva) WTO Ministerial Conferences, submitted an application for permanent observer status in the General Council. The Council has not yet acted upon that request. There were no other requests for observer status during 2009.

China Transitional Review Mechanism (TRM): In December, the General Council concluded its eighth annual review of China's implementation of its commitments. The United States and some other Members commented on China's progress as a WTO Member, while noting that China's transition to a market economy continues to fall short in a number of areas. The United States raised concerns about China's use of export restraints on raw materials, VAT rebates, export subsidies, and use of national versus international standards; bans on telecommunications services; restrictions in the postal express

market; the implementation of "Buy China" policies; and the lack of enforcement of intellectual property rights. The United States also expressed concerns about China's unpredictable agricultural policies, particularly with respect to arbitrary customs procedures and quarantine rules. The United States urged China to make further progress toward the institutionalization of market mechanisms, fairness, transparency, and predictability in its trade regime.

Other Members also expressed concerns about China's policy of imposing export taxes on raw material minerals exports and noted that China's participation in the TRM process had been lacking in that China failed to provide written responses to questions in advance of committee meetings and failed to provide any response to many questions. As a result, some Members concluded that the TRM process had fallen short of its full potential.

Bananas: The EU and Latin American banana supplying countries initialed the Geneva Agreement on Trade in Bananas (GATB) on December 15, 2009, which is designed to lead to settlement of the longstanding bananas dispute. Under the agreement, the EU will reduce tariffs on banana imports in eight stages until reaching 114 Euros per ton by 2017, thereby bringing itself into compliance with its WTO obligations. Separately, the United States and the EU initialed an agreement also designed to lead to settlement of their banana dispute. In that agreement, the EU undertakes not to reintroduce measures that discriminate among bananas distributors based on ownership or control of the distributor or the source of bananas, and to maintain a non-discriminatory tariff-only regime for the importation of bananas. Once the various parties conclude their domestic ratification procedures, the agreements will be signed and then enter into force. Upon entry into force, the EU will need to request formal WTO certification of its new banana tariffs. The GATB provides that once the certification process is concluded, the EU and the Latin American countries will settle their disputes and claims. Once that has occurred, the United States will also settle its dispute with the EU.

Waivers of Obligations: The General Council approved the following waivers: (1) the extension of a waiver from the provisions of paragraph 1 of Article I of GATT 1994, to allow developing country Members to provide preferential tariff treatment to products of least developed countries until June 30, 2019; (2) a request by the United States for a waiver from the provisions of paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII of GATT 1994, until September 30, 2015, for the African Growth and Opportunity Act; (3) requests by the United States for the renewal of waivers from the provisions of paragraph 1 of Article I and paragraphs 1 and 2 of Article XIII of the GATT 1994, until December 31, 2014, for the Andean Trade Preference Act and the Caribbean Basin Economic Recovery Act; and (4) a request by Cape Verde for a waiver on the implementation of scheduled concessions and commitments until January 1, 2010. The General Council also adopted waivers for the Harmonized System 1996 changes to WTO schedules of tariff concessions for Argentina and Panama and waivers for the procedures leading to the verification and certification of Harmonized System 1996 changes to WTO schedules of tariff concessions for 64 other WTO Members. Annex II of this report contains a detailed list of Article IX waivers currently in force.

Review of the Exemption Provided Under Paragraph 3 of GATT 1994 (Jones Act): The General Council completed its sixth biennial review of the U.S. exemption under Paragraph 3 of GATT 1994 for the Jones Act. This exemption is reviewed every two years to determine whether the conditions creating the need for the exemption still prevail. The United States noted that it had provided its statistical reports and held informal consultations with interested Members. The next review will occur in 2011.

Global Financial Crisis: The General Council, through the TPRB, established mechanisms to monitor measures adopted by Members in response to the global economic and financial crisis and to report on such measures to the Members.

Prospects for 2010

The General Council is expected to be more active in 2010 as Members endeavor to bring the DDA negotiation to its concluding phase. In addition to its management of the WTO and oversight of implementation of the WTO Agreements, the General Council will continue to closely monitor work on all aspects of the DDA negotiations.

F. Council for Trade in Goods

Status

The WTO Council for Trade in Goods (CTG) oversees the activities of 12 committees (Agriculture, Antidumping Practices, Customs Valuation, Import Licensing Procedures, Information Technology, Market Access, Rules of Origin, Safeguards, Sanitary and Phytosanitary Measures, Subsidies and Countervailing Measures, Technical Barriers to Trade, and Trade-related Investment Measures (TRIMS)) and the Working Party on State Trading Enterprises.

The CTG is the forum for discussing issues and decisions which may ultimately require the attention of the General Council for resolution or a higher-level discussion, and for putting issues in a broader context of the rules and disciplines that apply to trade in goods. The use of the GATT 1994 Article IX waiver provisions, for example, is considered in the CTG and the CTG gave initial approval to waivers for trade preferences granted to ACP countries and the Caribbean Basin Initiative (CBI) countries by the EU and the United States, respectively.

Major Issues in 2009

In 2009, the CTG held five formal meetings, in March, May, June, and two in October. As the central oversight body in the WTO for all agreements related to trade in goods, the CTG devoted its attention primarily to providing formal approval of decisions and recommendations proposed by its subsidiary bodies. The CTG also served as a forum for airing initial complaints regarding actions that individual Members had taken with respect to the operation of goods-related WTO Agreements. Many of these complaints were resolved through consultation. In addition, three major issues were debated extensively in the CTG in 2009:

Waivers: The CTG approved several requests for waivers, including those related to the United States' request concerning the African Growth and Opportunity Act (AGOA), Caribbean Basin Economic Recovery Act (CBERA) and Andean Trade Promotion Act (ATPA), the request by Brazil, China, India and Korea for an extension of the waiver for preferential tariff treatment for least developed countries, Cape Verde's request for a waiver concerning the implementation of duty rate reductions, and the implementation of the Harmonized Tariff System and renegotiation of tariff schedules.

China Transitional Review: On October 30, the CTG conducted the eighth annual Transitional Review Mechanism (TRM) review of China, as mandated by the Protocol on the Accession of the People's Republic of China to the WTO. China supplied the CTG with information and answered questions that Members posed, and the CTG reviewed the TRM reports of CTG subsidiary bodies. *(For a more detailed discussion of China's implementation of WTO commitments, see Chapter III.B.4.)*

Textiles: The CTG met several times to review a proposal by small exporting Members, including Turkey, to find ways to assist them with post-Agreement on Textiles and Clothing (ATC) adjustment

problems. These Members argued that the elimination of quotas resulted in a disastrous loss of market share from small suppliers to the large exporters such as China and India. They asked that the CTG study this adjustment issue with a view to adopting proposals to ease the transition. These proposals were blocked by the large exporting Members, such as China and India. They argued that 40 years of textile restraints were long enough and it was necessary for this sector to return to normal trade rules. China and India contended that any attempt to ease the transition to a quota-free environment would perpetuate the distortions which had characterized this sector for so long.

Prospects for 2010

The CTG will continue to be the focal point for discussing agreements in the WTO dealing with trade in goods. Post-ATC adjustment and the outstanding waiver requests will be prominent issues on the agenda.

1. Committee on Agriculture

Status

The WTO Committee on Agriculture (the Committee) oversees the implementation of the Agreement on Agriculture (the Agriculture Agreement) and provides a forum for Members to consult on matters related to provisions of the Agreement. In many cases, the Committee resolves problems on implementation, permitting Members to avoid invoking lengthy dispute settlement procedures. The Committee also has responsibility for monitoring the possible negative effects of agricultural reform on least developed countries (LDCs) and net food-importing developing country (NFIDC) Members.

Since its inception, the Committee has proven to be a vital instrument for the United States to monitor and enforce agricultural trade commitments that were undertaken by other Members in the Uruguay Round. Members agreed to provide annual notifications of progress in meeting their commitments in agriculture, and the Committee has met frequently to review the notifications and monitor activities of Members to ensure that trading partners honor their commitments.

Under the watchful eye of the Committee, Members have, for the most part, complied with the agricultural commitments that they undertook as WTO Members. However, there have been important exceptions where other Members' agricultural policies have adversely affected U.S. agricultural trade interests. In these situations, the Committee has frequently served as an indispensable tool for resolving conflicts before they became formal WTO disputes.

Major Issues in 2009

The Committee held four formal meetings in March, July, September, and November 2009 to review progress on the implementation of commitments negotiated in the Uruguay Round. At the meetings, Members undertook reviews based on notifications by Members in the areas of market access, domestic support, export subsidies, export prohibitions and restrictions, and general matters relevant to the implementation of commitments.

In total, 213 notifications were subject to review during 2009. The United States participated actively in the review process and raised specific issues concerning the operation of Members' agricultural policies. For example, the United States used the review process to raise concerns about Taiwan's administration of its tariff-rate quota (TRQ) system and tendering schedule for rice. The United States also raised concerns regarding the transparency and predictability of Thailand's TRQ allocation system for soybeans,

potatoes, corn, and other agricultural products. In addition, the United States used the review process to state its support for Argentina's requests to the European Union proposing multilateral negotiations to establish the bound Aggregate Measurement of Support (AMS) level corresponding to the actual number of EU Member States since its enlargement. The United States also used the review process to request that the EU notify food assistance provided by Member States, and to address other issues associated with EU enlargement.

The United States also raised questions concerning elements of domestic support programs used by Costa Rica, the European Communities, Jordan, Malaysia, Malta, Oman, the Philippines, South Africa, Switzerland, Taiwan, and Trinidad and Tobago.

During 2009, the Committee addressed a number of other issues related to the implementation of the Agriculture Agreement, such as: (1) development of internationally-agreed disciplines to govern the provision of export credits, export credit guarantees, or insurance programs pursuant to Article 10.2 of the Agriculture Agreement, taking into account the effect of such disciplines on NFIDCs; (2) review of Members' notifications on tariff-rate quotas (TRQs) in accordance with the General Council's decision[7] regarding the administration of TRQ regimes in a transparent, equitable, and non-discriminatory manner; (3) annual monitoring of the follow-up to the Marrakesh NFIDC Decision on food aid of April 15, 1994; and (4) annual consultations, under Article 18.5 of the Agriculture Agreement, concerning Members' participation in the normal growth of world trade in agricultural products within the framework of commitments on export subsidies.

During 2009, the Committee conducted the eighth annual Transitional Review Mechanism for China, as required under China's Protocol of Accession to the WTO. The United States asked questions relating to China's domestic support for its pork industry, export VAT rebates, and the Chinese government's role in the agricultural sector, among other topics.

Also during 2009, the Committee conducted Korea's 5-year multilateral review of its implementation of the WTO Minimum Market Access Agreement to extend special treatment for rice imports, in accordance with the 2004 Rice Agreement in which the Special Treatment provisions (Annex 5 of the Agriculture Agreement) for rice were extended for an additional 10 years, i.e. until 2014.

Throughout the year, the Committee worked to improve the timeliness and completeness of notifications. As a cornerstone of these efforts, the Secretariat hosted a workshop in September on notification preparation, which was attended by most Member countries.

Prospects for 2010

The United States will continue to make full use of the Committee to ensure transparency through timely notification by Members and to enhance enforcement of Uruguay Round commitments as they relate to export subsidies, market access, domestic support, or trade-distorting practices by WTO Members. The United States will continue to work closely with the Committee Chair and Secretariat to find ways to improve the timeliness and completeness of notifications and to increase the effectiveness of the Committee overall. In addition, the Committee will continue to monitor and analyze the impact of the possible negative effects of the reform process on LDCs and NFIDCs in accordance with the Agriculture Agreement.

[7] WT/L/384 General Council - Implementation-Related Issues and Concerns - Decision of 15 December 2000.

2. Committee on Market Access

Status

In January 1995, WTO Members established the Committee on Market Access (MA Committee), consolidating the work under the GATT system of the Committee on Tariff Concessions and the Technical Group on Quantitative Restrictions and other Non-Tariff Measures. The MA Committee supervises the implementation of concessions on tariffs and non-tariff measures where not explicitly covered by another WTO body, and is responsible for verification of new concessions on market access in the goods area. The Committee reports to the Council on Trade in Goods.

Major Issues in 2009

The MA Committee held three formal meetings in April, July, and October 2009 to discuss the following topics: (1) the ongoing multilateral review of WTO schedules of Members' tariff concessions to accommodate updates to the Harmonized System (HS) 2002 tariff nomenclature and any other tariff modifications; (2) the WTO Integrated Data Base (IDB) and Consolidated Tariff Schedules (CTS) database; and (3) finalizing consolidated schedules of WTO tariff concessions in HS 2002 and 2007 nomenclature. The Committee also conducted its eighth annual Transitional Review of China's implementation of its WTO accession commitments.

Updates to the HS nomenclature: The MA Committee examines issues related to the transposition and renegotiation of the schedules of certain Members that adopted the HS in the years following its introduction on January 1, 1988. Since then, the HS nomenclature has been modified by the World Customs Organization in 1996, 2002, and 2007. Using agreed examination procedures, WTO Members have the right to object to any proposed nomenclature change that affects the level of another Member's tariff rates on bound items on grounds that the new nomenclature (as well as any increase in tariff levels for an item above existing bindings) represents a modification of the tariff concession. Members may pursue unresolved objections under GATT 1994 Article XXVIII. The majority of Members have completed the process of implementing HS 1996 changes, but Argentina and Panama continue to require waivers, and additional information is needed from Venezuela in order to finalize certification of its HS1996 documentation.

In 2005, the MA Committee agreed to new procedures using the CTS database and assistance from the Secretariat for the introduction into Members' schedules and verification of the 373 amendments to HS nomenclature that took effect on January 1, 2002 (HS 2002). Work on this conversion to HS 2002, which is essential to laying the technical groundwork for analyzing the tariff implications of the DDA negotiations, continued throughout 2009. At the October 2 meeting, the MA Committee verified the HS 2002 bound schedule from the United States. The next step will be for the WTO Secretariat to circulate the file for multilateral review for 90 days, after which, if no comments or questions are raised by the Membership, the U.S. bound schedule in HS 2002 will be formally certified.

In January 2007, the HS 2007 documentation was circulated to the WTO Membership, including the procedures and layout for the transposition from tariff schedules in HS 2002 to HS 2007. However, because DDA schedules (to be submitted in the HS 2002 nomenclature) will also need to be transposed into the HS 2007 nomenclature, the Committee decided that the current HS 2007 transposition exercise would be redundant of this effort and decided to postpone the current exercise and to review the situation at its next meeting in 2010.

Integrated Data Base (IDB): The MA Committee addressed issues concerning the IDB, which is updated annually with information on the tariffs, trade data, and non-tariff measures maintained by WTO Members. Members are required to provide this information as a result of a General Council Decision adopted in July 1997. The United States continues to take an active role in pressing for a more relevant database structure with the aim of improving the trade and tariff data supplied by WTO Members. As a result, participation has continued to improve, although several major economies have yet to report tariff and trade data for 2007 and 2008. For instance, China has yet to submit import data past 2003. In addition, as of September 2009, the following Members had not yet submitted tariff and trade information for any year to the IDB: Cambodia, Central African Republic, Chad, Democratic Republic of the Congo, Guinea Bissau, and Vietnam.

Consolidated Schedule of Tariff Concessions: The MA Committee continued work on implementing an electronic structure for tariff and trade data. The CTS includes: tariff bindings for each WTO Member that reflect Uruguay Round tariff concessions; HS 1996 and 2002 updates to tariff nomenclature and bindings; and any other modifications to the WTO schedule (e.g., participation in the Information Technology Agreement). The database also includes agricultural support tables. The CTS has been linked to the IDB and serves as the vehicle for conducting the DDA negotiations in agriculture and non-agricultural market access.

At the formal Committee meeting on July 13, the Committee adopted a decision (G/MA/238) to allow public access to the IDB and CTS databases as of January 2010 (with certain access conditions). The WTO Secretariat is preparing a public version of the internet analysis facility.

China Transitional Review: In October 2009, the MA Committee conducted its eighth annual review of China's implementation of its WTO commitments on market access. The United States, with support from other WTO Members, raised questions and concerns regarding China's implementation in the areas of export restraints on raw material inputs and value-added tax exemptions.

Prospects for 2010

The ongoing work program of the MA Committee, while highly technical, will ensure that all WTO Members' schedules are up-to-date and available in electronic spreadsheet format. The Committee will continue to explore technical assistance needs related to data submissions and to finalize Members' amended schedules based on the HS 2002 revision. In addition, the Committee will reassess the work plan for conducting the conversion of Members' schedules to HS 2007.

3. Committee on the Application of Sanitary and Phytosanitary Measures

Status

The Committee on the Application of Sanitary and Phytosanitary Measures (the SPS Committee) provides a forum for the implementation and administration of the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), consultation on Members' existing and proposed SPS measures, technical assistance, other informational exchanges, and the participation of the international standard setting bodies recognized in the SPS Agreement. These international standard setting bodies are: for food, the Codex Alimentarius Commission (Codex); for animal health, the World Organization for Animal Health (OIE); and for plant health, the International Plant Protection Convention (IPPC).

The SPS Committee also discusses specific provisions of the SPS Agreement. These discussions provide an opportunity to develop procedures to assist Members in meeting specific SPS obligations. For example, the SPS Committee has issued procedures or guidelines regarding: notification of SPS measures; the "consistency" provisions under Article 5.5 of the SPS Agreement; equivalence; transparency regarding the provisions for special and differential treatment; and regionalization.

Participation in the SPS Committee, which operates by consensus, is open to all WTO Members. Governments engaged in negotiating their accession to the WTO may attend Committee meetings as observers. In addition, representatives from a number of international organizations attend Committee meetings as observers on an *ad hoc*, meeting by meeting basis, including: the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the Codex; the IPPC; the OIE; the International Trade Center; the Inter-American Institute for Cooperation on Agriculture (IICA), and the World Bank.

Major Issues in 2009

In 2009, the SPS Committee held meetings in March, June, and October. In these meetings, Members exchanged views regarding the implementation of SPS Agreement provisions regarding transparency, equivalence, and regionalization, including their efforts to declare areas of their country free from specified pests and diseases.

The United States views these exchanges as positive developments as they demonstrate a growing familiarity with the provisions of the SPS Agreement and increased recognition of the value of the SPS Committee as a forum for the Members to discuss SPS-related trade issues. Many Members, including the United States, utilized these meetings to raise concerns regarding new and existing SPS measures of other Members. In 2009, the United States raised a number of concerns with measures imposed by other Members, including restrictions imposed on U.S. live swine, pork, and pork products due to the outbreak of the human H1N1 virus, India's avian influenza restrictions, and bans imposed by several members on the use of the growth additive, ractopamine, in swine. Further, the United States, with a view to transparency, informed the SPS Committee of various U.S. measures, both new and proposed, such as the U.S. Food and Drug Administration's proposed Food Registry.

Other important issues before the SPS Committee include:

China's Transitional Review Mechanism: The United States and the EU submitted questions for the SPS Committee's eighth review of China's implementation of its WTO obligations as provided for in China's WTO Accession Protocol. The United States asked questions regarding China's BSE restrictions, requested information on the status of revision to China's sampling plans and microbiological criteria for food-born pathogens, H1N1 ban on live swine, pork and poultry, and expressed concerns regarding the science underlying China ractopamine-related import restriction. The United States also raised its concern that China's import bans related to low pathogenic avian influenza, which adversely affect the states of Arkansas and Virginia, do not appear to comply with OIE guidelines. China responded orally to questions and concerns raised by Members during the review and restated its commitment to implement fully the provisions of the SPS Agreement.

Notifications: Because it is critical for trading partners to know and understand each other's laws, the SPS notification process, with the Committee's consistent encouragement, is becoming an increasingly important mechanism in the facilitation of international trade. The process also provides a means for Members to report on determinations of equivalence and special and differential treatment. The United

States made 111 SPS notifications to the WTO Secretariat in 2008 and submitted comments on 144 SPS measures notified by other Members.

Private and Commercial Standards: In October, the Committee agreed to review and consider several recommendations on how best to proceed on the issue of private standards and their potential impact on trade. These recommendations were provided by individual members of the Committee's smaller working group and some of the proposed actions are likely to be considered by the full Committee in March 2010. The Committee has also agreed that action would only be taken if there was consensus among Members to do so.

The United States is monitoring the issue closely through its active participation in the working group. This group began its work a year ago by collecting specific examples of where private SPS-related standards may have had an impact on a country's ability to export products. The Secretariat distributed a questionnaire in February 2009 to solicit specific examples for the working group's review with responses that were compiled for discussion at the June Committee meeting. The United States remains quite concerned about whether this is an appropriate issue for the SPS Committee to be devoting resources to and continues to work with the Committee and other Members to address that concern.

Prospects for 2010

The SPS Committee will hold three meetings in 2010 with informal sessions anticipated to be held in advance of each meeting. The Committee has a standing agenda for meetings that can be amended to accommodate new or special issues. The SPS Committee will continue to monitor Members' implementation activities and the discussion of specific trade concerns will continue to be an important part of the Committee's activities, including exchanges on BSE, AI, unjustified H1N1 restrictions, food safety measures, and technical assistance.

In 2010, the Committee will complete the Third Review of the Operation and Implementation of the SPS Agreement consistent with the Doha Declaration commitment to undertake such reviews at least every four years. The United States anticipates that the SPS Committee will focus on furthering priorities identified in the second review, including the issuance of guidance regarding *ad hoc* consultations under Article 12.2 of the Agreement, and the provision of technical assistance and special and differential treatment. Finally, the Committee will continue to monitor the use and development of international standards, guidelines, and recommendations by Codex, OIE, and IPPC.

4. Committee on Trade-Related Investment Measures

Status

The Agreement on Trade-Related Investment Measures (the TRIMS Agreement), which entered into force with the establishment of the WTO in 1995, prohibits investment measures that are inconsistent with national treatment obligations under Article III:4 of the GATT 1994 and reinforces the prohibitions on quantitative restrictions set out in Article XI:1 of the GATT 1994. The TRIMS Agreement requires the elimination of certain measures imposing requirements on, or linking advantages to, certain actions of foreign investors, such as measures that require, or provide benefits for, the incorporation of local inputs in manufacturing processes ("local content requirements") or measures that restrict a firm's imports to an amount related to the quantity of its exports or of its foreign exchange earnings ("trade balancing requirements"). The Agreement includes an illustrative list of measures that are inconsistent with Articles III:4 and XI:1 of the GATT 1994.

Developments relating to the TRIMS Agreement are monitored and discussed both in the CTG and in the Committee on Trade-Related Investment Measures (the TRIMS Committee). Since its establishment in 1995, the TRIMS Committee has been a forum for the United States and other Members to address concerns, gather information, and raise questions about the maintenance, introduction, or modification of TRIMS by Members.

Major Issues in 2009

The TRIMS Committee held two formal meeting during 2009, in May and October.

In May 2009 the United States and the European Communities filed a joint submission with the Committee on "Certain New and Proposed Measures by Indonesia Addressing Local Content in Investment in the Telecommunications Sector." G/TRIMS/W/61(8 May 2009). This document posed factual questions to Indonesia about certain new and proposed measures applicable to investment in Indonesia's telecommunications sector, and in particular whether these measures are in conformity with provisions applicable to requirements for minimum local content under the TRIMS Agreement and GATT 1994. Indonesia responded to those question in a document dated September 17, 2009. G/TRIMS/W/63 (17 September 2009).

In October 2009 the United States and the European Communities filed a joint submission with the Committee on "Certain Indonesian Laws and Draft Implementing Regulations on Mineral and Coal Mining." G/TRIMS/W/70 (9 October 2009). This document posed factual questions to Indonesia about its existing law, and its draft implementing regulations, applicable to investment activities in the mineral and coal mining sector. In particular, the submission raised questions about whether these measures are in conformity with provisions applicable to requirements for minimum local content under the TRIMS Agreement and GATT 1994. As of the date of this report, Indonesia has not responded to these questions.

As part of the review of special and differential treatment provisions, the TRIMS Committee continued to consider several TRIMS-related proposals submitted by a group of Members from Africa. Although these proposals remain on the agenda of the TRIMS Committee, there has been little movement toward consensus on these issues. There was no substantive discussion of these proposals during the formal meetings.

Pursuant to paragraph 18 of the Protocol on the Accession of the People's Republic of China to the WTO, the TRIMS Committee conducted its seventh annual review in 2009 of China's implementation of the TRIMS Agreement and related provisions of the Protocol. The United States' main objectives in this review were to obtain information and clarification regarding China's WTO compliance efforts. During the October meeting of the TRIMS Committee, China addressed such issues of interest to the United States as its automobile and steel policies, as well as its guidance for foreign investment. U.S. agencies are analyzing China's policies in an effort to decide whether and how to pursue these issues in the future.

Prospects for 2010

The United States will engage other Members in efforts to promote compliance with the TRIMS Agreement and avoid weakening the disciplines of that Agreement.

5. Committee on Subsidies and Countervailing Measures

Status

The Agreement on Subsidies and Countervailing Measures (the SCM Agreement) provides rules and disciplines for the use of government subsidies and the application of remedies – through either WTO dispute settlement or countervailing duty (CVD) action – to address subsidized trade that causes harmful commercial effects. Subsidies contingent upon export performance and subsidies contingent upon the use of domestic over imported goods are prohibited. All other subsidies are permitted, but are actionable (through CVD or WTO dispute settlement actions) if they are (i) "specific", i.e., limited to a firm, industry, or group thereof within the territory of a WTO Member, and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another Member.

Major Issues in 2009

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two formal meetings in 2009, in May and October, and held informal meetings in March, July and October. The Committee continued to review the consistency of Members' domestic laws, regulations, and actions with the SCM Agreement's requirements, as well as Members' notifications of their subsidy programs to the Committee. Importantly, the Committee adopted modifications to its reporting formats in order to improve the timeliness and completeness of notifications. During the October meeting, the Committee held its eighth review of China's implementation of the SCM Agreement, pursuant to the Transitional Review Mechanism provided by China's protocol of WTO accession. Other items addressed in the course of the year included: examination and approval of specific export subsidy program extension requests for certain small economy developing country Members; election of Mr. Gerard Depayre to the five-member Permanent Group of Experts; and updating the eligibility threshold for developing countries to provide export subsidies under Annex VII(b) of the SCM Agreement. Further information on these various activities is provided below.

Review and Discussion of Notifications: Throughout the year, Members submitted notifications of: (1) new or amended CVD legislation and regulations; (2) CVD investigations initiated and decisions taken; and (3) Members' subsidy programs. Notifications of CVD legislation and actions, as well as subsidy notifications, were reviewed and discussed by the SCM Committee at its May and October meetings.

In reviewing notified CVD legislation and subsidies, SCM Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified measures and their relationship to the obligations of the SCM Agreement. As of the end of 2009, 90 WTO Members (counting the 27 member states of the European Union as a single Member) have notified their CVD legislation or lack thereof; 35 Members have so far failed to make a legislative notification. In 2009, the Committee reviewed notifications of new or amended CVD laws and regulations from Argentina, Brazil, Ukraine, and the United States, among others.[8]

As for CVD measures, nine Members notified CVD actions they took during the latter half of 2008, and eleven Members notified actions they took in the first half of 2009. Specifically, the SCM Committee reviewed actions taken by several Members, including Australia, Brazil, Canada, the EU, and the United States.

[8] In keeping with WTO practice, the review of legislative provisions which pertain or apply to both antidumping and CVD actions by a Member generally took place in the Antidumping Committee.

In 2009, the Committee examined four 2009 and eleven 2007 new and full subsidy notifications. Unfortunately, numerous Members have yet to make even an initial subsidy notification to the WTO, although many of them are least developed country Members. In May 2009, the United States submitted its 2007 new and full subsidies notification, detailing over 50 federal programs and over 500 state programs.

Notification Improvements: During 2009, the SCM Committee adopted several changes to the standard format for semi-annual reports of countervailing measures and the minimum information to be provided in connection with the notification of preliminary or final countervailing measures, as required under Article 25.11 of the SCM Agreement. In October 2009, the Committee adopted changes analogous to those made in the Antidumping Committee, as well as certain proposals made by the United States. The new notification format streamlines and improves the information available in notifications of preliminary and final countervailing actions. The new format will also result in helpful new information being provided, such as the names of programs determined to be countervailable in all CVD proceedings. Members are also now encouraged to submit electronically to the WTO Secretariat copies of the public determinations of countervailing duty actions – even if in a non-WTO language – as attachments to the *ad hoc* notifications of preliminary and final determinations. Overall, the additional information provided will increase transparency as to countervailing duty actions taken and help Members to identify trade-distorting subsidy practices.

In March 2009, the Chairman of the Trade Policy Review Body, acting through the Chairman of the General Council, requested that all committees discuss "ways to improve the timeliness and completeness of notifications and other information flows on trade measures". The United States fully supported this initiative throughout the year and developed proposals that would encourage Members to be more transparent in their industrial subsidy policies. Discussions took place throughout 2009, and consequently, the Committee agreed that a new annex should be included in the Committee's annual report that will provide greater detail regarding the extent to which each Member has or has not met its subsidy notification obligations. Additionally, a new "one-time" notification format was created for Members – largely least developed country Members – that have not established a legal framework and competent authorities to conduct CVD investigations. Lastly, Committee Members agreed to provide all notifications electronically to the Secretariat, which will facilitate and expedite circulation and posting on the WTO website.

China Transitional Review: At the October meeting, the SCM Committee held its eighth review of the implementation of the commitments relating to subsidies, countervailing duties and pricing policies, pursuant to the People's Republic of China Protocol of Accession Transitional Review Mechanism. During the Transitional Review in 2009, the United States reiterated its concerns as to the lack of provincial and local programs in China's subsidy notification and raised several other issues, including export-contingent subsidies, industrial subsidy policy administration, government assistance in the textile and civil aerospace sectors, price controls on fuels, and land administration.

As a result of pressure from the United States and other WTO Members, China submitted its first subsidies notification to the WTO's Subsidies Committee in April 2006. Although the notification covered over 70 subsidy programs, it omitted numerous programs and failed to include any subsidies provided by provincial and local government authorities. The United States has devoted significant time and resources to researching, monitoring and analyzing China's subsidy practices, which helped to identify the very significant omissions in China's subsidy notification and lay the groundwork for the further pursuit of issues in the context of the Committee's work or WTO dispute settlement *(see, for example, the Dispute Settlement Understanding section below)*. During the Transitional Review, China

stated it is in the final stages of its internal review with respect to its next subsidy notification. Unfortunately, however, China also stated that this next notification will not include information on provincial and local programs. In light of the importance of this information, the United States will have to consider alternative approaches to address this continuing issue.

Extension of the transition period for the phase out of export subsidies: Under the SCM Agreement, most developing country Members were obligated to eliminate their export subsidies by December 31, 2002. To address the concerns of certain small economies, a special procedure within the context of Article 27.4 of the SCM Agreement was adopted at the 2001 Doha Ministerial Conference to provide for facilitated annual extensions of the time available to eliminate certain notified export subsidies.[9] The General Council, in 2007, acting on an SCM Committee recommendation, extended the application of the special procedure. An important outcome of these negotiations, insisted upon by the United States and other developed and developing countries, was that the beneficiaries must eliminate all export subsidy programs no later than 2015 and that they will have no recourse to further extensions beyond 2015.

During 2009, the SCM Committee reviewed and approved over 40 export subsidy program extension requests under the special procedure. The reviews focused on satisfaction of the detailed standstill and transparency requirements set out in the special procedure. Some of the beneficiary Members used the opportunity of the review to highlight steps they are undertaking to prepare for the elimination of the export subsidies on schedule in 2015.

Permanent Group of Experts: Article 24 of the SCM Agreement directs the Committee to establish a Permanent Group of Experts (PGE) "composed of five independent persons, highly qualified in the fields of subsidies and trade relations." The SCM Agreement articulates three possible roles for the PGE: (i) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy, within the meaning of Article 3 of the SCM Agreement; (ii) to provide, at the request of the Committee, an advisory opinion on the existence and nature of any subsidy; and (iii) to provide, at the request of a Member, a "confidential" advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. To date, the PGE has not yet been called upon to perform any of the aforementioned duties. Article 24 of the SCM Agreement further provides for the Committee to elect the experts to the PGE, with one of the five experts being replaced every year.

At the beginning of 2009, the Permanent Group of Experts had five members: Mr. Asger Petersen (Denmark), Dr. Chang-fa Lo (Chinese Taipei); Dr. Manzoor Ahmad (Pakistan); Mr. Zhang Yuqing (China); and Mr. Jeffrey A. May (United States). Mr. Peterson's term ended in Spring 2009 and the Committee elected Mr. Gerard Depayre (European Union) to replace him.

The Methodology for Annex VII (b) of the SCM Agreement: Annex VII of the SCM Agreement identifies certain lesser developed country Members that are eligible for particular special and differential treatment. Specifically, the export subsidies of these Members are not prohibited and, therefore, are not actionable as prohibited subsidies under the dispute settlement process. The Members identified in Annex VII include those WTO Members designated by the United Nations as "least developed countries" (Annex VII(a)) as well as countries that had, at the time of the negotiation of the Agreement, a per capita GNP under $1,000 per annum and are specifically listed in Annex VII(b).[10] A country automatically

[9] Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Uruguay have made yearly requests since 2002 under these special procedures.

[10] Members identified in Annex VII(b) are: Bolivia, Cameroon, Congo, Cote d'Ivoire, Dominican Republic, Egypt, Ghana, Guatemala, Guyana, India, Indonesia, Kenya, Morocco, Nicaragua, Nigeria, Pakistan, Philippines, Senegal,

"graduates" from Annex VII (b) status when its per capita GNP rises above the $1,000 threshold. At the Fourth Ministerial Conference, decisions were made which led to the adoption of an approach to calculate the $1,000 threshold in constant 1990 dollars. The WTO Secretariat updated these calculations in 2009.[11]

Prospects for 2010

In 2010, the United States will continue to focus on China's subsidy programs, particularly those programs not notified and those programs administered at the provincial and local levels that may be prohibited under the SCM Agreement. Assuming China submits a new subsidy notification, the United States will closely scrutinize it and may bring to the notice of the Committee unreported subsidies, particularly subsidies at the provincial or local level that appear to be prohibited. The Committee will continue to work in 2010 to improve upon Members' notification obligations. Among the proposals that may be addressed further are two issues raised by the United States; namely, the failure of Members to respond to subsidy program questions submitted pursuant to Article 25.8 of the SCM Agreement and the significant lack of notification of sub-central subsidy programs across the Membership. Finally, given the various stimulus packages Members have implemented in response to the financial crisis, it is expected that the Committee will remain a forum to discuss the consistency of such programs with Members' obligations under the SCM Agreement.

6. Committee on Customs Valuation

Status

The purpose of the Agreement on the Implementation of GATT Article VII (known as the WTO Agreement on Customs Valuation, referred to herein as the "Valuation Agreement") is to ensure that determinations of the customs value for the application of duty rates to imported goods are conducted in a neutral and uniform manner, precluding the use of arbitrary or fictitious customs values. Adherence to the Agreement is important for U.S. exporters, particularly to ensure that market access opportunities achieved through tariff reductions are not negated by unwarranted and unreasonable "uplifts" in the customs value of goods to which tariffs are applied. The use of arbitrary and inappropriate "uplifts" in the valuation of goods by importing countries when applying tariffs can result in an unwarranted doubling or tripling of duties.

Major Issues in 2009

The Valuation Agreement is administered by the Committee on Customs Valuation (the Customs Valuation Committee), which held two formal meetings in 2009. The Agreement established a Technical Committee on Customs Valuation under the auspices of the World Customs Organization (WCO) with a view to ensuring, at the technical level, uniformity in interpretation and application of the Valuation Agreement. The Technical Committee also held two meetings in 2009.

In accordance with a 1999 recommendation of the WTO Working Party on Preshipment Inspection that was adopted by the General Council, the Customs Valuation Committee continued to provide a forum for reviewing the operation of various Members' preshipment inspection regimes and the implementation of the WTO Agreement on Preshipment Inspection.

Sri Lanka, and Zimbabwe. In recognition of the technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to AnnexVII(b) on January 20, 2001.

[11] See G/SCM/110/Add.6.

The use of minimum import prices, a practice inconsistent with the provisions of the Agreement, continues to diminish as more developing country Members undertake full implementation of the Agreement. The United States has used the Customs Valuation Committee as an important forum for addressing concerns on behalf of U.S. exporters across all sectors - including agriculture, automotive, textile, steel, and information technology products - that have experienced difficulties related to the conduct of customs valuation regimes outside of the disciplines set forth under the Agreement.

Achieving universal adherence to the Valuation Agreement in the Uruguay Round was an important objective of the United States. The Agreement was initially negotiated in the Tokyo Round, but its acceptance was voluntary until mandated as part of membership in the WTO. A proper valuation methodology under the Agreement, avoiding arbitrary determinations or officially-established minimum import prices, is essential for the realization of market access commitments. Just as important, the implementation of the Agreement also often represents the first concrete and meaningful steps taken by developing country Members toward reforming their customs administrations and diminishing corruption, and ultimately moving to a rules-based trade facilitation environment.

An important part of the Customs Valuation Committee's work is the examination of implementing legislation. As of October 2009, 80 Members had notified their national legislation on customs valuation (this figure does not include the 27 individual EU Members); 46 Members have not yet notified their national legislation on customs valuation. During 2009, the Committee concluded the review of legislation of Tanzania. At the Committee's May and October 2009 meetings, the Committee undertook its examination of the custom valuation legislations of Albania, Bahrain, Belize, China, Egypt, Nigeria, Norway, St. Vincent and the Grenadines, Thailand, Tunisia and Ukraine. The Committee's examination of these Members' customs valuation legislation will continue in 2010.

Working with information provided by U.S. exporters, the United States played a leadership role in these examinations, submitting in some cases a series of detailed questions as well as suggestions toward improved implementation, particularly with regard to customs valuation practices of Bahrain, China, Egypt, Indonesia, Thailand, and Ukraine.

In 2009, the Customs Valuation Committee concluded China's Eighth Transitional Review in accordance with the Protocol of Accession of the People's Republic of China to the WTO. During 2009, the United States again voiced concerns about China's customs-related regulatory measures and legislation. The United States has been concerned about the implementation of these measures by China's customs personnel. At the 2008 Customs Valuation Committee meeting, China provided oral answers to the United States questions. China's written responses were not circulated until days before October 2009 meeting. The written answers are under review and will be taken up in 2010.

The Customs Valuation Committee's work throughout 2009 continued to reflect a cooperative focus among all Members toward practical methods to address the specific problems of individual Members. As part of its problem-solving approach, the Committee continued to take an active role in exploring how best to ensure effective technical assistance, including with regard to meeting post-implementation needs of developing country Members.

Prospects for 2010

The Customs Valuation Committee's work in 2010 will include reviewing the relevant implementing legislation and regulations notified by Members, along with addressing any further requests by other Members concerning implementation deadlines. The Committee will monitor progress by Members with regard to their respective work programs that were included in the decisions granting transitional reservations or extensions of time for implementation. In this regard, the Committee will continue to

provide a forum for sustained focus on issues arising from practices of all Members that have implemented the Valuation Agreement, to ensure that such Members' customs valuation regimes do not utilize arbitrary or fictitious values such as through the use of minimum import prices. Finally, the Committee will continue to address technical assistance issues as a matter of high priority.

7. Committee on Rules of Origin

Status

The objective of the Agreement on Rules of Origin (the ROO Agreement) is to increase transparency, predictability and consistency in both the preparation and application of rules of origin. The ROO Agreement provides important disciplines for conducting preferential and non-preferential origin regimes, such as the obligation to provide binding origin rulings upon request to traders within 150 days of that request. In addition to setting forth disciplines related to the administration of rules of origin, the ROO Agreement provides for a work program leading to the multilateral harmonization of rules of origin used for non-preferential trade. The Harmonization Work Programme (HWP) is more complex than initially envisioned under the Agreement, which originally provided for the work to be completed within three years after its commencement in July 1995. This work program continued throughout 2009 and will continue into 2010.

The ROO Agreement is administered by the Committee on Rules of Origin (the ROO Committee), which met formally twice in 2009, and held informal consultations throughout the year. The Committee also serves as a forum to exchange views on notifications by Members concerning their national rules of origin, along with those relevant judicial decisions and administrative rulings of general application. The ROO Agreement also established a Technical Committee on Rules of Origin with the World Customs Organization to assist in the HWP.

Major Issues in 2009

As of the end of 2009, 80 Members notified the WTO concerning non-preferential rules of origin. In these notifications, 38 Members notified that they had non-preferential rules of origin and 42 Members notified that they did not have a non-preferential rule of origin regime. Forty-six Members have not notified non-preferential rules of origin.

Eighty-six Members have notified the WTO concerning preferential rules of origin, of which 82 notified their preferential rules of origin and four notified that they did not have preferential rules of origin. Thirty-six Members have notified preferential rules of origin to other WTO bodies.

Virtually all issues and problems cited by U.S. exporters as arising under the origin regimes of U.S. trading partners arise from administrative practices that are not transparent, allow discrimination, and lack predictability. Substantial attention has been given to the implementation of the ROO Agreement's important disciplines related to transparency, which constitute internationally recognized "best customs practices."

Many of the ROO Agreement's obligations, such as issuing binding rulings upon request of traders in advance of trade, have frequently been cited as a model for more broad-based commitments that could emerge from future WTO work on Trade Facilitation.

The ROO Agreement has provided a means for addressing and resolving many problems facing U.S. exporters pertaining to origin regimes, and the ROO Committee has been active in its review of the

Agreement's implementation. The ongoing HWP leading to the multilateral harmonization of non-preferential product-specific rules of origin has attracted a great deal of attention and resources. Progress has been made toward completion of this effort, despite the large volume and magnitude of complex issues which must be addressed for hundreds of specific products.

The ROO Committee continued to focus on the work program to achieve multilateral harmonization of non-preferential rules of origin. U.S. proposals for the HWP have been developed under the auspices of a Section 332 study, which was conducted by the U.S. International Trade Commission pursuant to a request by USTR. The U.S. proposals reflect input received from ongoing consultations with the private sector as the negotiations have progressed from the technical stage to deliberations at the ROO Committee. Representatives from several U.S. Government agencies continue to be involved in the HWP, including USTR, Customs and Border Protection (formerly the U.S. Customs Service), Commerce, and Agriculture.

In addition to the June and October 2009 formal meetings, the ROO Committee conducted informal consultations related to the HWP negotiations. The Committee's work in 2009 proceeded in response to the July 28, 2006 General Council extension of the deadline for completion of work on the 94 core policy issues. The General Council then agreed that following resolution of the core policy issues, the Committee would complete its remaining work on the HWP by December 2007. Notwithstanding this deadline, the HWP has not been completed.

While the ROO Committee made some progress towards fulfilling the mandate of the ROO Agreement to establish harmonized non-preferential rules of origin, the Committee is still grappling with a number of fundamental issues including many product-specific rules of origin for agricultural and industrial goods, and the scope of the prospective obligation to apply equally for all purposes the harmonized non-preferential rules of origin.

This issue and the remaining "core policy issues" are among the most difficult and sensitive matters for the Members and continued commitment and flexibility from all Members will be required to conclude the work program and implement the non-preferential rules of origin.

Because of the impasse among Members on: (i) the product-specific rules related to the 94 core policy issues; (ii) the absence of a common understanding of scope of the prospective obligation to apply equally for all purposes the harmonized non-preferential rules of origin; and (iii) the growing concern among Members that the final result of the HWP negotiations would not produce a result consistent with the objectives of the HWP set forth in Article 9 of the ROO Agreement, the General Council recognized that its guidance was needed on how to resolve these issues. At the July 2007 General Council meeting, the General Council endorsed the recommendation of the ROO Committee that substantive work on these issues be suspended until the ROO Committee receives the necessary guidance from the General Council on how to reconcile the differences among Members on the above-mentioned issues. The General Council also agreed with the recommendation of the Chair of the ROO Committee that the Committee would continue its work with a view to resolving all technical issues as soon as possible and report periodically to the General Council on its efforts in this regard. The Chair reported to the Council for Trade in Goods in October 2009 that the ROO Committee had continued work on technical issues as directed by the General Council in 2007.

In the two 2009 ROO Committee meetings, the Members focused on the technical issues, including the technical aspects of the overall architecture that would be used for applying the rules of origin. The Members also began a discussion of the architecture for Chapters 84-90 of the Harmonized Tariff System. Both architectures contain a hierarchy for applying the different rules for determining origin.

Prospects for 2010

Further progress in the HWP will remain contingent on achieving appropriate resolution of the "core policy issues", to reaching a consensus on the scope of the prospective obligation to apply equally for all purposes the harmonized non-preferential rules of origin, and achieving a result that is consistent with the objectives set forth in Article 9 of the Agreement on Rules of Origin. In accordance with the decision taken by the General Council in July 2007 and subject to further guidance from the General Council in the future, the ROO Committee will continue to focus on technical issues, including the technical aspects of the overall architecture of the HWP product-specific rules, through informal consultations. The ROO Committee will continue to report periodically to the General Council on its progress in resolving these technical issues.

8. Committee on Technical Barriers to Trade

Status

The Agreement on Technical Barriers to Trade (the TBT Agreement) establishes rules and procedures regarding the development, adoption, and application of voluntary standards and mandatory technical regulations for products and the procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. One of the main objectives of the TBT Agreement is to prevent the use of technical requirements as unnecessary barriers to trade while ensuring that Members retain the right to regulate, *inter alia*, for the protection of health, safety, or the environment, at the levels they consider appropriate.

The TBT Agreement applies to industrial as well as agricultural products, although it does not apply to sanitary and phytosanitary (SPS) measures or specifications for government procurement, which are covered under separate agreements. TBT Agreement rules help to distinguish legitimate standards, conformity assessment procedures, and technical regulations from protectionist measures and other measures that act as unnecessary obstacles to trade. For example, the TBT Agreement requires non-discriminatory treatment with respect to the application of standards, technical regulations, and conformity assessment procedures and requires that standards, technical regulations, and conformity assessment procedures be no more trade-restrictive than necessary to meet a legitimate objective and based on relevant international standards and guidelines, except where such standards and guidelines would be ineffective or inappropriate to meet a legitimate objective.

The Committee on Technical Barriers to Trade (the TBT Committee)[12] serves as a forum for consultation on issues associated with the implementation and administration of the TBT Agreement. The TBT Committee is composed of representatives of each WTO Member and provides an opportunity for

[12] Participation in the Committee is open to all WTO Members. Certain non-WTO Member governments also participate, in accordance with guidance agreed on by the General Council. Representatives of a number of organizations were invited to attend meetings of the Committee as observers: the International Monetary Fund (IMF), the United Nations Conference on Trade and Development (UNCTAD); the International Trade Center (ITC); the International Organization for Standardization (ISO); the International Electrotechnical Commission (IEC); the Food and Agriculture Organization (FAO); the World Health Organization (WHO); the FAO/WHO Codex Alimentarius Commission; the International Office of Epizootics (OIE); the Organization for Economic Cooperation and Development (OECD); the UN Economic Commission for Europe (UN/ECE); and the World Bank. The International Organization of Legal Metrology (OIML), the United Nations Industrial Development Organization (UNIDO), the Latin American Integration Association (ALADI), the European Free Trade Association (EFTA), and the African, Caribbean and Pacific Group of States (ACP) have been granted observer status on an *ad hoc* basis.

Members to discuss concerns about specific standards, technical regulations, and conformity assessment procedures proposed or maintained by a Member, as well as more systemic issues affecting implementation of the TBT Agreement, and to exchange of information on Members' practices related to implementation of the TBT Agreement and relevant international developments.

Transparency and Availability of WTO/TBT Documents: A key benefit to the public resulting from the TBT Agreement is the ability to obtain information on proposed technical regulations and conformity assessment procedures, and to provide written comments for consideration on those proposals before they are finalized. Each Member is required to establish a central contact point, known as an inquiry point, which is responsible for responding to requests for information on its standards, technical requirements, and conformity assessment procedures or making the appropriate referral.

The National Institute of Standards and Technology (NIST) serves as the U.S. inquiry point for purposes of the TBT Agreement. NIST maintains a reference collection of standards, specifications, test methods, codes, and recommended practices. This reference material includes U.S. Government agencies' technical regulations and standards of non-governmental standardizing bodies. The inquiry point responds to requests for information concerning federal and State standards, technical regulations, and conformity assessment procedures as well as voluntary standards and conformity assessment procedures developed or adopted by non-governmental bodies. Upon request, NIST will provide copies of notifications of proposed technical regulations and conformity assessment procedures that other Members have made under the TBT Agreement, as well as contact information for other Members' TBT inquiry points. NIST refers requests for information concerning standards, conformity assessment procedures, and technical regulations for agricultural products, including SPS measures, to the U.S. Department of Agriculture, which is the U.S. inquiry point pursuant to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

A number of documents relating to the work of the TBT Committee are available to the public directly from the WTO website: http://www.wto.org. TBT Committee documents are indicated by the symbols, "G/TBT/...". Notifications by Members of proposed technical regulations and conformity assessment procedures that are available for comment are issued as: *G/TBT/N* (the "N" stands for "notification")/*USA* (which in this case stands for the United States of America; three letter symbols will be used to designate the WTO Member originating the notification)/*X* (where "x" will indicate the numerical sequence for that Member).[13] Parties in the United States interested in submitting comments to foreign governments on their proposals should send them through the U.S. inquiry point at the address above. Minutes of the TBT Committee meetings are issued as "G/TBT/M/..." (followed by a number). Submissions by Members (*e.g.*, statements, informational documents, proposals, etc.) and other working documents of the Committee are issued as "G/TBT/W/..." (followed by a number). Decisions and recommendations adopted by the TBT Committee are contained in G/TBT/1/Rev.9. As a general rule, written information that the United States provides to the TBT Committee is submitted on an "unrestricted" basis and is available to the public on the WTO website. The WTO Secretariat has expanded the information it provides on its "technical barriers to trade" website that is available to the public, including summaries of meetings, agendas, workshops, technical assistance, and key documents.

With the implementation of the Marrakesh Agreement establishing the WTO, *all* Members assumed responsibility for compliance with the TBT Agreement. Although a predecessor to the TBT Agreement existed as a result of the Tokyo Round, known as the Standards Code, the expansion of its applicability to all Members as a result of the Uruguay Round negotiations was significant, and resulted in new obligations for many Members. For example, the TBT Agreement provides an opportunity for interested

[13] Before 2000, the numbering of notifications of proposed technical regulations and conformity assessment procedures read: "G/TBT/Notif./..." (followed by a number).

parties in the United States to influence the development of proposed technical regulations and conformity assessment procedures being developed by other Members by allowing them to provide written comments on drafts and submit them through the U.S. inquiry point. Among other things, this opportunity helps to prevent the establishment of technical barriers to trade. The TBT Agreement has functioned well in this regard, although discussions on how to improve its operation occurs as part of the triennial review process *(see below)*. Disciplines and obligations such as the prohibition on discrimination and the requirement that measures are not more trade restrictive than necessary to fulfill legitimate regulatory objectives have been useful in evaluating potential trade barriers and in seeking ways to address them.

The TBT Committee also plays an important monitoring and oversight role. It has served as a constructive forum for discussing and resolving issues and avoiding disputes. Since its inception, an increasing number of Members, including developing countries, have used the Committee to highlight trade problems.

Article 15.4 of the TBT Agreement requires the Committee to review the operation and implementation of the TBT Agreement every three years. Five such reviews have now been completed (G/TBT/5, G/TBT/9, G/TBT/13, G/TBT/19, and G/TBT/26). From the U.S. perspective, a key benefit of these reviews is that they prompt WTO Members to review and discuss all of the provisions of the TBT Agreement, which facilitates a common understanding of Members' rights and obligations. The reviews have also prompted the Committee to host workshops on various topics of interest, including technical assistance, conformity assessment, labeling, good regulatory practice, and international standards.

Major Issues in 2009

The TBT Committee met three times in 2009, March (G/TBT/M/47), June (G/TBT/M/48), and November (G/TBT/M/49). At some of these meetings, Members made statements informing the Committee of measures they had taken to implement the TBT Agreement and to administer measures in compliance with the Agreement. Members also used Committee meetings to raise concerns about specific technical regulations or conformity assessment procedures proposed or adopted by other Members. The number of new specific trade concerns with regard to Members' implementation and administration of the TBT Agreement that were brought to the attention of the TBT Committee set a record in 2009 with 37 (up from 33 in 2008). EU measures, such as REACH (Registration, Evaluation, Authorization and Restriction of Chemicals), the classification of borates, nickel carbonates, and nickel compounds under the Dangerous Substances Directive, and the recast of the Restrictions on Hazardous Substances (RoHS) regulation continue to draw significant attention in the Committee, as do China's proposed measures in the information technology realm.

In 2009, the Committee continued its exchange of experiences on good regulatory practice, conformity assessment procedures, transparency, technical assistance, international standards, and special and differential treatment. At its November 2009 meeting, the Committee adopted the Fifth Triennial Review of the Operation and Implementation of the TBT Agreement. The report contains useful recommendations regarding, *inter alia*, good regulatory practice, internal coordination between trade and regulatory officials on TBT matters, regulatory cooperation, information exchange on conformity assessment procedures, and the TBT Committee Decision on Principles for the Development of International Standards.

At its March 2009 meeting, the TBT Committee adopted the Fourteenth Annual Review of the Implementation and Operation of the TBT Agreement under Article 15.3 (G/TBT/25). The WTO Secretariat also updated the relevant lists of standardizing bodies that have accepted the Code of Good

Practice for the Preparation, Adoption, and Application of Standards set out in Annex 3 of the Agreement (G/TBT/CS/1/Add.13 and G/TBT/CS/2/Rev.15).

At the November 2009 meeting, the TBT Committee also completed the Eighth Annual Transitional Review mandated in the Protocol of Accession of the People's Republic of China. The United States (G/TBT/W/324), Japan (G/TBT/W/325), and the EU (G/TBT/W/326) submitted written comments and questions. China's submission is contained in G/TBT/W/327. The Committee's report on the Review is contained in G/TBT/27.

During the 2009 meetings of the TBT Committee, representatives of Codex, IEC, ISO, ITC, OECD, OIML, UNECE, and UNIDO (observers to the Committee) updated the Committee on their activities relevant to its work, including on technical assistance.

Prospects for 2010

The TBT Committee will continue to monitor Members' implementation of the TBT Agreement. The number of specific trade concerns raised in the Committee appears to be increasing. Aside from the specific trade concerns, the Committee will begin work on the work items identified in the Fifth Triennial Review, including holding a workshop on regulatory cooperation. Discussion of new issues will be driven by Member statements and submissions. In 2010, U.S. priorities are likely to continue to focus on the use of good regulatory practice, transparency, encouraging the use of the TBT Committee Decision on Principles for the Development of International Standards, and the need to consider available scientific and technical information and the intended end uses of products when regulating.

9. Committee on Antidumping Practices

Status

The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (the Antidumping Agreement) sets forth detailed rules and disciplines prescribing the manner and basis on which Members may take action to offset the injurious dumping of products imported from another Member. Implementation of the Antidumping Agreement is overseen by the Committee on Antidumping Practices (the Antidumping Committee), which operates in conjunction with two subsidiary bodies, the Working Group on Implementation (formerly the Ad Hoc Group on Implementation), and the Informal Group on Anticircumvention.

The Antidumping Committee is an important venue for reviewing Members' compliance with the detailed provisions in the Antidumping Agreement, improving mutual understanding of those provisions, and providing opportunities to exchange views and experiences with respect to Members' application of antidumping remedies.

The Working Group on Implementation (the Working Group) is an active body which focuses on practical issues and concerns relating to implementation. Based on papers submitted by Members on specific topics for discussion, the activities of the Working Group permit Members to develop a better understanding of the similarities and differences in their policies and practices for implementing the provisions of the Antidumping Agreement. Where possible, the Working Group endeavors to develop draft recommendations on the topics it discusses which it forwards to the Antidumping Committee for consideration. To date, the Antidumping Committee has adopted Working Group recommendations on five antidumping topics.

The Working Group has drawn a high level of participation by Members and, in particular, by capital-based experts and officials of antidumping administering authorities, many of whom are eager to obtain insight and information from their peers. Since the inception of the Working Group, the United States has submitted papers on most topics and has been an active participant at all meetings. While not a negotiating forum in either a technical or formal sense, the Working Group serves an important role in promoting improved understanding of the Antidumping Agreement's provisions and exploring options for improving practices among antidumping administrators.

At Marrakesh in 1994, Ministers adopted a Decision on Anticircumvention directing the Antidumping Committee to develop rules to address the problem of circumvention of antidumping measures. In 1997, the Antidumping Committee agreed upon a framework for discussing this important topic and established the Informal Group on Anticircumvention (the Informal Group). Many Members, including the United States, recognize the importance of using the Informal Group to pursue the 1994 decision by Ministers.

Major Issues in 2009

In 2009, the Antidumping Committee held meetings on May 8 and October 21. At its meetings, the Antidumping Committee focused on implementation of the Antidumping Agreement, in particular, by continuing its review of Members' antidumping legislation. The Committee also reviewed reports required of Members that provide information as to preliminary and final antidumping measures and actions taken over the preceding six months.

The following is a list of the more significant activities that the Antidumping Committee, the Working Group, and the Informal Group undertook in 2009:

Notification and Review of Antidumping Legislation: To date, 72 Members have notified that they currently have antidumping legislation in place and 29 Members have notified that they maintain no such legislation. In 2009, the Antidumping Committee reviewed new notifications of antidumping legislation and/or regulations submitted by Angola, Argentina, Bahrain, Belize, Brazil, Dominican Republic, Honduras, Kenya, Norway, Panama, Peru, Surinam, Saudi Arabia, and the United States. The Committee also continued its review of previously-reviewed legislative notifications submitted by El Salvador, Panama, and Ukraine. Several Members, including the United States, were active in formulating written questions and in making follow-up inquiries at Antidumping Committee meetings.

Notification and Review of Antidumping Actions: In 2009, 24 Members notified that they had taken antidumping actions during the latter half of 2008, whereas 23 Members did so with respect to the first half of 2009. (By comparison, 24 Members notified that they had not taken any antidumping actions during the latter half of 2008, and 21 Members notified that they had taken no actions in the first half of 2009). These actions, as well as outstanding antidumping measures currently maintained by Members, were identified in semi-annual reports submitted for the Antidumping Committee's review and discussion. The semi-annual reports for the second half of 2008 were issued in document series "G/ADP/N/180/…," and the semi-annual reports for the first half of 2009 were issued in document series "G/ADP/N/188/…". At its May and October 2009 meetings, the Committee reviewed Members' notifications of preliminary and final actions pursuant to Article 16.4 of the Antidumping Agreement.

China Transitional Review: At the October 2009 meeting, the Antidumping Committee undertook, pursuant to the Protocol on the Accession of the People's Republic of China, its eighth annual Transitional Review with respect to China's implementation of the Antidumping Agreement. The United States and Japan presented written questions to China with respect to China's antidumping laws and

practices. China orally provided information in response to the questions posed by the United States and Japan.

Improved Timeliness and Completeness of Notifications: In response to a request from the Chair of the Trade Policy Review Body (TPRB), the Chair of the Antidumping Practices Committee held discussions with Members on ways to improve the timeliness and completeness of notifications and other information flows on trade measures. These discussions focused on problematic notification areas such as how to encourage longstanding nonnotifiers to submit notifications, how to enhance the quality of the submitted data, how to streamline the reporting process, and what decisions should be adopted by the Committee to achieve such goals. At its May 2009 regular meeting, the Committee agreed that subsequent to each request setting the deadline for semi-annual reports, the Secretariat should circulate a document reminding Members of the deadline. It was also agreed that the Chair should send letters, as needed, to those Members whose reports were not received by such deadlines. At its October 2009 meeting, the Committee adopted three decisions to enhance transparency and streamline the reporting process. The first was the adoption of a "one-time notification format" for notifications under Articles 16.4 and 16.5 of the Agreement to assist those Members that have not established investigating authorities and accordingly have never taken any antidumping actions to fulfill their notification obligations. The second was the adoption of the electronic submission of all notifications submitted to the Committee. The third was the introduction of an additional paragraph to the minimum information format encouraging Members to attach, in an electronic form and in their original language, publicly available documents containing the relevant decisions made by the competent authorities. The Committee had also agreed to report back to the Chair of the TPRB on the decisions adopted by the Committee to enhance transparency and improve timeliness and completeness of notifications.

Working Group on Implementation: The Working Group held meetings in May and October 2009. Beginning in 2003, the Working Group has held discussions on several agreed topics: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1; (3) conduct of verifications under Article 6.7; (4) judicial, arbitral or administrative reviews under Article 13; and (5) price undercutting by dumped imports. The discussions in the Working Group on these topics have focused on submissions by Members describing their own practices, including past submissions by the United States on all four topics. In 2009, Egypt presented two papers for discussion on export prices to third countries versus constructed normal value and the determination of significant price undercutting. Several Members, including the United States, posed questions to Egypt on the issues presented in its papers. Egypt and Korea also proposed new topics for discussion in future meetings of the Group, including: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset reviews.

Informal Group on Anticircumvention: In 2009, the Informal Group held meetings in May and October. There were no new papers submitted for discussion in 2009. Members did not actively engage in discussions on what constitutes circumvention, what is being done by Members confronted with what they consider to be circumvention, or to what extent circumvention can be dealt with under the relevant WTO rules. Nevertheless, it was agreed that the Informal Group should continue to meet in the future to provide a forum to discuss such topics, as Members deem appropriate.

Prospects for 2010

Work will proceed in 2010 on the areas that the Antidumping Committee, the Working Group and the Informal Group addressed this past year. The Antidumping Committee will pursue its review of Members' notifications of antidumping legislation, and Members will continue to have the opportunity to

submit additional questions concerning previously reviewed notifications. This ongoing review process in the Antidumping Committee is important for ensuring that Members' antidumping laws are properly drafted and implemented, thereby contributing to a well-functioning, rules-based trading system. Since notifications of antidumping legislation are not restricted documents, U.S. exporters will continue to enjoy access to information about the antidumping laws of other Members that should assist them in better understanding the operation of such laws, and in taking them into account in commercial planning.

The preparation by Members and review in the Antidumping Committee of semi-annual reports and reports of preliminary and final antidumping actions will also continue in 2010. The semi-annual reports are accessible to the general public from the WTO website, in keeping with the objectives of the Uruguay Round Agreements Act. (Information on accessing WTO notifications is included in Annex II.) This transparency promotes improved public knowledge and appreciation of the trends in and focus of all WTO Members' antidumping actions.

Discussions in the Working Group on Implementation will continue to play an important role, as more Members enact antidumping laws and begin to apply them. There has been a sharp and widespread interest in clarifying the many complex provisions of the Antidumping Agreement. Tackling these issues in a serious manner will require the involvement of the Working Group, which is the forum best suited to provide the necessary technical and administrative expertise. For these reasons, the United States will continue to use the Working Group to learn in greater detail about other Members' administration of their antidumping laws, especially as that forum provides opportunities to discuss not only the laws as written, but also the operational practices that Members employ to implement them. In 2010, the Working Group will continue its discussion of topics that it has been discussing for several years: (1) export prices to third countries vs. constructed value under Article 2.2 of the Antidumping Agreement; (2) foreign exchange fluctuations under Article 2.4.1.; and (3) the determination of significant price undercutting by dumped imports. In addition, the Group will also undertake discussion of the following newly proposed topics: (1) constructed export prices; (2) other known causes of injury; (3) threat of material injury; (4) accuracy and adequacy of evidence to justify the initiation of an investigation; and (5) the determination of the likelihood of continuation or recurrence of dumping and injury in sunset reviews.

The work of the Informal Group on Anticircumvention will also continue in 2010, according to the framework for discussion on which Members agreed. However, given the focus on anticircumvention issues in the WTO Rules negotiations under the Doha Development Agenda, it is possible that there may be relatively little activity on these issues in the Informal Group in 2010.

10. Committee on Import Licensing

Status

The Committee on Import Licensing (the Import Licensing Committee) was established to administer the Agreement on Import Licensing Procedures (Import Licensing Agreement) and to monitor compliance with the mutually agreed rules for the application of these widely used measures set out in the Agreement. The Import Licensing Committee normally meets twice a year to review information on import licensing requirements submitted by WTO Members in accordance with the obligations set out in the Agreement. The Committee also receives questions from Members on the licensing regimes of other Members, whether or not these regimes have been notified to the Committee. The Committee meetings also address specific observations and complaints concerning Members' licensing systems. These reviews are not intended to substitute for dispute settlement procedures; rather, they offer Members an opportunity to focus multilateral attention on licensing measures and procedures that they find problematic, to receive

information on specific issues and to clarify problems, and possibly to resolve issues before they become disputes.

Since the accession of China to the WTO in December 2001, the Committee also has conducted an annual review of China's compliance with accession commitments in the area of import licensing as part of the Transitional Review Mechanism (TRM) provided for in China's Protocol of Accession. China's 2009 review concerning its import licensing procedures was conducted at the October meeting of the Committee and the report transmitted to the December 2009 General Council as part of China's overall Eighth Transitional Review.

Background: The Import Licensing Agreement sets out rules for all Members that use import licensing systems to regulate their trade, and includes guidelines for what constitutes a fair and non-discriminatory application of such procedures. Its provisions are intended to set a standard for Members' import licensing regimes that offer protection from unreasonable requirements or delays associated with its application. These obligations are intended to ensure that the use of import licensing procedures does not create additional barriers to trade beyond the policy measures implemented through licensing (the Import Licensing Agreement's provisions discipline licensing *procedures*). The Agreement does not directly address the WTO consistency of the underlying measures, and Members are required to have WTO justification for any licensing requirements established. The notification requirements and the system of regular Committee reviews established by the Agreement seek to increase the transparency and predictability of Members' licensing regimes.

The Agreement covers both "automatic" licensing systems, which are intended only to monitor imports, not regulate them, and "non-automatic" licensing systems, under which certain conditions must be met before a license is issued. Governments often use non-automatic licensing to administer import restrictions such as quotas and tariff-rate quotas (TRQs), or to administer safety or other requirements (e.g., for hazardous goods, armaments, antiquities, etc.). Requirements for permission to import that act like import licenses, such as certification of standards and sanitary and technical regulations, are also subject to the rules of the Import Licensing Agreement.

Major Issues in 2009

At its meetings in April and October 2009, the Import Licensing Committee reviewed 110 new submissions from 46 Members,[14] including initial or revised notifications, completed questionnaires on procedures, and questions and replies to questions. This count exceeded the number of notifications, questions, and replies to questions submitted to the Committee meetings for review during 2008 by nearly 40 percent due to a large number of questions and replies, as well as a large number of annual replies to the Licensing Procedures Questionnaire. No additional Members made notifications to the Committee for review at either of the two meetings, however, so the same 21 of 153 Committee Members have never submitted a notification to the Committee, *i.e.*, just under 14 percent.[15] The Chairman and some

[14]The Members submitting notifications during 2009 were: Albania; Argentina; Brazil; Cameroon; Canada; Chile; China, Colombia; Costa Rica; Croatia; Cuba; Dominican Republic; Ecuador; European Communities; Ghana; Grenada; Honduras; Hong Kong, China; Indonesia; Japan; Korea; Macao, China; Former Yugoslav Republic of Macedonia; Madagascar; Mauritius; Morocco; Nicaragua; Nigeria; Norway; Oman; the Philippines; Qatar; Senegal; Singapore; Suriname; Chinese Taipei; Thailand; Trinidad and Tobago; Turkey; Ukraine; the United States; and Uruguay.

[15] The Members that have never submitted a notification to this Committee are Angola, Belize, Botswana, Cambodia, Cape Verde, Central African Republic, Congo, Djibouti, Egypt, Guinea, Guinea Bissau, Mauritania, Mozambique, Myanmar, Nepal, St. Vincent & the Grenadines, Sierra Leone, Solomon Islands, Tanzania, Tonga, and Vietnam.

Committee Members continued to express concern that even participating Members are not submitting notifications with the frequency required by the Import Licensing Agreement. The Committee Chairman also reminded Members that notifications were required, even if only to report that no import licensing system existed, and that the WTO Secretariat was prepared to assist Members in developing their submissions. He noted that he had addressed letters to each one of the Members of the Committee, requesting a special effort to submit responses to the Import Licensing Questionnaire as required by Article 7.3 of the Agreement. Only 39 Members had responded to this request. He encouraged Members to renew their efforts towards full and complete compliance with notification obligations.

The United States remained one of the most active members of the Import Licensing Committee, using the forum to gather information and to discuss import licensing measures applied to its trade by other Members. U.S. submissions to the Committee in 2009 included its response to the Questionnaire (G/LIC/N/3/USA/6), earlier notification of changes to U.S. import licensing systems (G/LIC/N/2/USA/2/Add.1), and copies of the legislation authorizing U.S. licensing systems (G/LIC/N/1/USA/5). The U.S. representative brought a number of new issues to the Committee's attention as well as continuing to press Committee Members on issues where satisfactory information has not yet been provided. In addition to presentations made by the United States at the Committee meetings, U.S. questions were submitted in writing to Argentina, India, Indonesia, and Turkey.

Argentina: The United States again expressed concern about Argentina's progressive expansion of restrictive licensing requirements on imports and the trade distortive effects these measures were having on U.S. exports. Argentina had neither adequately notified nor explained the reasons for these measures. In particular, the excessive delay (up to nearly 120 days) in processing the licensing applications was causing great concern. The United States questioned the specific underlying measure Argentina was implementing through this non-automatic import licensing regime, and sought information on what remedies Argentina could provide in these situations. Argentina was urged to promptly respond to the written questions submitted on these issues previously, and at this meeting of the Committee. Peru, in extensive interventions, noted that this "temporary" licensing mechanism was now in place over two years and had been expanded to a number of new products. When would it be removed? Peru also noted that Argentina's claim that the processing of licenses took less than 60 days was not consistent with the experience of its exporters and greatly exceeded the timeframe laid down in the WTO Agreement on Import Licensing Measures for such measures. The concerns expressed by the United States and Peru were echoed and elaborated upon by Canada, China, the European Union, Japan, Mexico, and Thailand. Argentina's responses indicate that it applies the requirements to monitor sensitive imports, protect domestic industries during the global economic crisis, and verify compliance with technical regulations. Argentina denied that the time for processing applications exceeded that established by the WTO Agreement, notwithstanding the statements by several delegations that it did, and gave no indication of when the requirements might be removed.

Indonesia: The United States continued questioning Indonesia on the application of import registration and licensing requirements on a growing number of imported goods, currently covering up to $2 billion in trade. Indonesia responded that these requirements, contained in Regulation (Decree) 56 – 2008, were not import licensing requirements, but acknowledged that the applications for permission to import had, on at least 200 occasions, been rejected. Canada, the European Union, and Thailand (another ASEAN member) made similar interventions, and referred to written questions that required response. The United States again sought submission of the text of Decree 56 for the Committee's review and clarification of the reasons for overlapping separate licensing requirements applied to textile products also covered by Decree 56. The United States also expanded its earlier request for information from Indonesia on its licensing requirements for imports of textiles, iron and steel products, and sugar. In the latter case, imports of sugar were permitted only if the importer could demonstrate a sufficient purchase of domestic

Indonesian sugar. In an extensive response, Indonesia indicated that the requirements contained in Decree 56 were necessary to prevent smuggling and fraud and to ensure conformity with technical regulations. The registration was good for two years, and created a list of designated importers whose imports were directed to five specific Indonesian ports. Indonesia confirmed that written responses to any U.S. questions submitted would be prepared.

India: The United States renewed its questions to India concerning special import licensing regime for non-insecticidal boric acid that enforces requirements applied to imports and that are not in place for domestic producers of non-insecticidal boric acid, i.e., only importers were required to obtain an activity license for trade in boric acid for insecticide production, whether or not this was the designated end use. India claimed the license was automatic, but also reported that discretion was exercised in granting the quantity that could be imported based upon the government's recommendation as well as on the quantity imported by the applicant during the preceding five years. India was urged to improve and clarify its notification of these measures, with product-specific information and a clear indication of how the requirements were applied automatically. The United States also recalled concerns expressed in earlier Committee meetings concerning burdensome licensing restrictions on imports of refurbished computer parts and other remanufactured goods.

Brazil: The United States noted its continuing concern about Brazil's system of quotas and non-automatic licensing for imports of certain lithium compounds, *i.e.*, lithium carbonate and lithium hydroxide. Rejecting Brazil's contention that the restrictions were necessary for regulation of nuclear materials, the United States reiterated that these were common compounds, used in ordinary manufacturing, and that Brazil's restrictions were burdensome and unjustified, and had not been notified to the Committee. Brazil responded that licenses for importation of lithium compounds were available through its automated customs system. The most recent responses to U.S. questions were not changed from previous replies.

Both the United States and China again noted that the licensing requirements on toys appeared to be administered in a manner inconsistent with the Agreement, and causing severe delays in customs clearance. Brazil offered no additional information on the licensing requirements it applied to toy imports, but promised written responses to any follow-up questions.

Vietnam: The United States noted that Vietnam had not notified its import licensing systems since providing a draft notification during its accession process. Noting the Circular issued at the end of 2008 establishing automatic import licensing requirements for a broad range of products, the United States urged Vietnam to notify these and other import licensing measures, and to update its earlier responses to the Annual Questionnaire on Import Licensing. Vietnam took note of these concerns, but made no promises about notification.

Informal Meeting of the Committee on the Status of Notifications

In March, the Committee met in informal session to discuss ways to improve the timeliness and completeness of notifications by Committee Members. Several delegations, including the United States, made specific suggestions for improvement in this area, which were circulated to attendees. The United States, supported by Australia, asked the Committee Chairperson for an update on the results of these discussions and what further steps might be taken to discuss the issue further. The Committee Chairperson, noting the continuing interest of Members as expressed at each Committee meeting, indicated willingness to continue the discussion in the Committee on ways and means to improve the timeliness and completeness of notifications and other information flows, in an informal mode or under an item in the agenda of the next formal meeting.

Eighth Transitional Review of the Accession of the People's Republic of China

At its October meeting, the Committee conducted its eighth annual Transitional Review of China's implementation of its WTO accession commitments in the area of import licensing procedures. This year, the United States and other delegations did not raise any questions when the Committee conducted the review. As has become customary, China provided the data required for the Transitional Review to the Secretariat the day before the Committee met, and it was not circulated to Members in time for review at this meeting.

Prospects for 2010

The administration of import licensing continues to be a significant topic of discussion in the context of the DDA, as well as in the day-to-day implementation of current obligations. The use of such measures to monitor and to regulate imports clearly has increased as a result of the global economic crisis. Under these circumstances, it becomes more critical that Members increase their efforts to provide transparency, use import licensing procedures properly, and ensure that licensing procedures do not, in themselves, restrict imports in a manner not consistent with WTO provisions. Licensing continues to be a factor in the administration of tariff rate quotas (TRQs) and the application of safeguard measures, technical regulations, and sanitary/phytosanitary requirements applied to imports as well. The proliferation of automatic licensing requirements raises additional concerns, as many such requirements appear to be administered in a manner that restricts trade. The Import Licensing Committee will continue to be the point of first multilateral contact in the WTO for Members with complaints or questions on the licensing regimes of other Members and as a forum for discussion and review.

The Committee will continue discussions to encourage enhanced compliance with the notification and other transparency requirements of the Import Licensing Agreement, with renewed focus on securing timely revisions of notifications and questionnaires, and timely responses to written questions, as required by the Agreement.

11. Committee on Safeguards

Status

The Committee on Safeguards (the Safeguards Committee) was established to administer the WTO Agreement on Safeguards (the Safeguards Agreement). The Safeguards Agreement establishes rules for the application of safeguard measures as provided in Article XIX of GATT 1994. Effective safeguards rules are important to the viability and integrity of the multilateral trading system. The availability of a safeguards mechanism gives WTO Members the assurance that they can act quickly to help industries adjust to import surges, providing them with flexibility they would not otherwise have to open their markets to international competition. At the same time, WTO safeguard rules ensure that such actions are of limited duration and are gradually less restrictive over time.

The Safeguards Agreement incorporates into WTO rules many of the concepts embodied in U.S. safeguards law (section 201 of the Trade Act of 1974, as amended). Among its key provisions, the Safeguards Agreement: requires a transparent, public process for making injury determinations; sets out clearer definitions of the criteria for injury determinations; requires that safeguard measures be steadily liberalized over their duration; establishes maximum periods for safeguard actions; requires a review no later than the mid-term of any measure with a duration exceeding three years; allows safeguard actions to be taken for three years, without the requirement of compensation or the possibility of retaliation; and

prohibits so-called "grey area" measures, such as voluntary restraint agreements and orderly marketing agreements.

The Safeguards Agreement requires Members to notify the Safeguards Committee of their laws, regulations, and administrative procedures relating to safeguard measures. It also requires Members to notify the Safeguards Committee of various safeguards actions, such as: (1) the initiation of an investigatory process; (2) a finding by a Member's investigating authority of serious injury or threat thereof caused by increased imports; (3) the taking of a decision to apply or extend a safeguard measure; and (4) the proposed application of a provisional safeguard measure.

Major Issues in 2009

During its two regular meetings in May and October 2009, the Safeguards Committee continued its review of Members' laws, regulations, and administrative procedures, based on notifications required under Article 12.6 of the Safeguards Agreement. The Committee reviewed the national legislation of Albania, Argentina, Brazil, Chinese Taipei, Dominican Republic, El Salvador, Honduras, Israel, Panama, Norway, Saudi Arabia, Thailand, and Ukraine.

The Safeguards Committee reviewed Article 12.1(a) notifications regarding the initiation of a safeguard investigatory process relating to serious injury or threat thereof and the reasons for it, or the initiation of a review process relating to the extension of an existing measure, from the following Members: Brazil on desiccated coconut; Chile on powdered milk and gouda cheese; Croatia on semi-hard cheese and cheese substitutes; Dominican Republic on glass containers; India on acrylic fiber, coated paper/paperboard, dimethoate technical, hot-rolled coils/sheets/strips, linear alkyl benzene, oxo alcohols, plain particle board, phthalic anhydride, sodium hydroxide, uncoated paper/copy paper, and unwrought aluminum/aluminum waste/scraps; Indonesia on wire nails; Israel on steel rebars; Jordan on white cement and ceramic tiles; Kyrgyz Republic on wheat flour and white sugar; Morocco on ceramic tiles and polyvinyl chloride; Peru on cotton yarn; the Philippines on figured glass, float glass, and steel angle bars; Turkey on footwear, matches, motorcycles, salt, steam smoothing irons, and vacuum cleaners; Ukraine on liquid chlorine, matches, and sheet glass; and Vietnam on float glass.

The Safeguards Committee reviewed Article 12.1(b) notifications, regarding a finding of serious injury or threat thereof caused by increased imports from the following Members: Argentina on compact discs-recordables; India on dimethoate technical, plain particle board, phthalic anhydride, and unwrought aluminum, aluminum waste and scraps; Indonesia on dextrose monohydrate; Jordan on ceramic tiles; Kyrgyz Republic on wheat flour; Morocco on ceramic tiles; Panama on PVC films; and the Philippines on steel angle bars.

The Safeguards Committee reviewed Article 12.1(c) notifications regarding a decision to apply or extend a safeguard measure from the following Members: Argentina on compact discs-recordables; India on dimethoate technical and phthalic anhydride; Indonesia on dextrose monohydrate and ceramic tableware; Jordan on ceramic tiles; Morocco on ceramic tiles; Panama on PVC films; and the Philippines on steel angle bars, ceramic floor and wall tiles, and float glass.

The Safeguards Committee reviewed Article 12.4 notifications regarding the application of a provisional safeguard measure from the following Members: Croatia on semi-hard cheese and cheese substitutes; India on acrylic fiber, coated paper paperboard, hot-rolled coils/sheets/strips, plain particle board, phthalic anhydride, dimethoate technical, and unwrought aluminum/aluminum waste/scraps; Israel on steel rebars; Kyrgyz Republic on wheat flour; the Philippines on steel angle bars; and Turkey on footwear, matches motorcycles, salt, steam smoothing irons, and vacuum cleaners.

The Safeguards Committee received notifications of the termination of a safeguard investigation with no definitive safeguard measure imposed, or the expiration or termination of a definitive safeguard measure, from the following Members: Brazil on compact discs-recordables and DVD recordables; Croatia on cheese substitutes (the measure on semi-hard cheese remains in place); India on coated paper/paper board, hot-rolled coils/sheets/strips, linear alkyl benzene, oxo alcohols, plain particle board, uncoated paper/copy paper, and unwrought aluminum; and Jordan on white cement.

China Transitional Review: At the October 2009 meeting, the Safeguards Committee undertook its eighth annual Transitional Review with respect to China's implementation of the Safeguards Agreement. China reported no new safeguard legislation, and confirmed that it had taken no safeguard actions during the past year.

Improved Content and Timeliness of Notifications: In response to a request from the Chair of the Trade Policy Review Body (TPRB), the Chair of the Committee on Safeguards held discussions and several informal consultations with Members throughout 2009 on ways to improve the content and timeliness of notifications to the WTO Secretariat of safeguard actions by Members. Discussions focused on how to encourage Members to improve the quality and timeliness of the information submitted in their notifications so as to permit affected Members and their industries to represent effectively their interests in such proceedings. At the same time, it was recognized that any new reporting formats must not create an unreasonable reporting burden on the Member taking a safeguard action.

At its October 2009 meeting, the Committee adopted revised formats for the notification of the initiation of an investigation relating to serious injury or threat thereof and the reasons for it, notification upon making a finding of serious injury or threat thereof caused by increased imports, notification upon taking a decision to apply or extend a safeguard measure, and notification before taking a provisional safeguard measure. The Committee also adopted two entirely new formats: one identifying the information to be provided upon the initiation of a review regarding the extension of a safeguard measure, and the other identifying the information to be provided upon cessation of a safeguard measure. The Committee also adopted a proposal to recommend that the decisions taken by authorities underlying the notifications be provided electronically to the Secretariat to facilitate access to the information by Members. The Committee had agreed to report back to the Chair of the TPRB on the decisions adopted by the Committee to enhance transparency and improve the content and timeliness of notifications.

Prospects for 2010

The Safeguards Committee's work in 2010 will continue to focus on the review of safeguard actions that have been notified to the Committee and on the review of notifications of any new or amended safeguards legislation.

12. Working Party on State Trading Enterprises

Status

Article XVII of the GATT 1994 requires Members, *inter alia*, to ensure that state trading enterprises (STEs), as defined in that Article, act in a manner consistent with the general principle of non-discriminatory treatment, make purchases or sales solely in accordance with commercial considerations, and abide by other GATT disciplines. The Understanding on the Interpretation of Article XVII of the GATT 1994 (the Article XVII Understanding) defines a state trading enterprise more narrowly for the purposes of providing a notification that is required under the Understanding. Members must notify the Working Party of enterprises in their respective territories that meet this definition, whether or not such

enterprises have imported or exported goods. Members are required to submit new and full notifications to the Working Party for review every two years.

The Working Party on State Trading Enterprises (WP-STE) was established in 1995 to review, *inter alia*, Member notifications of STES and the coverage of STES that are notified, and to develop an illustrative list of relationships between Members and their STES and the kinds of activities engaged in by these enterprises.

Major Issues in 2009

The WP-STE held one formal meeting in October, 2009, at which STE notifications were reviewed from: Colombia, Croatia, the European Communities, Honduras, Croatia, Indonesia, Japan, the Republic of Korea, Liechtenstein, Mozambique, New Zealand, Saudi Arabia, Suriname, and Chinese Taipei. During the meeting, Australia and Turkey posed questions relating to Indonesia's notifications, as well as Korea's notifications. Australia also questioned Japan concerning its notification. The United States asked questions on the notifications of Indonesia, Japan, Korea and New Zealand. Additionally, Australia requested that India and Norway inform the Working Party of when they expected to submit outstanding notifications in order to allow Members to review their state trading enterprises.

The WP-STE also focused its attention on Member compliance with the notification obligation. The Working Party held informal consultations in April on ways to improve the timeliness and completeness of notification obligations. Members agreed to building on current practices in the Working Party to seek to improve Members' performance in meeting the notification obligations. The agreed actions included: preparation by the Secretariat of a table recording all notifications made to the Working Party since 1995 (to be updated on a regular basis, the most recent of which is attached as an Annex to this report); transmittal of reminders to Members once the notification deadline has passed (in addition to reminders currently being sent prior to the deadline), offers of support from the Secretariat to provide assistance in completing the notifications and reminders that a nil notification should also be submitted; circulation of a list of Members that have submitted notifications in the calendar year; offers of technical assistance around the time of the regular meeting of the Working Party to coincide with possible Capital-based attendance (in addition to assistance being available from the Secretariat at any time); and transmittal of reminders to delegations on a regular basis to submit questions on notifications well before the regular meeting.

Prospects for 2010

The WP-STE is scheduled to meet in October, 2010. The WP-STE will continue its review of new notifications and its examination of how to improve Member compliance with STE notification obligations to enhance transparency of STES.

G. Council on Trade Related Aspects of Intellectual Property Rights

Status

The WTO Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) monitors implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities assigned to the Council in the TRIPS Agreement.

The TRIPS Agreement sets minimum standards of protection for copyrights and related rights, trademarks, geographical indications (GIs), industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights (IPRs) through civil actions for infringement, actions at the border and, at least in regard to copyright piracy and trademark counterfeiting, in criminal actions. The TRIPS Agreement is important to U.S. interests and has yielded significant benefits for U.S. industries and individuals, from those engaged in the pharmaceutical, agricultural chemical, and biotechnology industries to those producing motion pictures, sound recordings, software, books, magazines, and consumer goods.

Developed country Members were required to fully implement the obligations of the TRIPS Agreement by January 1, 1996, and developing country Members generally had to achieve full implementation by January 1, 2000. Least developed country (LDC) Members have had their deadline for full implementation of the TRIPS Agreement extended to July 1, 2013, as part of a package that also requires them to provide information on their priority needs for technical assistance in order to facilitate TRIPS Agreement implementation. This action is without prejudice to the existing extension, based on a proposal made by the United States at the Doha Ministerial Conference, of the transition period for LDC Members to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement with respect to pharmaceutical products, or to enforce rights with respect to such products, until January 1, 2016. In 2002, the WTO General Council, on the recommendation of the TRIPS Council, similarly waived until 2016 the obligation for LDC Members to provide exclusive marketing rights for certain pharmaceutical products if those Members did not provide product patent protection for pharmaceutical inventions.

Major Issues in 2009

In 2009, the TRIPS Council held three formal meetings. In addition to its continued work reviewing the implementation of the Agreement, the TRIPS Council's activities in 2009 focused on the relationship of the TRIPS Agreement to the Convention on Biological Diversity, and on ongoing consideration of issues addressed in the Doha Ministerial Declaration and the Declaration on the TRIPS Agreement and Public Health. Some Members, including the United States, also sought to have the TRIPS Council continue to examine issues related to the enforcement provisions of the TRIPS Agreement.

Review of Developing Country Members' TRIPS Implementation: During 2009, the TRIPS Council continued to review developing country Members' and newly acceded Members' implementation of the TRIPS Agreement, and to provide assistance to developing country Members in implementing the Agreement. The United States continued to press for full implementation of the TRIPS Agreement by developing country Members, and participated actively during the reviews of legislation by highlighting specific concerns regarding individual Member's implementation of the Agreement's obligations, particularly with regard to China's efforts.

The Transitional Review Mechanism under Section 18 of the Protocol on the Accession of the People's Republic of China has been an important means to raise concerns about China's implementation of the TRIPS Agreement. This process has been instrumental in helping to understand the levels of protection of IPRs in China and provides a forum for addressing the concerns of U.S. interests. The United States has been active in seeking answers to questions on a wide range of intellectual property matters and in raising concerns about enforcement of IPRs.

During 2009, the TRIPS Council undertook a review of the implementing legislation of Ukraine and Tonga, in addition to the above-referenced review of China.

Intellectual Property and Access to Medicines: The August 30, 2003 solution (the General Council Decision on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health", in light of the statement read out by the General Council Chairperson) continues to apply to each Member until the formal amendment to the TRIPS Agreement replacing its provisions takes effect for that Member. The amendment text adopted by the General Council in December 2005 and the statement by the Chairperson preserve all substantive aspects of the August 30, 2003 solution and do not alter the substance of the previously agreed to solution. The United States was the first Member to submit its acceptance of the amendment to the WTO. At the end of 2009, a total of 26 Members had accepted the amendment, which will enter into force for those Members that have accepted it upon its acceptance by two-thirds of the membership of the WTO. At its October 2009 meeting, the TRIPS Council reviewed implementation of the August 30, 2003 solution. Several Members commented on the importance of the solution, and the Council agreed to hold an informal consultation to share experiences on implementing the amendment. Pursuant to a December 2009 Decision of the WTO General Council, the period in which Members may accept the amendment remains open until December 31, 2011.

TRIPS-related WTO Dispute Settlement Cases: In April 2007, the United States initiated WTO dispute settlement proceedings over deficiencies in China's legal regime for the protection and enforcement of IPRs by requesting consultations with China. On September 25, 2007, the WTO Dispute Settlement Body (DSB) established a panel to consider the dispute.

The panel circulated its report on January 26, 2009. The panel found that China's denial of copyright protection to works that do not meet China's content review standards is inconsistent with the TRIPS Agreement. The panel also found it inconsistent with the TRIPS Agreement for China to provide for simple removal of an infringing trademark as the only precondition for the sale at public auction of counterfeit goods seized by Chinese customs authorities.

With respect to the U.S. claim regarding thresholds in China's law that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties, the panel clarified that China must provide for criminal procedures and penalties to be applied to willful trademark counterfeiting and copyright piracy on a commercial scale. The panel agreed with the United States that Article 61 of the TRIPS Agreement requires China not to set its thresholds for prosecution of piracy and counterfeiting so high as to ignore the realities of the commercial marketplace. The Panel did find, however, that it needed more evidence in order to decide whether the actual thresholds for prosecution in China's criminal law are so high as to allow commercial-scale counterfeiting and piracy to occur without the possibility of criminal prosecution.

The DSB adopted the panel report on March 20, 2009. On April 15, 2009, China notified the DSB that China intends to implement the recommendations and rulings of the DSB in this dispute, and stated it would need a reasonable period of time for implementation. On June 29, 2009, the United States and China notified the DSB that they had agreed on a one-year period of time for implementation, to end on March 20, 2010.

During 2009, the United States continued to monitor EU compliance with a 2005 ruling of the WTO Dispute Settlement Body that the EU's regulation on food-related GIs is inconsistent with the EU's obligations under the TRIPS Agreement and the GATT 1994. The United States has raised certain questions and concerns with regard to the revised EU regulation and its compliance with the DSB findings and recommendations, and continues to monitor implementation in this dispute.

The United States continues to monitor WTO Members' implementation of their TRIPS Agreement obligations and will consider the further use of the WTO dispute settlement mechanism as appropriate.

Geographical Indications: The Doha Declaration directed the TRIPS Council to discuss "issues related to extension" of the level of protection provided under Article 23 of the TRIPS Agreement to GIs for products other than wines and spirits, and to report to the Trade Negotiations Committee (TNC) by the end of 2002 for appropriate action. Because no consensus could be reached in the TRIPS Council on how the Chairperson should report to the TNC on the issues related to the extension of Article 23-level protection to GIs for products other than wines and spirits, and in light of the strong divergence of positions on the way forward on GIs and other implementation issues, the TNC Chairperson closed the discussion by saying he would consult further with Members. At the December 2005 Hong Kong Ministerial Conference, the Ministers directed the Director-General to continue his consultative process on all outstanding implementation issues, including on extension of Article 23-level protection to GIs for products other than wines and spirits.

Throughout 2009, and consistent with this mandate, the Director-General held a number of such consultations with Members on the issue of extension. During these consultations, the United States and many like-minded Members maintained the position that the *demandeurs* had not established that the protection provided GIs for products other than wines and spirits was inadequate, and thus proposals for expanding GI protection were unwarranted. The United States and other Members noted that the administrative costs and burdens of proposals to expand protection would be considerable for those Members that did not have a longstanding statutory regime for the protection of GIs, that the benefits accruing to those few Members that have longstanding statutory regimes for the protection of GIs would represent a windfall, and that other Members with few or no GIs would receive no counterbalancing benefits. While willing to continue the dialog in the TRIPS Council, the United States believes that discussion of the issues has been exhaustive and that no consensus has emerged with regard to extension of Article 23-level protection to products other than wines and spirits. The United States and other Members have also steadfastly resisted efforts by some Members to obtain new GI protections in the WTO agriculture negotiations.

Review of Article 27.3(b), Relationship Between the TRIPS Agreement and the Convention on Biological Diversity, and Protection of Traditional Knowledge and Folklore: As called for in the TRIPS Agreement, the TRIPS Council initiated a review of Article 27.3(b) of the TRIPS Agreement (permitting Members to except from patentability plants and animals and biological processes used for the production of plants and animals). The Doha Declaration directs the TRIPS Council, in pursuing its work program under the review of Article 27.3(b), to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore. Consideration of this set of issues also continues to be guided by the direction of Ministers in the Hong Kong Declaration, that all implementation issues (including the relationship of the TRIPS Agreement and the CBD) should be the subject of consultations facilitated by the WTO Director-General. Furthermore, Ministers agreed that work would continue in the TRIPS Council on this issue.

A number of developing country Members continue to advocate for amending the patent provisions of the TRIPS Agreement to require disclosure of the source of the genetic resource or traditional knowledge, as well as evidence of prior informed consent to obtain the genetic resource and adequate benefit sharing with the custodian community or country of the genetic resource in order to obtain a patent. In 2006, a group of developing country Members submitted draft text for such an amendment to the TRIPS Agreement. There is, however, no consensus in the TRIPS Council that an amendment should be pursued.

Throughout 2009, the Director-General held a number of consultations with Members on this issue. The United States, with support from other Members, continues to maintain that there is no conflict between the TRIPS Agreement and the CBD, that an amendment to the TRIPS Agreement is neither necessary nor

appropriate, and that shared objectives with respect to genetic resources and traditional knowledge (such as prior informed consent and effective access and benefit-sharing arrangements) can best be achieved through mechanisms outside of the patent system. The United States has also advocated for a discussion in the TRIPS Council that is fact-based and focused on national experiences in areas such as access and benefit-sharing and prior informed consent.

Technical Cooperation and Capacity Building: As in each past year, the United States and other Members provided reports on their activities in connection with technical cooperation and capacity building (see IP/C/W/517/Add.3). While no LDC Members submitted information on their priority needs with regard to technical cooperation related to their implementation of the TRIPS Agreement in 2009, the reports of technical cooperation and capacity building activities were discussed in the TRIPS Council as well as in informal consultations.

Implementation of Article 66.2: Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives for enterprises and institutions in their territories to promote and encourage technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base. This provision was reaffirmed in the Doha Decision on Implementation-related Issues and Concerns and the TRIPS Council was directed to put in place a mechanism for ensuring monitoring and full implementation of the obligation. Developed country Members are required to provide detailed reports every third year, with annual updates, on these incentives. In October 2009, the United States provided an updated report on specific U.S. government institutions and incentives, as required.

Prospects for 2010

In 2010, the TRIPS Council will continue to focus on its built-in agenda and the additional mandates established in the Doha Declaration, including issues related to the extension of Article 23-level protection for GIs for products other than wines and spirits, on the relationship between the TRIPS Agreement and the CBD, and on traditional knowledge and folklore, as well as other relevant new developments.

U.S. objectives for 2010 continue to be to:

- resolve differences through consultations and use of dispute settlement procedures, where appropriate;
- continue efforts to ensure that developing country Members fully implement the TRIPS Agreement;
- engage in constructive dialogue regarding the technical assistance and capacity-related needs of developing countries in connection with TRIPS Agreement implementation;
- continue to encourage a fact-based discussion within the TRIPS Council on the enforcement provisions of the TRIPS Agreement; and
- ensure that provisions of the TRIPS Agreement are not weakened.

H. Council for Trade in Services

Status

The General Agreement for Trade in Services (GATS) is the first multilateral, legally enforceable agreement covering trade in services, and investment in the services sector. It is designed to reduce or eliminate governmental measures that prevent services from being freely supplied across national borders

or that discriminate against locally established services firms with foreign ownership. The GATS provides a legal framework for addressing barriers to trade and investment in services. It includes specific commitments by WTO Members to restrict their use of those barriers and provides a forum for further negotiations to open services markets around the world. These commitments are contained in Member schedules, similar to the Member schedules for tariffs.

The Council for Trade in Services (CTS) oversees implementation of the GATS and reports to the General Council. In addition, the CTS is responsible for a technical review of GATS Article XX.2 provisions; waivers from specific commitments pursuant to paragraphs 3 and 4 of Article IX of the Marrakesh Agreement Establishing the WTO; a periodic review of developments in the air transport sector; the transitional review mechanism under Section 18 of the Protocol on the Accession of the People's Republic of China; implementation of GATS Article VII; the MFN review; and notifications made to the General Council pursuant to GATS Articles III.3, V.5, V.7, and VII.4.
The ongoing market access negotiations take place in the CTS Special Session, described earlier in this chapter. Other bodies that report to the CTS include: the Committee on Specific Commitments, the Committee on Trade in Financial Services, the Working Party on Domestic Regulation, and the Working Party on GATS Rules. The following section discusses work in the CTS regular session.

Major Issues in 2009

The CTS met in April, June and November 2009. The CTS elected the delegate from Nigeria as its new Chairperson in April.

Following a request from certain delegations during informal consultations held at the beginning of 2009, the Chair held discussions on the issue of Members' compliance with GATS notification requirements during the April and June meetings of the CTS. These discussions were guided by a Secretariat Note (JOB(09)/10/Rev.1) that provided an accounting of notifications under GATS articles III.3, V, and VII. Members also commented on a communication from Switzerland entitled, "Compliance with notification requirements under the GATS."

The CTS requested that the Secretariat update its Background Notes on services sectors and modes of supply, which were produced in 1998 for informational reference by Members. The CTS has thus far taken up eight of the Secretariat's updated Background Notes, including tourism services, telecommunication services, computer and related services, architectural services, construction and related engineering services, Modes 1 and 2, Mode 3, and Mode 4.

During the April meeting of the CTS, Australia raised its ongoing concerns related to the entry into force of the EC-25 schedule of commitments pursuant to GATS Article XXI and the procedures outlined in S/L/80 and S/L/84. The EU explained that the EC Council required each individual Member State to ratify the relevant agreements and called for a consultation by the European Parliament. Entry into force of the EC-25 schedule is now dependent on the outcome of those proceedings. At the time of the meeting, fourteen EU Member States had ratified the agreement according to their national procedures.

As part of China's Transitional Review Mechanism, the CTS held its eighth annual review of China's implementation of its services commitments in November 2009. The United States and other Members used the opportunity to raise questions and express concerns with regard to China's implementation of certain commitments.

The CTS received a number of notifications pursuant to GATS Article III.3 (transparency and GATS Article VII (recognition). Albania, Brazil, China, India, New Zealand, Paraguay, Switzerland and

Thailand made notifications under Article III.3. Notifications pursuant to GATS Article VII were made by Australia and Chile; China and Hong Kong, China; and China and Macao, China; China and New Zealand; China and Singapore; Costa Rica and Panama; Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua and the United States; Colombia and Panama; Japan and Switzerland; Japan and Vietnam; Nicaragua and Taiwan; Panama and Taiwan; Peru and Canada; Peru and Singapore; Peru and the United States; and the United States and Oman.

Prospects for 2010

The CTS will continue discussions pursuant to the Annex on Air Transport Services review and other mandated reviews, and various notifications related to GATS implementation.

1. Committee on Trade in Financial Services

Status

The Committee on Trade in Financial Services (CTFS) provides a forum for Members to explore financial services market access or regulatory issues, including implementation of existing trade commitments.

Major Issues in 2009

The CTFS met in March, June and November 2009. During the March 2009 meeting, the Committee elected the delegate from South Africa as the new Chairperson.

Members continued to urge Brazil, Jamaica, and the Philippines, to take the necessary steps to accept the Fifth Protocol to the GATS. In accepting the protocol, financial services commitments made in 1994 would be replaced by those agreed during the 1995-97 extended negotiations on financial services. All other Members have accepted the protocol. The Chair invited these Members to provide information on the status of their domestic ratification efforts. Brazil and the Philippines provided updates to the Committee, although neither reported meaningful progress.

A workshop to commemorate the entry into force of the Fifth Protocol was held at the March meeting. Speakers at the workshop included financial regulators, as well as representatives from academia and the private sector.

In November 2009, as part of China's Transitional Review Mechanism, the CTFS carried out its seventh annual review of China's implementation of its WTO financial services commitments. The United States and other Members used that opportunity to raise questions and express concerns with China's implementation of certain commitments concerning insurance, banking and related services, securities, pensions, and financial information services.

The CTFS also provided a forum for discussion of other topics, including technical issues and recent developments in financial services trade. Topics introduced in 2009 included a proposal from the United States to exchange information related to the liberalization of trade in non-life insurance services, and a suggestion from Pakistan to discuss issues related to the development of e-banking.

Prospects for 2010

The CTFS will continue to use its broad and flexible mandate to discuss various issues, including ratification of existing commitments as well as market access and regulatory issues.

2. Working Party on Domestic Regulation

Status

GATS Article VI:4, on Domestic Regulation, provides for Members to develop any necessary disciplines relating to qualification requirements and procedures, technical standards and licensing requirements and procedures. A Ministerial Decision assigned priority to the professional services sector, and Members subsequently established the Working Party on Professional Services (WPPS). In May 1997, the WPPS developed Guidelines for the Negotiation of Mutual Recognition Agreements in the Accountancy Sector, adopted by the WTO. The WPPS completed Disciplines on Domestic Regulation in the Accountancy Sector in December 1998. The texts are available at http://www.wto.org.

In May 1999, the CTS established a new Working Party on Domestic Regulation (WPDR) which took on the work of the predecessor WPPS and its existing mandate. The WPDR is charged with determining whether any new disciplines are deemed necessary beyond those negotiated for the accountancy sector. At the December 2005 Hong Kong Ministerial Conference, Ministers directed the WPDR to develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations.

Thereafter, the pace of negotiations increased dramatically. In April 2007, the WPDR Chair issued an informal note on possible new disciplines for domestic regulation. This informal note was revised in January 2008. The informal note was an attempt to consolidate elements of Members' proposals with a view to moving Members closer to a consensus on basic threshold issues, such as the appropriate level of ambition for disciplines applied to all services sectors, whether or not to submit any new disciplines to an operational "necessity test," how to balance the goal of diminishing regulatory trade barriers with the fundamental right to regulate, and how to address different levels of development.

Major Issues in 2009

The WPDR met in April, June, October, and November of 2009. In April 2009, the WPDR elected the delegate from Japan as its new chairperson. During 2009 the WPDR based its discussions on a March 2009 revision to the informal note, which made minor revisions to the January 2008 draft. Those minor revisions reflected the few areas in which the prior Chair had identified areas of convergence during meetings in 2008, and were largely uncontroversial.

Members welcomed the March 2009 text as a basis for future negotiations, although it is clear that Members continue to have concerns about the basic threshold issues. Thus far, none of the proposed new disciplines have been agreed to by Members. To try to bridge some of the differences among Members, in September 2009 the Chair began a series of meetings to discuss the informal text section by section. During these meetings, Members presented new textual proposals designed to build consensus on substantive issues and address drafting concerns with the informal note.

The United States continued to negotiate on the basis of its June 2006 position paper on the WPDR. The United States considers that the horizontal or sector-specific application of any new disciplines should depend on the nature of the proposed disciplines, and the legitimate policy considerations of national and

subnational regulatory authorities. Because of the wide variety of services sectors, there will be significant legal and practical constraints on the feasibility of disciplines which apply on a horizontal basis. For that reason, the United States' priority in 2009 continued to be horizontal disciplines for regulatory transparency. Such disciplines are appropriate for horizontal implementation because they involve universal principles that promote governmental accountability, rule of law, and good governance. The United States also joined many other Members in voicing strong caution about submitting domestic regulations to an operational "necessity test" or its equivalent based on concerns that this could be overly intrusive on Members' rights to regulate.

Prospects for 2010

As the United States and other Members have made clear on numerous occasions, future work in the WPDR will depend on the pace of negotiations for services market access. As the overall negotiations progress, the WPDR may continue to work in informal and *ad hoc* meetings on the basis of the March 2009 informal note, and proposals advanced by Members.

3. Working Party on GATS Rules

Status

The Working Party on GATS Rules (WPGR) provides a forum to discuss the possibility of new disciplines on emergency safeguard measures, government procurement, and subsidies in the context of the GATS in accordance with the Doha Work Program resulting from the Hong Kong Ministerial Conference in December 2005. That program called for Members to intensify their efforts to conclude the negotiations on rule-making under GATS Articles X (emergency safeguard mechanism), Article XIII (government procurement), and Article XV (subsidies).

Major Issues in 2009

The WPGR held formal meetings in April, June, October and November 2009. The WPGR resumed ongoing discussions of emergency safeguard measures, government procurement, and subsidies. During its April meeting, the WPGR also elected the delegate from Chile as its new Chairperson.

Regarding emergency safeguard measures, Members continued discussions on the basis of an informal communication from a group of ASEAN Members that proposed legal language establishing rules for the use of emergency safeguard measures in services. Issues raised during these largely informal discussions included the relationship of an emergency safeguard measure to market access commitments, modal application, conditions of application, how to establish a causal link, and special and differential treatment. In October 2009, the Secretariat issued an informal note on the treatment of the concept of "domestic industry" under the anti-dumping, subsidies and safeguard agreements; during the November meeting, Members discussed whether this concept would be relevant for an emergency safeguard measure in services. Members continue to express divergent views on the various aspects raised in relation to emergency safeguard measures, and the United States and other Members continue to question the desirability and feasibility of any such measures.

On government procurement of services, delegations continued their discussion of a proposal by the EU regarding a legal text for an Annex to the GATS. Members exchanged views on this proposal, and raised issues relating to possible benefits of opening procurement markets, procedural rules, special and differential treatment, the relationship to the plurilateral Government Procurement Agreement, and MFN application. The United States continues to engage on this issue, but has questioned the need for a

government procurement annex to the GATS in light of the fact that the Agreement on Government Procurement already covers services.

With respect to subsidies, Members continued to discuss an informal communication from Hong Kong, China and Mexico and a follow-up document from Hong Kong, China on non-actionable subsidies. In September 2009 the Chair issued an informal note recalling for Members a proposal for a provisional definition of subsidies in services, submitted by Chile, Hong Kong, Mexico, Peru, and Switzerland in 2005. Members discussed whether this definition could facilitate an information exchange on subsidies; many Members, including the United States, had questions about the proposed provisional definition. The United States continues to engage on this issue, but has insisted that a clear definition of subsidies is needed before any reporting requirement can be fulfilled.

Prospects for 2010

Future work in the WPGR will depend on the pace of negotiations for services market access. As the overall negotiations progress, the WPGR may continue focused discussions in all three areas, including technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services; proposals by Members concerning government procurement of services; and further discussion of how to facilitate a productive information exchange on subsidies.

4. Committee on Specific Commitments

Status

The Committee on Specific Commitments (CSC) examines ways to improve the technical accuracy of scheduling commitments, primarily in preparation for the GATS negotiations, and oversees the application of the procedures for the modification of schedules under GATS Article XXI. The CSC also oversees implementation of commitments in Members' schedules in sectors for which there is no sectoral body, which is currently the case for all sectors except financial services. The CSC also works to improve the classification of services, so that scheduled commitments reflect the service activity, particularly with regard to new or evolving services.

Major Issues in 2009

The CSC held meetings in April, June, and November 2009. The CSC resumed previous discussion of classification and scheduling issues, and the relationship between old and new commitments. During the April meeting, the CSC also elected the delegate from France as its new Chairperson. The CSC hosted scheduling workshops in April and November 2009, which enabled Members to discuss common questions that arise in the drafting of commitments.

Classification: Members considered whether sectoral work undertaken by the Secretariat could lead to future work within the committee on classification matters, and the Chair was to pursue consultations to that effect.

Scheduling issues: The Committee engaged in some discussion on issues related to economic needs tests, including whether to ask the Secretariat to update a 2001 background note (S/CSS/W/118).

Relationship between old and new commitments: Discussions continued on the relationship between existing schedules and the new commitments resulting from the current negotiations**.** Topics included methods and instruments for incorporating new commitments and the process for verifying final

schedules of commitments. Members tended to agree that the replacement method is the most appropriate means of incorporating the results of the current negotiations into the GATS. Some Members, however, continued to suggest that old commitments should be given some legal standing beyond a source of interpretation, and one Member put forward a text proposal to that effect.

Prospects for 2010

Work will continue on technical issues and other issues that Members raise. The CSC will likely continue to examine classification and scheduling issues; and increase its focus on language proposals for the protocol incorporating new commitments as well as the verification process to be applied following the submission of final schedules.

I. Dispute Settlement Understanding

Status

The Understanding on Rules and Procedures Governing the Settlement of Disputes (Dispute Settlement Understanding or DSU), which is annexed to the WTO Agreement, provides a mechanism to settle disputes under the Uruguay Round Agreements. Thus, it is key to the enforcement of U.S. rights under these Agreements.

The DSU is administered by the Dispute Settlement Body (DSB), which consists of representatives of the entire membership of the WTO, and is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB, and authorize retaliation. The DSB makes all its decisions by consensus.

Major Issues in 2009

The DSB met 16 times in 2009 to oversee disputes, and to address responsibilities such as appointing members to the Appellate Body and approving additions to the roster of governmental and non-governmental panelists.

Roster of Governmental and Non-Governmental Panelists: Article 8 of the DSU makes it clear that panelists may be drawn from either the public or private sector and must be "well-qualified," such as persons who have served on or presented a case to a panel, represented a government in the WTO or the GATT, served with the Secretariat, taught or published in the international trade field, or served as a senior trade policy official. Since 1985, the Secretariat has maintained a roster of non-governmental experts for GATT 1947 dispute settlement, which has been available for use by parties in selecting panelists. In 1995, the DSB agreed on procedures for renewing and maintaining the roster, and expanding it to include governmental experts. In response to a U.S. proposal, the DSB also adopted standards increasing and systematizing the information submitted by roster candidates. These modifications aid in evaluating candidates' qualifications and encouraging the appointment of well-qualified candidates who have expertise in the subject matters of the Uruguay Round Agreements. In 2009, the DSB approved by consensus a number of additional names for the roster, including an updating of the names nominated by the United States. The United States scrutinized the credentials of these candidates to assure the quality of the roster.

Pursuant to the requirements of the Uruguay Round Agreements Act (URAA), the present WTO panel roster appears in the background information in Annex II. The list in the roster notes the areas of expertise of each roster member (goods, services, and/or TRIPS).

Rules of Conduct for the DSU: The DSB completed work on a code of ethical conduct for WTO dispute settlement and, on December 3, 1996, adopted the Rules of Conduct for the Understanding on Rules and Procedures Governing the Settlement of Disputes. A copy of the Rules of Conduct was printed in the Annual Report for 1996 and is available on the WTO and USTR websites. There were no changes in these Rules in 2009.

The Rules of Conduct elaborate on the ethical standards built into the DSU to maintain the integrity, impartiality, and confidentiality of proceedings conducted under the DSU. The Rules of Conduct require all individuals called upon to participate in dispute settlement proceedings to disclose direct or indirect conflicts of interest prior to their involvement in the proceedings, and to conduct themselves during their involvement in the proceedings so as to avoid such conflicts.
The Rules of Conduct also provide parties an opportunity to address potential material violations of these ethical standards. The coverage of the Rules of Conduct exceeds the goals established by Congress in section 123(c) of the URAA, which directed USTR to seek conflict of interest rules applicable to persons serving on panels and members of the Appellate Body. The Rules of Conduct cover not only panelists and Appellate Body members, but also: (1) arbitrators; (2) experts participating in the dispute settlement mechanism (*e.g.*, the Permanent Group of Experts under the SCM Agreement); (3) members of the WTO Secretariat assisting a panel or assisting in a formal arbitration proceeding; (4) the Chair of the Textile Monitoring Body ("TMB") and other members of the TMB Secretariat assisting the TMB in formulating recommendations, findings, or observations under the Agreement on Textiles and Clothing; and (5) support staff of the Appellate Body.

As noted above, the Rules of Conduct established a disclosure-based system. Examples of the types of information that covered persons must disclose are set forth in Annex II to the Rules, and include: (1) financial interests, business interests, and property interests relevant to the dispute in question; (2) professional interests; (3) other active interests; (4) considered statements of personal opinion on issues relevant to the dispute in question; and (5) employment or family interests.

Appellate Body: The DSU requires the DSB to appoint seven persons to serve on an Appellate Body, which is to be a standing body with members serving four-year terms, except for three initial appointees determined by lot whose terms expired at the end of two years. At its first meeting on February 10, 1995, the DSB formally established the Appellate Body, and agreed to arrangements for selecting its members and staff. They also agreed that Appellate Body members would serve on a part-time basis, and sit periodically in Geneva. The original seven Appellate Body members, who took their oath on December 11, 1995, were Mr. James Bacchus of the United States, Mr. Christopher Beeby of New Zealand, Professor Claus-Dieter Ehlermann of Germany, Dr. Said El-Naggar of Egypt, Justice Florentino Feliciano of the Philippines, Mr. Julio Lacarte-Muró of Uruguay, and Professor Mitsuo Matsushita of Japan. On June 25, 1997, it was determined by lot that the terms of Messrs. Ehlermann, Feliciano and Lacarte-Muró would expire in December 1997. The DSB agreed on the same date to reappoint them for a final term of four years commencing on 11 December 1997. On October 27, 1999, and November 3, 1999, the DSB agreed to renew the terms of Messrs. Bacchus and Beeby for a final term of four years, commencing on December 11, 1999, and to extend the terms of Dr. El-Naggar and Professor Matsushita until the end of March 2000. On April 7, 2000, the DSB agreed to appoint Mr. Georges Michel Abi-Saab of Egypt and Mr. A.V. Ganesan of India to a term of four years commencing on June 1, 2000. On May 25, 2000, the DSB agreed to the appointment of Professor Yasuhei Taniguchi of Japan to serve through December 10, 2003, the remainder of the term of Mr. Beeby, who passed away on March 19, 2000. On September 25, 2001, the DSB agreed to appoint Mr. Luiz Olavo Baptista of Brazil, Mr. John S. Lockhart of Australia and Mr. Giorgio Sacerdoti of Italy to a term of four years commencing on December 19, 2001. On November 7, 2003, the DSB agreed to appoint Professor Merit Janow of the United States to a term of

four years commencing on December 11, 2003, to reappoint Professor Taniguchi for a final term of four years commencing on December 11, 2003, and to reappoint Mr. Abi-Saab and Mr. Ganesan for a final term of four years commencing on June 1, 2004. On September 27, 2005, the DSB agreed to reappoint Mr. Baptista, Mr. Lockhart and Mr. Sacerdoti for a final term of four years commencing on December 12, 2005. On July 31, 2006, the DSB agreed to the appointment of Mr. David Unterhalter of South Africa to serve through December 11, 2009, the remainder of the term of Mr. Lockhart, who passed away on January 13, 2006. On November 27, 2007, the DSB agreed to appoint Ms. Lilia R. Bautista of the Philippines and Ms. Jennifer Hillman of the United States as members of the Appellate Body for four years commencing on December 11, 2007, and to appoint Mr. Shotaro Oshima of Japan and Ms. Yuejiao Zhang of China as members of the Appellate Body for four years commencing on June 1, 2008. On November 12, 2008, Mr. Baptista notified the DSB that he was resigning for health reasons, effective in 90 days. On June 19, 2009, the DSB agreed to appoint Mr. Ricardo Ramírez Hernández of Mexico as a member of the Appellate Body for four years commencing on July 1, 2009, to appoint Mr. Peter Van den Bossche of Belgium as a member of the Appellate Body for four years commencing on December 12, 2009, and to reappoint Mr. Unterhalter for a final term of four years commencing on December 12, 2009. The names and biographical data for the Appellate Body members during 2009 are included in Annex II of this report.

The Appellate Body has also adopted Working Procedures for Appellate Review. On February 28, 1997, the Appellate Body issued a revision of the Working Procedures, providing for a two-year term for the first Chairperson, and one-year terms for subsequent Chairpersons. In 2001, the Appellate Body amended its working procedures to provide for no more than two consecutive terms for Chairperson. Mr. Lacarte-Muró, the first Chairperson, served until February 7, 1998; Mr. Beeby served as Chairperson from February 7, 1998 to February 6, 1999; Mr. El-Naggar served as Chairperson from February 7, 1999 to February 6, 2000; Mr. Feliciano served as Chairperson from February 7, 2000 to February 6, 2001; Mr. Ehlermann served as Chairperson from February 7, 2001 to December 10, 2001; Mr. Bacchus served as Chairperson from December 15, 2001 to December 10, 2003; Mr. Abi-Saab served as Chairperson from December 13, 2003 to December 12, 2004; Mr. Taniguchi served as Chairperson from December 17, 2004 to December 16, 2005; Mr. Ganesan served as Chairperson from December 17, 2005 to December 16, 2006; Mr. Sacerdoti served as Chairperson from December 17, 2006 to December 17, 2007; Mr. Baptista served as Chairperson from December 18, 2007, to December 17, 2008; Mr. Unterhalter began serving as Chairperson on December 18, 2008, and his current term expires on December 11, 2010.

In 2009, the Appellate Body issued 4 reports, all of which involved the United States as a party and are discussed in detail below.

On January 14, 2009, the United States submitted a proposal to the Dispute Settlement Body entitled "Improvements for the Appellate Body." The proposal has three main elements: formally giving Appellate Body members full-time status; providing each Appellate Body member with a law clerk devoted to that member; and establishing a more formal mechanism of WTO Members to ensure that Appellate Body members have access to ongoing professional development.

Dispute Settlement Activity in 2009: During the DSB's first fifteen years in operation, WTO Members filed 402 requests for consultations (22 in 1995, 42 in 1996, 46 in 1997, 44 in 1998, 31 in 1999, 30 in 2000, 27 in 2001, 37 in 2002, 26 in 2003, 19 in 2004, 11 in 2005, 20 in 2006, 14 in 2007, 19 in 2008, and 14 in 2009). During that period, the United States filed 82 complaints against other Members' measures and received 116 complaints on U.S. measures. Several of these complaints involved the same issues as other complaints (4 U.S. complaints against others and 27 complaints against the United States). A number of disputes commenced in earlier years remained active in 2009. What follows is a description of those disputes in which the United States was a complainant, defendant, or third party during the past year.

Prospects for 2010

While there were improvements to the multilateral trading system's dispute settlement system as a result of the Uruguay Round, there is still room for improvement. Accordingly, the United States has used the opportunity of the ongoing review to seek improvements in its operation, including greater transparency. In 2010, we expect the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. Experience gained with the DSU will be incorporated into the U.S. litigation and negotiation strategy for enforcing U.S. WTO rights, as well as the U.S. position on DSU reform. Participants will continue to consider reform proposals in 2010.

a. Disputes Brought by the United States

In 2009, the United States continued to be one of the most active participants in the WTO dispute settlement process. This section includes brief summaries of dispute settlement activity in 2009 where the United States was a complainant. As demonstrated by these summaries, the WTO dispute settlement process has proven to be an effective tool in combating barriers to U.S. exports. Indeed, in a number of cases the United States has been able to achieve satisfactory outcomes by invoking the consultation provisions of the dispute settlement procedures, without recourse to formal panel proceedings.

China–Measures Affecting Imports of Automobile Parts (DS340):

On March 30, 2006, the United States requested consultations with China regarding China's treatment of motor vehicle parts, components, and accessories ("automotive parts") imported from the United States. Although China's WTO commitments limit its tariffs on imported automotive parts to rates that are significantly below China's tariffs on finished vehicles, China implemented regulations that imposed an internal charge on imported automotive parts equal to the tariff on complete automobiles if the final assembled vehicle in which the parts were incorporated failed to meet certain local content requirements. The United States was concerned that these regulations imposed an internal tax on U.S. automotive parts beyond that allowed by WTO rules and resulted in discrimination against U.S. automotive parts. These regulations appeared inconsistent with several WTO provisions, including Article III of the GATT 1994 and Article 2 of the *Agreement on Trade-Related Investment Measures*, as well as specific commitments made by China in its WTO accession agreement. The EU (WT/DS/339) and Canada (WT/DS/442) also initiated disputes regarding the same matter. The EU, Canada, and the United States requested the establishment of a panel on September 28, 2006, and a single panel was established on October 26, 2006 to examine the complaints. On January 29, 2007, the Director-General composed the panel as follows: Mr. Julio Lacarte-Muró, Chair; and Mr. Ujal Singh Bhatia and Mr. Wilhelm Meier, Members.

The panel circulated its report on July 18, 2008. The report upheld U.S. claims that China's regulations were inconsistent with China's WTO obligations. In particular, it found that China's regulations imposed discriminatory internal charges and administrative procedures on imported automotive parts resulting in violation of Articles III:2 and III:4 of the General Agreement on Tariffs and Trade 1994, and that certain aspects of the regulations were inconsistent with specific commitments made by China in its WTO accession agreement.

On September 15, 2008, China appealed the panel findings to the WTO Appellate Body. On December 15, 2008, the Appellate Body issued its report. The Appellate Body upheld the panel's findings that the measures imposed internal charges and regulations, and that these charges and regulations breached China's obligations under Articles III:2 and III:4 of the GATT 1994. In addition, the Appellate Body interpreted the measures as not specifying the tariff treatment for certain products, and on this basis found

that the measures did not implicate the specific commitment in China's WTO accession agreement that had been considered by the Panel.

On January 12, 2009, the DSB adopted the reports of the Appellate Body and the report of the Panel (as modified by the Appellate Body report). The United States and China subsequently agreed that the reasonable period of time for China to implement the DSB recommendations and rulings would be seven months and 20 days from the date of DSB adoption, a period which expired on September 1, 2009.

Shortly before the expiration of the reasonable period of time, China informed that United States and the other complaining parties that it had complied with the DSB recommendations and rulings by withdrawing the measures in dispute.

China–Measures affecting the protection and enforcement of intellectual property rights (WT/DS362):

On April 10, 2007, the United States requested consultations with China regarding certain measures pertaining to the protection and enforcement of intellectual property rights in China. The United States and China held consultations on June 7-8, 2007, but the consultations did not resolve the dispute. On August 13, 2007, the United States requested the establishment of a panel, and a panel was established on September 25, 2007. On December 13, 2007, the Director-General composed the panel as follows: Mr. Adrian Macey, Chair; and Mr. Marino Porzio and Mr. Sivakant Tiwari, Members.

The panel circulated its report on January 26, 2009. The panel found that China's denial of copyright protection to works that do not meet China's content review standards is inconsistent with the TRIPS Agreement. The panel also found it inconsistent with the TRIPS Agreement for China to provide for simple removal of an infringing trademark as the only precondition for the sale at public auction of counterfeit goods seized by Chinese customs authorities.

With respect to the U.S. claim regarding thresholds in China's law that must be met in order for certain acts of trademark counterfeiting and copyright piracy to be subject to criminal procedures and penalties, the panel clarified that China must provide for criminal procedures and penalties to be applied to willful trademark counterfeiting and copyright piracy on a commercial scale. The panel agreed with the United States that Article 61 of the TRIPS Agreement requires China not to set its thresholds for prosecution of piracy and counterfeiting so high as to ignore the realities of the commercial marketplace. The Panel did find, however, that it needed more evidence in order to decide whether the actual thresholds for prosecution in China's criminal law are so high as to allow commercial-scale counterfeiting and piracy to occur without the possibility of criminal prosecution.

The DSB adopted the panel report on March 20, 2009. On April 15, 2009, China notified the DSB that China intends to implement the recommendations and rulings of the DSB in this dispute, and stated it would need a reasonable period of time for implementation. On June 29, 2009, the United States and China notified the DSB that they had agreed on a one-year period of time for implementation, to end on March 20, 2010.

China–Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products (WT/DS363):

On April 10, 2007, the United States requested consultations with China regarding certain measures related to the import and/or distribution of imported films for theatrical release, audiovisual home entertainment products (*e.g.*, video cassettes and DVDs), sound recordings, and publications (*e.g.*, books, magazines, newspapers, and electronic publications). On July 10, 2007, the United States requested

supplemental consultations with China regarding certain measures pertaining to the distribution of imported films for theatrical release and sound recordings.

Specifically, the United States is concerned that certain Chinese measures: (1) restrict trading rights (such as the right to import goods into China) with respect to imported films for theatrical release, audiovisual home entertainment products, sound recordings, and publications; and (2) restrict market access for, or discriminate against, imported films for theatrical release and sound recordings in physical form, and foreign service providers seeking to engage in the distribution of certain publications, audiovisual home entertainment products, and sound recordings. The Chinese measures at issue appear to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994* (GATT 1994) and *General Agreement on Trade in Services* (GATS), as well as specific commitments made by China in its WTO accession agreement.

The United States and China held consultations on June 5-6, 2007 and July 31, 2007, but they did not resolve the dispute. On October 10, 2007, the United States requested the establishment of a panel, and on November 27, 2007, a panel was established. On March 27, 2008, the Director-General composed the panel as follows: Mr. Florentino P. Feliciano, Chair; and Mr. Juan Antonio Dorantes and Mr. Christian Häberli, Members.

The report of the panel was circulated to WTO Members and made public on August 12, 2009. In the final report, the panel made three critical sets of findings. First, the panel found that China's restrictions on foreign-invested enterprises (and in some cases foreign individuals) from importing films for theatrical release, audiovisual home entertainment products, sound recordings, and publications are inconsistent with China's trading rights commitments as set forth in China's protocol of accession to the WTO. The panel also found that China's restrictions on the right to import these products are not justified by Article XX(a) of the GATT 1994. Second, the panel found that China's prohibitions and discriminatory restrictions on foreign-owned or -controlled enterprises seeking to distribute publications and sound recordings over the Internet are inconsistent with China's obligations under the GATS. Third, the panel also found that China's treatment of imported publications is inconsistent with the national treatment obligation in Article III:4 of the GATT 1994.

In September 2009, China filed a notice of appeal to the WTO Appellate Body, appealing certain of the panel's findings. First, China contended that its restrictions on importation of the products at issue are justified by an exception related to the protection of public morals. Second, China claimed that while it had made commitments to allow foreign enterprises to partner in joint ventures with Chinese enterprises to distribute music, those commitments did not cover the electronic distribution of music. Third, and finally, China claimed that its import restrictions on films for theatrical release and certain types of sound recordings and DVDs were not inconsistent with China's commitments related to the right to import because those products were not goods and therefore were not subject to those commitments. The United States filed a cross-appeal on one aspect of the panel's analysis of China's defense under GATT Article XX(a). On December 21, 2009, the Appellate Body issued its report. The Appellate Body rejected each of China's claims on appeal. The Appellate Body also found that the Panel had erred in the aspect of the analysis that the United States had appealed.

China–Prohibited subsidies (WT/DS358):

On February 2 and April 27, 2007, the United States requested consultations and supplemental consultations, respectively, with China regarding subsidies provided in the form of refunds, reductions, or exemptions from income taxes or other payments. Because they are offered on the condition that enterprises purchase domestic over imported goods, or on the condition that enterprises meet certain

export performance criteria, these subsidies appear to be inconsistent with several provisions of the WTO Agreement, including Article 3 of the *Agreement on Subsidies and Countervailing Measures*, Article III:4 of the *General Agreement on Tariffs and Trade 1994*, and Article 2 of the *Agreement on Trade-Related Investment Measures*, as well as specific commitments made by China in its WTO accession agreement. Mexico also initiated a dispute regarding the same subsidies.

Because consultations did not resolve the disputes, the WTO Dispute Settlement Body, at the request of the United States and Mexico, established a single dispute settlement panel on August 31, 2007 to hear both disputes.

On December 19, 2007, the United States and China informed the DSB that they had reached an agreement with respect to this matter and circulated a copy of the agreement. The agreement calls for China to take certain steps, including the revision and repeal of certain existing measures as well as the adoption of new measures, that would eliminate by January 1, 2008 the import substitution and export subsidies challenged by the United States. The agreement also commits China not to reintroduce those subsidies or establish import substitution or export subsidies under its new income tax law that went into effect on January 1, 2008. Mexico reached a similar agreement with China with respect to Mexico's dispute on the same subsidies.

China–Measures affecting financial information services and foreign financial information suppliers (WT/DS373):

On March 3, 2008, the United States requested WTO dispute settlement consultations with China concerning China's treatment of foreign financial information suppliers. China's regulatory regime required foreign financial information suppliers to operate through a government-designated distributor and prohibited them from establishing local operations to provide their services. In addition, the agency designated by China to regulate these services appeared to have a conflict of interest as it was closely connected to a commercial operator in China. This regime appeared inconsistent with several WTO provisions, including Articles XVI, XVII, and XVIII of the *General Agreement on Trade in Services*, as well as specific commitments made by China in its WTO accession protocol.

The EU also requested WTO consultations with China on the same measures. The United States, the EC, and China held joint consultations on April 22-23, 2008. On June 20, 2008, Canada requested consultations with China regarding the same measures.

On December 4, 2008, the United States and China informed the DSB that they had reached an agreement with respect to this matter and provided a copy of the agreement for circulation. The agreement calls for China to take certain steps, including the revision and repeal of certain existing measures, as well as the adoption of new measures, to respond to the United States' concerns regarding the absence of an independent regulator and the imposition of unfair requirements and restrictions on U.S. financial information service suppliers operating in China. China's commitments under the agreement include the establishment, by January 31, 2009, of an independent regulator for foreign financial information service suppliers, and the implementation of new non-discriminatory and transparent regulations by June 1, 2009. The United States is continuing to monitor China's implementation of the agreement. The EU and Canada reached identical agreements with China with respect to their disputes on the same matter.

China– Grants, loans and other incentives (DS387):

On December 19, 2008, the United States requested consultations with China regarding government support tied to China's industrial policy to promote the sale of Chinese brand name and other products abroad. This support is provided in the form of cash grant rewards, preferential loans, research and

development funding, and payments to lower the cost of export credit insurance. Because these subsidies are offered on the condition that enterprises meet certain export performance criteria, they appear to be inconsistent with several provisions of the WTO Agreement, including Article 3 of the *Agreement on Subsidies and Countervailing Measures* and Articles 3, 9, and 10 of the *Agreement on Agriculture*, as well as specific commitments made by China in its WTO accession agreement. In addition, to the extent that the grants, loans, and other incentives also benefit Chinese-origin products, but not imported products, the measures appear to be inconsistent with Article III:4 of the *General Agreement on Tariffs and Trade 1994*. Mexico and Guatemala also initiated disputes regarding the same subsidies.

Joint consultations were held in February 2009. On December 18, 2009, the parties concluded a settlement agreement in which China confirmed that it had eliminated all of the export-contingent benefits in the challenged measures.

European Union–Measures concerning meat and meat products (hormones) (DS26, 48):

The United States and Canada challenged the EU ban on imports of meat from animals to which any of six hormones for growth promotional purposes had been administered. The panel found that the EU ban is inconsistent with the EU's obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement), and that the ban is not based on science, a risk assessment, or relevant international standards.

Upon appeal, the Appellate Body affirmed the panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that, while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. In this case, the ban imposed is not rationally related to the conclusions of the risk assessments the EU had performed.

Because the EU did not comply with the recommendations and rulings of the DSB by May 13, 1999, the final date of its compliance period as set by arbitration, the United States sought WTO authorization to suspend concessions with respect to certain products of the EU. The value of the suspension of concessions represents an estimate of the annual harm to U.S. exports resulting from the EU's failure to lift its ban on imports of U.S. meat. The EU exercised its right to request arbitration concerning the amount of the suspension. On July 12, 1999, the arbitrators determined the level of suspension to be $116.8 million. On July 26, 1999, the DSB authorized the United States to suspend such concessions and the United States proceeded to impose 100 percent *ad valorem* duties on a list of EU products with an annual trade value of $116.8 million. On May 26, 2000, USTR announced that it was considering changes to that list of EU products, but did not make any changes.

On November 3, 2003, the EU notified the WTO that it had amended its hormones ban. As discussed below (DS320), on November 8, 2004, the EU requested consultations with respect to "the United States' continued suspension of concessions and other obligations under the covered agreements" in the EU – Hormones dispute. The Appellate Body issued its report in the *U.S. – Continued Suspension* (WT/DS320) dispute on October 16, 2008.

On October 31, 2008, USTR again announced that it was considering changes to the list of EU products on which 100 percent *ad valorem* duties had been imposed in 1999. A modified list of EU products was announced by USTR on January 15, 2009.

On December 22, 2008, the EU requested consultations with the United States and Canada pursuant to Articles 4 and 21.5 of the DSU, regarding the EU's implementation of the DSB's recommendations and

rulings in the EU – Hormones dispute. In its consultations request, the EU stated that it considered that it has brought into compliance the measures found inconsistent in EU – Hormones by, among other things, adopting its revised ban in 2003. Consultations took place in February 2009.

Discussions between the United States and the EU resulted in the conclusion of a Memorandum of Understanding ("Beef MOU") on May 13, 2009. The Beef MOU provides for increased, duty-free access to the EU market for beef produced without certain growth promoting hormones and maintains increased duties on a reduced list of EU products. Under the terms of the Beef MOU, after three years, duty-free access to the EU market for beef produced without certain growth promoting hormones may increase and the application of all remaining increased duties imposed on EU products may be suspended. The Beef MOU also suspends further litigation in the *EU – Hormones* compliance proceeding until at least February 3, 2011.

European Union–Measures affecting the approval and marketing of biotechnology products (DS291):

Since the late 1990s, the EU has pursued policies that undermine agricultural biotechnology and trade in biotechnological foods. After approving a number of biotechnological products through October 1998, the EU adopted an across-the-board moratorium under which no further biotechnology applications were allowed to reach final approval. In addition, six Member States (Austria, France, Germany, Greece, Italy, and Luxemburg) adopted unjustified bans on certain biotechnological crops that had been approved by the EU prior to the adoption of the moratorium. These measures have caused a growing portion of U.S. agricultural exports to be excluded from EU markets, and unfairly cast concerns about biotechnology products around the world, particularly in developing countries.

On May 13, 2003, the United States filed a consultation request with respect to: (1) the EU's moratorium on all new biotechnology approvals; (2) delays in the processing of specific biotech product applications; and (3) the product-specific bans adopted by six EU Member States (Austria, France, Germany, Greece, Italy, and Luxembourg). The United States requested the establishment of a panel on August 7, 2003. Argentina and Canada submitted similar consultation and panel requests. On August 29, 2003, the DSB established a panel to consider the claims of the United States, Argentina and Canada. On March 4, 2003, the Director-General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Mohan Kumar and Mr. Akio Shimizu, Members.

The panel issued its report on September 29, 2006. The panel agreed with the United States, Argentina, and Canada that the disputed measures of the EU, Austria, France, Germany, Greece, Italy, and Luxembourg are inconsistent with the obligations set out in the SPS Agreement. In particular:

- The panel found that the EU adopted a *de facto*, across-the-board moratorium on the final approval of biotechnological products, starting in 1999 up through the time the panel was established in August 2003.

- The panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in "undue delays" in violation of the EU's obligations under the SPS Agreement.

- The panel identified specific, WTO-inconsistent "undue delays" with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request.

- The panel upheld the United States' claims that, in light of positive safety assessments issued by the EU's own scientists, the bans adopted by six EU Member States on products approved in the

EU prior to the moratorium were not supported by scientific evidence, and were thus inconsistent with WTO rules.

The DSB adopted the panel report on November 21, 2006. At the meeting of the DSB held on December 19, 2006, the EU notified the DSB that the EU intends to implement the recommendations and rulings of the DSB in these disputes, and stated that it would need a reasonable period of time for implementation. On June 21, 2006, the United States, Argentina, and Canada notified the DSB that they had agreed with the EU on a one-year period of time for implementation, to end on November 21, 2007. On November 21, 2007, the United States, Argentina, and Canada notified the DSB that they had agreed with the EU to extend the implementation period to January 11, 2008.

On January 17, 2008, the United States submitted a request for authorization to suspend concessions and other obligations with respect to the EU under the covered agreements at an annual level equivalent to the annual level of nullification or impairment of benefits accruing to the United States resulting from the EU's failure to bring measures concerning the approval and marketing of biotechnology products into compliance with the recommendations and rulings of the DSB. On February 6, 2008, the EU requested arbitration under Article 22.6 of the DSU, claiming that the level of suspension proposed by the United States was not equivalent to the level of nullification or impairment. The EU and the United States mutually agreed to suspend the Article 22.6 arbitration proceedings as of February 18, 2008. The United States may request resumption of the proceedings following a finding by the DSB that the EU has not complied with the recommendations and rulings of the DSB.

European Union–Regime for the importation, sale and distribution of bananas – Recourse to Article 21.5 of the DSU by the United States (WT/DS27):

On June 29, 2007, the United States requested the establishment of a panel under Article 21.5 of the DSU to review whether the EU has failed to bring its import regime for bananas into compliance with its WTO obligations and the DSB recommendations and rulings adopted on September 25, 1997. The request relates to the EU's apparent failure to implement the WTO rulings in a proceeding initiated by Ecuador, Guatemala, Honduras, Mexico, and the United States. That proceeding resulted in findings that the EU's banana regime discriminates against bananas originating in Latin American countries and against distributors of such bananas, including a number of U.S. companies. The EU was under an obligation to bring its banana regime into compliance with its WTO obligations by January 1999. The EU committed to shift to a tariff-only regime for bananas no later than January 1, 2006. Despite these commitments, the banana regime implemented by the EU on January 1, 2006 includes a zero-duty tariff-rate quota allocated exclusively to bananas from African, Caribbean, and Pacific countries. All other bananas do not have access to this duty-free tariff rate quota and are subject to a 176 euro per ton duty. The United States believes that this new regime is in violation of GATT Articles I:1 and XIII.

Ecuador requested the establishment of a similar compliance panel on February 23, 2007, and a panel was composed in response to that request on June 15. The panel in response to the United States request was established on July 12, 2007. On August 13, 2007, the Director General composed the panel as follows: Mr. Christian Häberli, Chair; and Mr. Kym Anderson and Mr. Yuqing Zhang, members. Mr. Häberli and Mr. Anderson were members of the original panel in this dispute.

The panel granted the parties' request to open the substantive meeting with the parties, as well as a portion of the third-party session, to the public. The public observed these meetings from a gallery in the room in which the meetings were conducted.

The panel issued its report on May 19, 2008. The panel agreed with the United States that the EC's regime was inconsistent with the EC's obligations under Articles I:1, XIII:1, and XIII:2 of the GATT 1994, and that the EU had failed to implement the recommendations and rulings of the DSB.

On August 28, 2008, the EU filed a notice of appeal. The Appellate Body granted a joint request by the parties to open its hearing to the public, and the public was able to observe the hearing via a closed-circuit television broadcast. The Appellate Body issued its report on November 26, 2008. The Appellate Body found that the EU has failed to bring itself into compliance with the recommendations and rulings of the DSB. In particular, the Appellate Body rejected all of the EC's procedural arguments alleging the United States was barred from bringing the compliance proceeding, and agreed with the panel that the EC's duty-free tariff rate quota reserved only for some countries was inconsistent with Article XIII of the GATT 1994. The panel in this dispute had also found that the EC's banana import regime was in violation of GATT Article I. The EU did not appeal that finding. The DSB adopted the Appellate Body report on December 22, 2008.

On December 15, 2009, the United States and the EU initialed an agreement designed to lead to settlement of the dispute. In the agreement, the EU undertakes not to reintroduce measures that discriminate among bananas distributors based on the ownership or control of the distributor or the source of the bananas, and to maintain a non-discriminatory, tariff-only regime for the importation of bananas. The U.S.-EU agreement complements an agreement initialed on the same date between the EU and several Latin American banana-supplying countries (the GATB). That agreement provides for staged EU tariff cuts that will bring the EU into compliance with its obligations under the WTO Agreement. It is intended that the two agreements will be signed at a later day and will enter into force following completion of certain domestic procedures. Upon entry in force, the EU will need to request formal WTO certification of its new tariffs on bananas. The GATB provides that once the certification process is concluded, the EU and the Latin American signatories to the GATB will settle their disputes and claims. Once that has occurred, the United States will also settle its dispute with the EU.

European Union–Subsidies on large civil aircraft (DS316):

On October 6, 2004, the United States requested consultations with the EU, as well as with Germany, France, the United Kingdom, and Spain, with respect to subsidies provided to Airbus, a manufacturer of large civil aircraft. The United States alleged that such subsidies violated various provisions of the SCM Agreement, as well as Article XVI:1 of the GATT 1994. Consultations were held on November 4, 2004. On January 11, 2005, the United States and the EU agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three-month time frame for the negotiations and agreed that, during negotiations, they would not request panel proceedings.

The United States and the EU were unable to reach an agreement within the 90-day time frame. Therefore, the United States filed a request for a panel on May 31, 2005. The panel was established on July 20, 2005. The U.S. request challenges several types of EU subsidies that appear to be prohibited, actionable, or both.

On October 17, 2005, the Deputy Director-General composed the panel as follows: Mr. Carlos Pérez del Castillo, Chair; and Mr. John Adank and Mr. Thinus Jacobsz, Members. The panel met with the parties on March 20-21 and July 25-26, 2007, and met with the parties and third parties on July 24, 2007. The panel granted the parties' request to hold part of its meetings with the parties in public session. This portion of the panel's meetings was videotaped, and reviewed by the parties to ensure that business confidential information had not been disclosed, before being shown in public on March 22 and July 27, 2007.

European Communities–Tariff Treatment of Certain Information Technology Products (WT/DS375):

On May 28, 2008, the United States requested consultations with the EU and its Member States regarding the tariff treatment accorded to set-top boxes with a communication function, flat panel displays, "input or output units," and facsimile machines. The United States is concerned that certain EU measures appear to have resulted in the imposition of duties on these products. As a result of the Information Technology Agreement (ITA), the EU and its Member States, in their Schedules of Concessions to the GATT 1994, committed to provide duty-free treatment for these products.

The measures in question appear to be inconsistent with the obligations of the EU and its Member States under Articles II:1(a) and II:1(b) of the GATT 1994. In addition, certain of the actions taken by the EU with respect to set-top boxes appear to be inconsistent with the EC's obligations under GATT 1994 Articles X:1 and X:2.

Japan and Chinese Taipei (on May 28, 2008, and June 12, 2008, respectively) also filed requests for consultations with the EU and its Member States on these measures. On August 18, the United States, Japan and Chinese Taipei jointly requested the establishment of a panel. A panel was established at the meeting of the DSB on September 23, 2008. On January 22, 2009, the Director-General composed the panel as follows: Mr. Wilhelm Meier, Chair, and Mr. David Evans and Ms. Valerie Hughes, Members.

The panel met with the parties on May 12 and 14, 2009 and on July 9, 2009, and met with the parties and third parties on May 13, 2009. Pursuant to the parties' request, the meetings with the parties, as well as a portion of the third-party session, were open for public observation.

Turkey–Measures affecting the importation of rice (DS334):

On November 2, 2005, the United States requested consultations regarding Turkey's import licensing system and domestic purchase requirement with respect to the importation of rice. By conditioning the issuance of import licenses to import at preferential tariff levels upon the purchase of domestic rice, not permitting imports at the bound rate, and implementing a *de facto* ban on rice imports during the Turkish rice harvest, Turkey appeared to be acting inconsistently with several WTO agreements, including the Agreement on Trade-Related Investment Measures (TRIMS), the GATT 1994, the Agreement on Agriculture, and the Agreement on Import Licensing Procedures. Consultations were held on December 1, 2005. The United States requested the establishment of a panel on February 6, 2006, and the DSB established a panel on March 17, 2006. On July 31, 2006, the Director-General composed the panel as follows: Ms. Marie-Gabrielle Ineichen-Fleisch, Chair, Mr. Yoichi Suzuki and Mr. Johann Frederick Kirsten, Members. The final report of the panel was circulated to WTO Members and made public on September 21, 2007. In the final report, the panel found that the system by which Turkey decided to deny, or fail to grant, certain certificates required for importing rice outside the tariff rate quota from September 2003 and at certain periods thereafter, constituted a quantitative import restriction as well as a practice of discretionary import licensing inconsistent with Turkey's obligations under Article 4.2 of the Agreement on Agriculture. The panel also found that Turkey's domestic purchase requirement for rice imports accorded less favorable treatment to imported rice than domestic rice and was therefore inconsistent with Turkey's national treatment obligations under Article III: 4 of the GATT 1994. The panel report was adopted by the DSB on October 22, 2007. Turkey informed the DSB at the end of November 2007 that it was in the process of implementing the recommendations and rulings of the DSB in this dispute and that it preserved its rights to a reasonable period of time (RPT) for such implementation.

The United States and Turkey came to an agreement that the reasonable period of time would be six months, expiring on April 22, 2008. On May 7, 2008, the United States and Turkey entered into a sequencing agreement with respect to the procedures that will apply if the United States seeks to establish a compliance panel or seeks to suspend concessions or other obligations to Turkey in connection with this dispute.

European Communities–Certain Measures Affecting Poultry Meat and Poultry Meat Products from the United States (DS389):

On January 16, 2009, the United States requested consultations regarding certain EU measures that prohibit the import of poultry meat and poultry meat products that have been processed with chemical treatments designed to reduce the amount of microbes on poultry meat, unless such pathogen reduction treatments ("PRTs") have been approved. The EU further prohibits the marketing of poultry meat and poultry meat products if they have been processed with PRTs. In December 2008, the EU formally rejected the approval of four PRTs whose approval had been requested by the United States, despite the fact that EU scientists have repeatedly concluded that poultry meat and poultry meat products treated with any of these four PRTs does not present a health risk to European consumers. The EU's maintenance of its import ban and marketing regulation against PRT poultry appears to be inconsistent with its obligations under the SPS Agreement, the Agreement on Agriculture, the GATT 1994, and the TBT Agreement. Consultations were held on February 11, 2009, but those consultations failed to resolve the dispute. The United States requested the establishment of a panel on October 8, 2009, and the DSB established a panel on November 19, 2009.

China–Measures Relating to the Exportation of Various Raw Materials (WT/DS394):

On June 23, 2009, the United States requested consultations with China regarding China's export restraints on a number of important raw materials. The materials at issue are: bauxite, coke, fluorspar, magnesium, manganese, silicon metal, silicon carbide, yellow phosphorus, and zinc. These materials are inputs for numerous downstream products in the steel, aluminum, and chemical sectors.

Specifically, the United States is concerned that certain Chinese measures: (1) impose quantitative restrictions in the form of quotas on exports of bauxite, coke, fluorspar, silicon carbide, and zinc ores and concentrates, as well as certain intermediate products incorporating some of these inputs; (2) impose export duties on several raw materials; and (3) impose other export restrictions through its export procedures, including via certain charges (unrelated to any services rendered) that must be paid before certain products can be exported. The United States is also concerned that China administers its export procedures unfairly in other respects, including, for example, by not publishing relevant measures in a manner that allows them to be readily available to governments and traders. The measures at issue appear to be inconsistent with several WTO provisions, including provisions in the *General Agreement on Tariffs and Trade 1994*, as well as specific commitments made by China in its WTO accession agreement.

The United States and China held consultations on September 1-2, 2009, but they did not resolve the dispute. The European Communities and Mexico have also requested and held consultations with China on these measures.

On November 19, 2009, the European Communities and Mexico joined the United States in requesting the establishment of a panel, and on December 21, 2009, the WTO Dispute Settlement Body established a single panel to examine all three complaints.

b. Disputes Brought Against the United States

Section 124 of the URAA requires, *inter alia*, that the Annual Report on the WTO describe, for the preceding fiscal year of the WTO: each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue; and each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law. This section includes summaries of dispute settlement activity in 2009 in which the United States was a responding party.

United States–Section 110(5) of the Copyright Act (DS160):

As amended in 1998 by the Fairness in Music Licensing Act, section 110(5) of the U.S. Copyright Act exempts certain retail and restaurant establishments that play radio or television music from paying royalties to songwriters and music publishers. The EU claimed that, as a result of this exception, the United States was in violation of its TRIPS obligations. Consultations with the EU took place on March 2, 1999. A panel on this matter was established on May 26, 1999. On August 6, 1999, the Director-General composed the panel as follows: Ms. Carmen Luz Guarda, Chair, Mr. Arumugamangalam V. Ganesan and Mr. Ian F. Sheppard, Members. The panel issued its final report on June 15, 2000, and found that one of the two exemptions provided by section 110(5) is inconsistent with the U.S. WTO obligations. The panel report was adopted by the DSB on July 27, 2000, and the United States has informed the DSB of its intention to respect its WTO obligations. On October 23, 2000, the EU requested arbitration to determine the period of time to be given the United States to implement the panel's recommendation. By mutual agreement of the parties, Mr. J. Lacarte-Muró was appointed to serve as arbitrator. He determined that the deadline for implementation should be July 27, 2001. On July 24, 2001, the DSB approved a U.S. proposal to extend the deadline until the earlier of the end of the then-current session of the U.S. Congress or December 31, 2001.

On July 23, 2001, the United States and the EU requested arbitration to determine the level of nullification or impairment of benefits to the EU as a result of section 110(5) (B). In a decision circulated to WTO Members on November 9, 2001, the arbitrators determined that the value of the benefits lost to the EU in this case is $1.1 million per year. On January 7, 2002, the EU sought authorization from the DSB to suspend obligations vis-a-vis the United States. The United States objected to the details of the EU request, thereby causing the matter to be referred to arbitration.

However, because the United States and the EU have been engaged in discussions to find a mutually acceptable resolution of the dispute, the arbitrators suspended the proceeding pursuant to a joint request by the parties filed on February 26, 2002.

On June 23, 2003, the United States and the EU notified the WTO of a mutually satisfactory temporary arrangement regarding the dispute. Pursuant to this arrangement, the United States made a lump-sum payment of $3.3 million to the EU, to a fund established to finance activities of general interest to music copyright holders, in particular awareness-raising campaigns at the national and international level and activities to combat piracy in the digital network. The arrangement covered a three-year period, which ended on December 21, 2004.

United States–Section 211 Omnibus Appropriations Act (DS176):

Section 211 addresses the ability to register or enforce, without the consent of previous owners, trademarks or trade names associated with businesses confiscated without compensation by the Cuban government. The EU questioned the consistency of Section 211 with the TRIPS Agreement, and

requested consultations on July 7, 1999. Consultations were held September 13 and December 13, 1999. On June 30, 2000, the EU requested a panel. A panel was established on September 26, 2000, and at the request of the EU the WTO Director-General composed the panel on October 26, 2000. The Director-General composed the panel as follows: Mr. Wade Armstrong, Chair; Mr. François Dessemontet; and Mr. Armand de Mestral, Members. The panel report was circulated on August 6, 2001, rejecting 13 of the EU's 14 claims and finding that, in most respects, section 211 is not inconsistent with the obligations of the United States under the TRIPS Agreement. The EU appealed the decision on October 4, 2001. The Appellate Body issued its report on January 2, 2002.

The Appellate Body reversed the panel's one finding against the United States, and upheld the panel's favorable findings that WTO Members are entitled to determine trademark and trade name ownership criteria. The Appellate Body found certain instances, however, in which section 211 might breach the national treatment and most favored nation obligations of the TRIPS Agreement. The panel and Appellate Body reports were adopted on February 1, 2002, and the United States informed the DSB of its intention to implement the recommendations and rulings. The reasonable period of time for implementation ended on June 30, 2005. On June 30, 2005, the United States and the EU agreed that the EU would not request authorization to suspend concessions at that time, and that the United States would not object to a future request on grounds of lack of timeliness.

United States–Antidumping measures on certain hot-rolled steel products from Japan (DS184):

Japan alleged that the preliminary and final determinations of the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (USITC) in their antidumping investigations of certain hot-rolled steel products from Japan, issued on November 25 and 30, 1998, February 12, 1999, April 28, 1999, and June 23, 1999, were erroneous and based on deficient procedures under the U.S. Tariff Act of 1930 and related regulations. Japan claimed that these procedures and regulations violate the GATT 1994, as well as the Antidumping Agreement and the Agreement Establishing the WTO. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 2000, the Director-General composed the panel as follows: Mr. Harsha V. Singh, Chair, Mr. Yanyong Phuangrach and Ms. Lidia di Vico, Members. On February 28, 2001, the panel circulated its report, in which it rejected most of Japan's claims, but found that, *inter alia*, particular aspects of the antidumping duty calculation, as well as one aspect of the U.S. antidumping duty law, were inconsistent with the WTO Antidumping Agreement. On April 25, 2001, the United States filed a notice of appeal on certain issues in the panel report.

The Appellate Body report was issued on July 24, 2001, reversing in part and affirming in part. The reports were adopted on August 23, 2001. Pursuant to a February 19, 2002, arbitral award, the United States was given 15 months, or until November 23, 2002, to implement the DSB's recommendations and rulings. On November 22, 2002, Commerce issued a new final determination in the hot-rolled steel antidumping duty investigation, which implemented the recommendations and rulings of the DSB with respect to the calculation of antidumping margins in that investigation. The reasonable period of time ended on July 31, 2005. With respect to the outstanding implementation issue, on July 7, 2005, the United States and Japan agreed that Japan would not request authorization to suspend concessions at that time and that the United States would not object to a future request on grounds of lack of timeliness.

United States–Continued Dumping and Subsidy Offset Act of 2000 (CDSOA) (DS217/234):

On December 21, 2000, Australia, Brazil, Chile, the EU, India, Indonesia, Japan, Korea, and Thailand requested consultations with the United States regarding the Continued Dumping and Subsidy Offset Act of 2000 (19 U.S.C. § 754), which amended Title VII of the Tariff Act of 1930 to transfer import duties collected under U.S. antidumping and countervailing duty orders from the U.S. Treasury to the companies

that filed the antidumping and countervailing duty petitions. Consultations were held on February 6, 2001. On May 21, 2001, Canada and Mexico also requested consultations on the same matter, which were held on June 29, 2001. On July 12, 2001, the original nine complaining parties requested the establishment of a panel, which was established on August 23, 2001. On September 10, 2001, a panel was established at the request of Canada and Mexico, and all complaints were consolidated into one panel. The panel was composed of: Mr. Luzius Wasescha, Chair, and Mr. Maamoun Abdel-Fattah and Mr. William Falconer, Members.

The panel issued its report on September 2, 2002, finding against the United States on three of the five principal claims brought by the complaining parties. Specifically, the panel found that the CDSOA constitutes a specific action against dumping and subsidies and, therefore, is inconsistent with the WTO Antidumping and SCM Agreements as well as Article VI of the GATT 1994. The panel also found that the CDSOA distorts the standing determination conducted by Commerce and, therefore, is inconsistent with the standing provisions in the Antidumping and SCM Agreements. The United States prevailed against the complainants' claims under the Antidumping and SCM Agreements that the CDSOA distorts Commerce's consideration of price undertakings (agreements to settle antidumping and countervailing duty investigations). The panel also rejected Mexico's actionable subsidy claim brought under the SCM Agreement. Finally, the panel rejected the complainants' claims under Article X: 3 of the GATT, Article 15 of the Antidumping Agreement, and Articles 4.10 and 7.9 of the SCM Agreement. The United States appealed the panel's adverse findings on October 1, 2002.

The Appellate Body issued its report on January 16, 2003, upholding the panel's finding that the CDSOA is an impermissible action against dumping and subsidies, but reversing the panel's finding on standing. The DSB adopted the panel and Appellate Body reports on January 27, 2003. At the meeting, the United States stated its intention to implement the DSB recommendations and rulings. On March 14, 2003, the complaining parties requested arbitration to determine a reasonable period of time for U.S. implementation. On June 13, 2003, the arbitrator determined that this period would end on December 27, 2003. On June 19, 2003, legislation to bring the Continued Dumping and Subsidy Offset Act into conformity with U.S. obligations under the Antidumping Agreement, the SCM Agreement and the GATT of 1994 was introduced in the U.S. Senate (S. 1299).

On January 15, 2004, eight complaining parties (Brazil, Canada, Chile, the EU, India, Japan, Korea, and Mexico) requested WTO authorization to retaliate. The remaining three complaining parties (Australia, Indonesia and Thailand) agreed to extend to December 27, 2004, the period of time in which the United States had to comply with the WTO rulings and recommendations in this dispute. On January 23, 2004, the United States objected to the requests from the eight complaining parties to retaliate, thereby referring the matter to arbitration. On August 31, 2004, the Arbitrators issued their awards in each of the eight arbitrations. They determined that each complaining party could retaliate, on a yearly basis, covering the total value of trade not exceeding, in U.S. dollars, the amount resulting from the following equation: amount of disbursements under CDSOA for the most recent year for which data are available relating to antidumping or countervailing duties paid on imports from each party at that time, as published by the U.S. authorities, multiplied by 0.72.

Based on requests from Brazil, the EU, India, Japan, Korea, Canada, and Mexico, on November 26, 2004, the DSB granted these Members authorization to suspend concessions or other obligations, as provided in DSU Article 22.7 and in the Decisions of the Arbitrators. The DSB granted Chile authorization to suspend concessions or other obligations on December 17, 2004. On December 23, 2004, January 7, 2005 and January 11, 2005, the United States reached agreements with Australia, Thailand and Indonesia that these three complaining parties would not request authorization to suspend concessions at that time, and that the United States would not object to a future request on grounds of lack of timeliness.

On May 1, 2005, Canada and the EU began imposing additional duties of 15 percent on a list of products from the United States. On August 18, 2005, Mexico began imposing additional duties ranging from 9 to 30 percent on a list of U.S. products. On September 1, 2005, Japan began imposing additional duties of 15 percent on a list of U.S. products.

On February 8, 2006, the President signed the Deficit Reduction Act into law. That Act includes a provision repealing the CDSOA. Certain of the complaining parties nevertheless continued to impose retaliatory measures because they considered that the Deficit Reduction Act failed to bring the United States into immediate compliance. Thus, on May 1, 2006, the EU renewed its retaliatory measure and added eight products to the list of targeted imports. Japan renewed its retaliatory measure on September 1, 2006, retaining the same list of targeted imports. Mexico adopted a new retaliatory measure on September 14, 2006, imposing duties of 110 percent on certain dairy products through October 31, 2006. After that date, Mexico has taken no further retaliatory measures. Canada did not renew its retaliatory measures once they expired on April 30, 2006.

Since 2007, only the EU and Japan have maintained retaliatory measures against the United States in connection with this dispute. On April 17, 2007, the EU announced that it would renew its retaliatory measure as of May 1, 2007, adding 32 more products to the 2006 list. The EU renewed its retaliatory measure again on April 3, 2008, removing 30 products from the 2007 list. On May 1, 2009, the EU renewed its 15 percent retaliatory measure but removed fourteen tariff headings from its retaliation list. On September 1, 2007, Japan once again renewed its retaliatory duties. On August 22, 2008, Japan announced that it would renew its retaliatory duties, but those duties would cover only ball bearings and tapered roller bearings, in contrast to the list of 15 products covered in the previous year. Effective September 1, 2009, Japan maintained its retaliatory duties on the same two products from the United States, but at a reduced rate of 9.6 percent.

United States–Subsidies on upland cotton (DS267):

On September 27, 2002, Brazil requested WTO consultations pursuant to Articles 4.1, 7.1, and 30 of the SCM Agreement, Article 19 of the Antidumping Agreement, and Article 4 of the DSU. The Brazilian consultation request on U.S. support measures that benefit upland cotton claimed that these alleged subsidies and measures are inconsistent with U.S. commitments and obligations under the SCM Agreement, the Agreement on Agriculture, and the GATT 1994. Consultations were held on December 3, 4, and 19, 2002, and January 17, 2003.

On February 6, 2003, Brazil requested the establishment of a panel. Brazil's panel request pertained to "prohibited and actionable subsidies provided to U.S. producers, users and/or exporters of upland cotton, as well as legislation, regulations and statutory instruments and amendments thereto providing such subsidies (including export credit guarantees), grants, and any other assistance to the U.S. producers, users and exporters of upland cotton" [footnote omitted]. The DSB established the panel on March 18, 2003. On May 19, 2003, the Director-General appointed as panelists: Mr. Dariusz Rosati, Chair; Mr. Daniel Moulis and Mr. Mario Matus, Members.

On September 8, 2004, the panel circulated its report to all WTO Members and the public. The panel made some findings in favor of Brazil on certain of its claims and other findings in favor of the United States:

- The panel found that the "Peace Clause" in the WTO Agreement on Agriculture did not apply to a number of U.S. measures, including: (1) domestic support measures; and (2) export credit guarantees

for "unscheduled commodities" and rice (a "scheduled commodity"). Therefore, Brazil could proceed with certain of its challenges.

- The panel found that the GSM 102, GSM 103, and SCGP export credit guarantees for "unscheduled commodities" (such as cotton and soybeans) and for rice are prohibited export subsidies. However, the panel also found that Brazil had not demonstrated that the guarantees for other "scheduled commodities" exceeded U.S. WTO reduction commitments and therefore breached the Peace Clause. Further, Brazil had not demonstrated that the programs threaten to lead to circumvention of U.S. WTO reduction commitments for other "scheduled commodities" and for "unscheduled commodities" not currently receiving guarantees.

- Some U.S. domestic support programs (*i.e.*, marketing loan, countercyclical, market loss assistance, and so-called "Step 2 payments,") were found to cause significant suppression of cotton prices in the world market in marketing years 1999-2002, causing serious prejudice to Brazil's interests. However, the panel found that other U.S. domestic support programs (*i.e.*, production flexibility contract payments, direct payments, and crop insurance payments) did not cause serious prejudice to Brazil's interests because Brazil failed to show that these programs caused significant price suppression. The panel also found that Brazil failed to show that any U.S. program caused an increase in U.S. world market share for upland cotton constituting serious prejudice.

- The panel did not reach Brazil's claim that U.S. domestic support programs threatened to cause serious prejudice to Brazil's interests in marketing years 2003-2007. The panel also did not reach Brazil's claim that U.S. domestic support programs per se cause serious prejudice in those years.

- The panel also found that Brazil had failed to establish that FSC/ETI tax benefits for cotton exporters were prohibited export subsidies.

- Finally, the panel found that Step 2 payments to exporters of cotton are prohibited export subsidies not protected by the Peace Clause, and Step 2 payments to domestic users are prohibited import substitution subsidies because they were only made for U.S. cotton.

On October 18, 2004, the United States filed a notice of appeal with the Appellate Body; Brazil then cross-appealed. The Appellate Body circulated its report on March 3, 2005. The Appellate Body upheld the panel's findings appealed by the United States.

The Appellate Body also rejected or declined to rule on most of Brazil's appeal issues. On March 21, 2005, the DSB adopted the panel and Appellate Body reports and, on April 20, 2005, the United States advised the DSB that it intends to bring its measures into compliance.

On June 30, 2005, the United States announced that it would cease to issue GSM 103 export credit guarantees, and that it was instituting a new fee structure for the GSM 102 export credit guarantee program. Further, on July 5, the United States proposed legislation relating to the export credit guarantee and Step 2 programs. On July 5, 2005, Brazil requested authorization to impose countermeasures and suspend concessions in connection with the prohibited export subsidies findings. On July 14, 2005, the United States objected to the request, thereby referring the matter to arbitration. On August 17, 2005, the United States and Brazil agreed to suspend the arbitration. On October 1, 2005, the United States ceased to issue export credit guarantees under the SCGP. On October 6, 2005, Brazil made a separate request for authorization to impose countermeasures and suspend concessions in connection with the "serious prejudice" findings. The United States objected to Brazil's request on October 17, 2005, thereby also

referring that matter to arbitration. On November 21, 2005, the United States and Brazil agreed to suspend the arbitration.

On February 8, 2006, the President signed into law the Deficit Reduction Act of 2005. That Act includes a provision repealing the Step 2 program as of August 2006.

On August 18, 2006, Brazil requested the establishment of an Article 21.5 panel. On September 28, 2006, the DSB established a panel to consider Brazil's claims. On October 25, 2006, the Director-General composed the panel as follows: Mr. Eduardo Pérez Motta, Chair; and Mr. Mario Matus and Mr. Ho-Young Ahn, Members. On December 18, 2007, the Article 21.5 panel circulated its report. The panel found, *inter alia*, that: (1) U.S. export credit guarantees issued under the modified GSM 102 program with respect to unscheduled and certain scheduled (rice, pig and poultry meat) commodities constituted prohibited export subsidies; and (2) U.S. marketing loan and countercyclical payments for upland cotton were continuing to cause serious prejudice to Brazil by significantly suppressing world upland cotton prices. The panel rejected Brazil's claim that payments under the marketing loan and countercyclical payment programs were responsible for an increase in U.S. market share in MY 2005 and thereby caused serious prejudice to Brazil's interests. The panel also found that the United States was not required to have refused to perform on export credit guarantees that were issued prior to the deadline for the implementation of the DSB's recommendations and rulings as to such guarantees (July 1, 2005) and that were still outstanding as of that date.

The United States appealed the compliance panel's adverse findings on February 12, 2008. Brazil filed its notice of other appeal on February 25, 2008. The Appellate Body issued its report on June 2, 2008.

The Appellate Body issued its report on June 2, 2008, in which it:

- upheld the compliance panel's finding that U.S. marketing loan and counter-cyclical payments cause significant price suppression in the market for upland cotton, thereby constituting present serious prejudice to Brazil;

- while agreeing with the United States that the compliance panel erred in dismissing U.S. Government budgetary data showing that U.S. export credit guarantee programs operate at a profit, nonetheless upheld the compliance panel's ultimate finding that GSM 102 export credit guarantees with respect to unscheduled products and certain scheduled products (rice, pig meat, poultry meat) were prohibited export subsidies; and

- upheld the compliance panel's finding that Brazil's claims as to marketing loan and countercyclical payments made after September 21, 2005, and Brazil's claims as to GSM 102 guarantees for exports of pig meat and poultry meat, were within the scope of the compliance proceeding.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body report, on June 20, 2008.

Brazil requested resumption of the arbitration process on August 25, 2008. On October 1, 2008, the United States and Brazil agreed that the arbitration would be carried out by the following individuals: Mr. Eduardo Pérez-Motta, Chair; and Mr. Alan Matthews and Mr. Daniel Moulis, Members. The meetings with the Arbitrators were held March 2-4, 2009.

The Arbitrators issued their awards on August 31, 2009. They issued one award concerning U.S. subsidies found to cause serious prejudice to Brazil's interests (marketing loan and countercyclical

payments for cotton), and another award concerning U.S. subsidies found to be prohibited export subsidies (export credit guarantees under the GSM 102 program for a range of agricultural products, plus the repealed "Step 2" program for cotton).

The Arbitrators found that Brazil may impose countermeasures against U.S. trade:

(1) for marketing loan and countercyclical payments for cotton, in an annual fixed amount of $147.3 million; and

(2) for export credit guarantees under the GSM 102 program, in an annual amount that may change each year based on a formula.

The Arbitrators rejected Brazil's request for countermeasures for the Step 2 program.

The Arbitrators also found that, in the event that the total level of countermeasures that Brazil would be entitled to in a given year should increase to a level that would exceed a threshold based on a subset of Brazil's consumer goods imports from the United States, then Brazil would also be entitled to suspend certain obligations under the TRIPS Agreement and/or the GATS with respect to any amount of permissible countermeasures applied in excess of that figure.

On September 25, 2009, Brazil requested data from the United States for 2008 and 2009 to calculate countermeasures according to the formula in the Arbitrator's award. On November 19, the United States provided Brazil the data requested for 2008 and stated that it would provide 2009 data when they are complete.

On November 19, 2009, the WTO DSB granted Brazil authorization to suspend the application to the United States of concessions or other obligations consistent with the Arbitrators' awards.

United States–Measures Affecting the Cross-Border Supply of Gambling and Betting Services (DS285):

On March 13, 2003, Antigua & Barbuda ("Antigua") requested consultations regarding its claim that U.S. federal, state and territorial laws on gambling violate U.S. specific commitments under the GATS, as well as Articles VI, XI, XVI, and XVII of the GATS, to the extent that such laws prevent or can prevent operators from Antigua from lawfully offering gambling and betting services in the United States. Consultations were held on April 30, 2003.

Antigua requested the establishment of a panel on June 12, 2003. The DSB established a panel on July 21, 2003. At the request of the Antigua, the WTO Director-General composed the panel on August 25, 2003, as follows: Mr. B. K. Zutshi, Chair; and Mr. Virachai Plasai and Mr. Richard Plender, Members. The panel's final report, circulated on November 10, 2004, found that the United States breached Article XVI (Market Access) of the GATS by maintaining three U.S. federal laws (18 U.S.C. §§ 1084, 1952, and 1955) and certain statutes of Louisiana, Massachusetts, South Dakota, and Utah. It also found that these measures were not justified under exceptions in Article XIV of the GATS.

The United States filed a notice of appeal on January 7, 2005. The Appellate Body issued its report on April 7, 2005, in which it reversed and/or modified several panel findings. The Appellate Body overturned the panel's findings regarding the state statutes, and found that the three U.S. federal gambling laws at issue "fall within the scope of 'public morals' and/or 'public order'" under Article XIV. To meet the requirements of the Article XIV chapeau, the Appellate Body found that the United States needed to clarify an issue concerning Internet gambling on horse racing.

The DSB adopted the panel and Appellate Body reports on April 20, 2005. On May 19, 2005, the United States stated its intention to implement the DSB recommendations and rulings. On August 19, 2005, an Article 21.3(c) arbitrator determined that the reasonable period of time for implementation would expire on April 3, 2006.

At the DSB meeting of April 21, 2006, the United States informed the DSB that the United States was in compliance with the recommendations and rulings of the DSB in the dispute. On June 8, 2006, Antigua requested consultations with the United States regarding U.S. compliance with the DSB recommendations and rulings. The parties held consultations on June 26, 2006. On July 5, 2006, Antigua requested the DSB to establish a panel pursuant to Article 21.5 of the DSU, and a panel was established on July 19, 2006. The chair of the original panel and one of the panelists were unavailable to serve. The parties agreed on their replacements, and the panel was composed as follows: Mr. Lars Anell, Chair; and Mr. Mathias Francke and Mr. Virachai Plasai, Members. The report of the Article 21.5 panel, which was circulated on March 30, 2007, found that the United States had not complied with the recommendations and rulings of the DSB in this dispute.

On May 4, 2007, the United States initiated the procedure provided for under Article XXI of the GATS to modify the schedule of U.S. commitments so as to reflect the original U.S. intent of excluding gambling and betting services.

The DSB adopted the report of the Article 21.5 panel on May 22, 2007. On June 21, 2007, Antigua submitted a request, pursuant to Article 22.2 of the DSU, for authorization from the DSB to suspend the application to the United States of concessions and related obligations of Antigua under the GATS and the TRIPS. On July 23, 2007, the United States referred this matter to arbitration under Article 22.6 of the DSU. The arbitration was carried out by the three panelists who served on the Article 21.5 panel.

On December 21, 2007, the Article 22.6 arbitration award was circulated. The arbitrator concluded that Antigua's annual level of nullification or impairment of benefits is $21 million, and that Antigua may request authorization from the DSB to suspend its obligations under the TRIPS Agreement in this amount.

During 2007 and early 2008, the United States reached agreement with every WTO Member, aside from Antigua, that had pursued a claim of interest in the GATS Article XXI process of modifying the U.S. schedule of GATS commitments so as to exclude gambling and betting services. Throughout 2009, Antigua and the United States continued in their efforts to achieve a mutually agreeable resolution to this matter.

United States–Laws, regulations and methodology for calculating dumping margins ("zeroing") (DS294):

On June 12, 2003, the EU requested consultations regarding the use of "zeroing" in the calculation of dumping margins. Consultations were held July 17, 2003. The EU requested further consultations on September 8, 2003. Consultations were held October 6, 2003. The EU requested the establishment of a panel on February 5, 2004, and the DSB established a panel on March 19, 2004. On October 27, 2004, the panel was composed as follows: Mr. Crawford Falconer, Chair; and Mr. Hans-Friedrich Beseler and Mr. William Davey, Members. The panel issued its report on October 31, 2005, finding that Commerce's use of "zeroing" in antidumping investigations is inconsistent with U.S. obligations under the WTO, but rejecting the EU's claims that zeroing in other phases of antidumping proceedings is also inconsistent. On January 17, 2006, the EU appealed the panel report. The Appellate Body issued its report on April 18, 2006. In its report, the Appellate Body upheld the panel's finding that the U.S. "methodology" of zeroing

in average-to-average comparisons in investigations is subject to challenge "as such," and that such methodology is inconsistent with the Antidumping Agreement. The Appellate Body also reversed the panel and found that the U.S. use of zeroing in certain assessment proceedings was also inconsistent with the Antidumping Agreement. The reasonable period of time for the United States to bring its measures into compliance expired on April 9, 2007.

On July 9, 2007, the EU requested consultations with the United States concerning its compliance with the recommendations and rulings of the DSB. The EU and the United States held consultations on July 30, 2007. On September 13, 2007, the EU requested the establishment of a compliance panel, and on September 25, 2007, the panel was established. The following individuals were named by the Director-General to serve as the panelists: Mr. Felipe Jaramillo, Chair; and Ms. Usha Dwarka-Canabady and Mr. Scott Gallacher, members. Pursuant to a request by the parties, the panel agreed to open its meeting with the parties to public observation.

The panel circulated its report on December 17, 2008. The panel found that the use of zeroing in two administrative reviews involving the orders related to measures in the original dispute amounted to a failure to comply with the DSB rulings and recommendations if the reviews were concluded after the end of the reasonable period of time, even if the reviews involved entries that occurred before the end of the reasonable period of time. The panel also found that the Section 129 determinations related to four original investigations in the original dispute violated Article 3 of the Antidumping Agreement because the ITC did not revisit its original injury determinations to account for the reduced volumes of dumped imports resulting from the exclusion of certain exporters from the orders as a result of the Section 129 determinations. Finally, the panel found that the continued application of the cash deposit rate from one of the administrative reviews in the original dispute to one company that had not requested a new administrative review amounted to a failure to comply with the DSB rulings and recommendations. However, the panel rejected the EU claims that the liquidation of entries at rates determined using zeroing before the end of the reasonable period of time amounts to a failure to comply, even if such liquidation occurs after the end of the reasonable period of time. With respect to an alleged clerical error, the panel also found that the EU was prevented from raising a claim in a compliance proceeding because it could have done so in the original dispute and did not. The panel rejected or declined to make findings with respect to the EU's other claims.

On February 13, 2009, the EU filed a notice of appeal. The United States filed a notice of other appeal on February 25, 2009. The Appellate Body granted a request by the parties to open its hearing to the public, and the public was able to observe the hearing, which was held on March 23-24, 2009, via a simultaneous closed circuit television broadcast.

The Appellate Body issued its report on May 14, 2009. The Appellate Body affirmed the panel's findings with respect to three administrative reviews and found two additional administrative reviews, as well as several sunset reviews that relied on margins calculated in proceedings found WTO-inconsistent in the original dispute, to constitute failures to comply. The Appellate Body also indicated that, as a general matter, any use of zeroing in any proceeding completed after the end of the reasonable period of time, or in calculating any cash deposit applied after the end of the reasonable period of time, with respect to any of the antidumping orders for which an "as applied" finding was made in the original dispute, would constitute a failure to comply with the DSB recommendations and rulings. With respect to the alleged clerical error, the Appellate Body reversed, concluding that the relevance of the alleged clerical error to the Section 129 determination was factual rather than jurisdictional, but it did not complete the analysis. The Appellate Body also rejected a number of the EU's claims on appeal.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body report, on June 11, 2009.

In addition to the three orders covered by the original panel and Appellate Body findings that had been revoked by 2007, four additional orders were revoked due to sunset reviews, effective prior to the end of the reasonable period of time.

United States–Subsidies on large civil aircraft (DS317):

On October 6, 2004, the EU requested consultations with respect to "prohibited and actionable subsidies provided to U.S. producers of large civil aircraft." The EU alleged that such subsidies violated several provisions of the SCM Agreement, as well as Article III:4 of the GATT. Consultations were held on November 5, 2004. On January 11, 2005, the United States and the EU agreed to a framework for the negotiation of a new agreement to end subsidies for large civil aircraft. The parties set a three month timeframe for the negotiations and agreed that, during negotiations, they would not request panel proceedings. These discussions did not produce an agreement. On May 31, 2005, the EU requested the establishment of a panel to consider its claims. The EU filed a second request for consultations regarding large civil aircraft subsidies on June 27, 2005. This request covered many of the measures covered in the initial consultations, as well as many additional measures that were not covered.

A panel was established with regard to the October claims on July 20, 2005. On October 17, 2005, the Deputy Director-General established the panel as follows: Ms. Marta Lucía Ramírez de Rincón, Chair; and Ms. Gloria Pe□a and Mr. David Unterhalter, Members. Since that time, Ms. Ramirez and Mr. Unterhalter resigned from the panel. They have not been replaced.

The EU requested establishment of a panel with regard to its second panel request on January 20, 2006. That panel was established on February 17, 2006. On December 8, 2006, the WTO issued notices changing the designation of this panel to DS353. The summary below of *United States–Subsidies on large civil aircraft (Second Complaint) (DS353)* discusses developments with regard to this panel.

United States–Continued suspension of obligations in the EU–Hormones dispute (DS320):

On November 8, 2004, the EU requested consultations with respect to "the United States' continued suspension of concessions and other obligations under the covered agreements" in the EU – Hormones dispute. The EU argued that EU legislation of 2003 implementing the import ban on beef and beef products produced from animals treated with certain hormones brought the EU into compliance with its WTO obligations. Consultations were held on December 16, 2004. The EU requested the establishment of a panel on January 13, 2005, and the panel was established on February 17, 2005. Australia, Canada, China, Mexico, and Chinese Taipei reserved their third-party rights. On June 6, 2005, the Director-General composed the panel as follows: Mr. Tae-yul Cho, Chair; and Ms. Claudia Orozco and Mr. William Ehlers, Members. The panel, in a communication dated August 1, 2005, granted the parties' request to open the substantive meetings with the parties to the public via a closed-circuit television broadcast. The panel's meetings with third parties remain closed.

The panel circulated its final report on March 31, 2008. In its report, the panel found that the United States breached Articles 23.2(a) and 23.1 of the DSU by making certain statements at the meetings of the Dispute Settlement Body, and by maintaining the suspension of concessions after the EU had announced compliance. The panel also found that, because the EC's revised ban of 2003 was not consistent with the SPS Agreement and had not been brought into compliance, the United States had not breached Article 22.8 of the DSU.

The EU filed its notice of appeal in this dispute on May 29, 2008. The United States filed a notice of other appeal on June 10, 2008. The Appellate Body granted the parties' request to open the hearing to the public via closed-circuit television broadcast. The oral hearing, which took place on July 28-29, 2008, was the first Appellate Body hearing ever to be open to the public.

On October 16, 2008, the Appellate Body issued its report. The Appellate Body reversed the panel's findings that the United States had breached Articles 23.2(a) and 23.1 of the DSU. The Appellate Body also reversed several of the panel's findings relating to the SPS Agreement issues concerning the EU's amended ban of 2003. The Appellate Body found that it could not conclude whether or not the EU's amended ban is WTO-consistent. The DSB adopted the Appellate Body report on November 14, 2008.

As discussed above (DS26 and 38), on December 22, 2008, the EU requested consultations with the United States and Canada pursuant to Articles 4 and 21.5 of the DSU, regarding the EU's implementation of the DSB's recommendations and rulings in the EU–Hormones dispute.

United States–Measures relating to zeroing and sunset reviews (DS322):

On November 24, 2004, Japan requested consultations with respect to: (1) Commerce's alleged practice of "zeroing" in antidumping investigations, administrative reviews, sunset reviews, and in assessing the final antidumping duty liability on entries upon liquidation; (2) in sunset reviews of antidumping duty orders, Commerce's alleged irrefutable presumption of the likelihood of continuation or recurrence of dumping in certain factual situations; and (3) in sunset reviews, the waiver provisions of U.S. law. Japan claims that these alleged measures breach various provisions of the Antidumping Agreement and Article VI of the GATT 1994. Consultations were held on December 20, 2004. Japan requested the establishment of a panel on February 4, 2005, and a panel was established on February 28, 2005. On April 15, 2005, the Director-General composed the panel as follows: Mr. David Unterhalter, Chair; and Mr. Simon Farbenbloom and Mr. Jose Antonio Buencamino, Members.

The panel report was circulated on September 20, 2006. The panel found that there was one measure, "zeroing," that was applicable in all types of comparisons and all proceedings. The panel agreed with prior reports that zeroing in average-to-average comparisons in investigations is inconsistent with the Antidumping Agreement. However, the panel also found that zeroing in transaction-to-transaction comparisons is not inconsistent with the Antidumping Agreement, and, expressly rejecting the Appellate Body's reasoning in *US–Zeroing (EC),* also found that zeroing in assessment proceedings is not inconsistent with the Antidumping Agreement. Japan appealed the panel report. The United States filed a cross-appeal.

In a report circulated January 9, 2007, the Appellate Body upheld the panel's findings that the United States maintains a single "zeroing procedures" measure applicable to investigations and administrative reviews. The Appellate Body reversed the panel's findings regarding zeroing in transaction-to-transaction comparisons in investigations, and it also reversed the panel's findings concerning zeroing in assessment proceedings. The DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body, on January 23, 2007. On 20 February 2007, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. On May 4, 2007, the United States and Japan informed the DSB that they had agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on 24 December 2007.

On January 10, 2008, Japan requested DSB authorization to suspend concessions on the grounds that the United States had failed to implement the DSB's recommendations and rulings, and, on January 18, 2008,

the United States objected to the level of suspension and accordingly requested that the matter be referred to arbitration. On March 10, 2008, the United States and Japan informed the DSB that they had reached a sequencing agreement to suspend arbitration pending the completion of compliance proceedings. Pursuant to a joint request from the United States and Japan, the arbitration under Article 22.6 of the DSU was suspended on June 9, 2008.

On April 7, 2008, Japan requested the establishment of an Article 21.5 panel, which the DSB established at its meeting on April 18, 2008. On May 23, 2008, the parties agreed to constitution of the compliance panel as follows: Mr. José Antonio Buencamino, Chair; and Mr. Simon Farbenbloom and Mr. Raúl León-Thorne, Members. The compliance panel agreed to open its meeting with the parties, as well as a portion of the meeting with the third parties, to observation by the public via closed-circuit television broadcast, and the open meeting was held on November 4-5, 2008.

On April 24, 2009, the panel circulated its final report. The panel found that the United States failed to comply with the WTO's rulings because it liquidated, or would liquidate, after the deadline for compliance antidumping duties with respect to five specific administrative reviews that used zeroing. The panel also found that the United States acted inconsistently with the Antidumping Agreement and the GATT 1994 by maintaining antidumping duties after the deadline with respect to four additional administrative reviews that were not part of the original WTO proceeding, and that the United States acted in violation of GATT Article II with respect to the collection of duties in excess of bound rates that occurred after the expiration of the reasonable period of time. The panel also found that the United States had failed to comply with the DSB's recommendations and rulings with respect to the use of "zeroing procedures" and the application of zeroing in one sunset review. Lastly, the panel found that Japan was permitted to challenge the final results of an administrative review which were not in existence at the time of Japan's panel request.

On May 20, 2009, the United States filed a notice of appeal. The Appellate Body granted a request by the parties to open its hearing to the public, and the public was able to observe the hearing, which was held on June 29-30, 2009, via a simultaneous closed circuit television broadcast.

On August 18, 2009, the Appellate Body issued its report. The Appellate Body upheld the compliance panel on all issues that were appealed. Specifically, the Appellate Body affirmed the panel's findings that the United States failed to comply with respect to five administrative reviews. The Appellate Body also upheld the panel's finding of inconsistency with respect to four additional reviews that were not part of the original proceeding. Lastly, the Appellate Body affirmed the panel's finding that Japan could challenge the final results of an administrative review which were not in existence at the time of Japan's panel request, as well as the panel's finding that the United States had acted inconsistently with GATT Article II.

The DSB adopted the Appellate Body report, and the panel report, as modified by the Appellate Body report, on August 31, 2009.

United States–Measures Relating to Shrimp from Thailand (DS343):

On April 24, 2006, Thailand requested consultations with respect to the imposition by U.S. Customs and Border Protection of an additional bonding requirement on certain importers of shrimp subject to an antidumping duty order on frozen warmwater shrimp from Thailand. In addition, Thailand requested consultations with respect to Commerce's alleged use of "zeroing" in the antidumping investigation that resulted in the order. Thailand has alleged that these measures breach several provisions of the Antidumping Agreement and the GATT 1994. Consultations were held on August 1, 2006. Thailand requested the establishment of a panel on September 15, 2006, and a panel was established on October 26,

2006. On January 26, 2007, the Director-General composed the panel as follows: Mr. Michael Cartland, Chair; and Mr. Graham Sampson and Ms. Enie Neri de Ross, Members.

The panel circulated its report on February 29, 2008. The panel found the use of zeroing in the investigation of shrimp from Thailand to have breached the Antidumping Agreement, and that the additional bond requirement as applied to importers of shrimp from Thailand was a "specific action against dumping" inconsistent with Article 18.1 of the AD Agreement and was inconsistent with the Ad Note to paragraphs 2 and 3 of GATT 1994 Article VI because it did not constitute "reasonable" security. It rejected or declined to make findings with respect to Thailand's claims on other provisions of the GATT 1994 and the AD Agreement.

On April 17, Thailand appealed the findings of the panel with respect to the additional bond requirement. The United States cross-appealed one aspect of those findings on April 29. The Appellate Body issued its report on July 16, 2008. The Appellate Body found that the panel properly concluded that the additional bond requirement as applied to importers of shrimp from Thailand did not constitute reasonable security. It rejected Thailand's other claims regarding the panel's interpretation of the Ad Note. The panel and Appellate Body reports were adopted by the DSB on August 1, 2008.

On October 31, 2008, the United States and Thailand agreed that the reasonable period of time to implement the DSB's rulings and recommendations would be eight months, expiring on April 1, 2009.

With regard to the finding of the panel regarding the use of zeroing by the Department of Commerce in the investigation of warmwater shrimp from Thailand, the Department of Commerce completed its Section 129 determination, recalculating the margins of dumping without zeroing, and implemented the determination effective January 16, 2009. With regard to the findings of the panel regarding the enhanced bond directive, on January 12, 2009, CBP published a notice proposing to end the designation of shrimp subject to antidumping or countervailing duty orders as a special category or covered case subject to an enhanced bonding requirement. After considering public comments on its proposal, CBP issued a final notice ending the designation, effective April 1, 2009. At the DSB meeting on April 20, 2009, the United States informed the DSB that it had complied with its recommendations and rulings.

United States–Final Antidumping Measures on Stainless Steel from Mexico (DS344):

On May 26, 2006, Mexico requested consultations with respect to Commerce's alleged use of "zeroing" in an antidumping investigation and three administrative reviews involving certain stainless steel products from Mexico. Mexico claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994, and the WTO Agreement. Consultations were held on June 15, 2006. On October 12, 2006, Mexico filed a request for the establishment of a panel, and a panel was established on October 26, 2006. On December 20, 2006, the Director-General composed the panel as follows: Mr. Albert Dumont, Chair; and Mr. Bruce Cullen and Ms. Leora Blumberg, Members.

On December 20, 2007, the panel circulated its report. The panel found that the use by the United States of "model zeroing" in investigations, including in the particular investigation at issue in this dispute, was inconsistent with U.S. obligations under the Antidumping Agreement. The panel also found, however, that the use by the United States of "simple zeroing" in administrative reviews (including in the administrative reviews at issue in this dispute) was not inconsistent with U.S. obligations under the Antidumping Agreement.

On January 31, 2008 Mexico appealed the panel report with respect to the "as such" and "as applied" claims related to zeroing in administrative review. The Appellate Body issued its report on April 30,

2008. The Appellate Body reversed the panel's findings with respect to administrative reviews, finding that zeroing in administrative reviews is "as such" and "as applied" to the subject administrative reviews, inconsistent with Article VI:2 of the GATT 1994 and Article 9.3 of the AD Agreement.

The DSB adopted the Appellate Body report and the panel report, as modified by the Appellate Body report, on May 20, 2008. At the DSB meeting held on June 2, 2008, the United States notified its intention to comply with its WTO obligations and indicated it would need a reasonable period of time to do so.

On August 11, 2008, Mexico requested that the reasonable period of time be determined through arbitration pursuant to Article 21.3(c) of the DSU. On August 29, 2008, the Director-General appointed Mr. Florentino P. Feliciano as the arbitrator. On October 31, 2008, the arbitrator issued his award, in which he decided that the reasonable period of time would be 11 months and 10 days, ending on April 30, 2009.

On May 18, 2009, the United States and Mexico entered into a sequencing agreement regarding any further proceedings in this dispute. On September 2, 2009, the United States held consultations with Mexico with respect to U.S. compliance with the recommendations and rulings of the DSB in this dispute.

United States–Customs Bond Directive for Merchandise Subject to Antidumping/Countervailing Duties (DS345):

On April 24, 2006, India requested consultations with respect to the imposition by U.S. Customs and Border Protection of an additional bonding requirement on certain importers of shrimp subject to an antidumping duty order on frozen warmwater shrimp from India. India has alleged that these measures breach several provisions of the Antidumping Agreement and the GATT 1994. Consultations were held on July 31, 2006. India requested the establishment of a panel on October 26, 2006, and a panel was established on November 21, 2006. On January 26, 2007, the Director-General composed the panel as follows: Mr. Michael Cartland, Chair; and Mr. Graham Sampson and Ms. Enie Neri de Ross, Members.

The panel circulated its report on February 29, 2008. The panel found that the additional bond requirement as applied to importers of shrimp from India was a "specific action against dumping" inconsistent with Article 18.1 of the AD Agreement, and was inconsistent with the Ad Note to paragraphs 2 and 3 of GATT 1994 Article VI because it did not constitute "reasonable" security. It rejected or declined to make findings with respect to India's claims on other provisions of the GATT 1994, the AD Agreement, and the SCM Agreement.

On April 17, India appealed the findings of the panel with respect to the additional bond requirement. The United States cross-appealed one aspect of those findings on April 29. The Appellate Body issued its report on July 16, 2008. The Appellate Body found that the panel properly concluded that the additional bond requirement as applied to importers of shrimp from India did not constitute reasonable security. It rejected India's other claims regarding the panel's interpretation of the Ad Note. The panel and Appellate Body reports were adopted by the DSB on August 1, 2008.

On October 31, 2008, the United States and India agreed that the reasonable period of time to implement the DSB's rulings and recommendations would be eight months, expiring on April 1, 2009.

As noted above (DS343), on January 12, 2009, CBP published a notice proposing to end the designation of shrimp subject to antidumping or countervailing duty orders as a special category or covered case subject to an enhanced bonding requirement, and, after considering public comments on its proposal,

issued a final notice ending the designation, effective April 1, 2009. At the DSB meeting on April 20, 2009, the United States informed the DSB that it had complied with its recommendations and rulings.

United States—Continued Existence and Application of Zeroing Methodology (Zeroing II) (DS350):

On October 2, 2006, the EU requested consultations with respect to Commerce's alleged use of "zeroing" in four antidumping investigations, 35 administrative reviews, and one sunset review involving certain products from the EU, as well as Commerce's alleged use of a "zeroing" methodology in determining the dumping margin in reviews. The EU claims these alleged measures breach several provisions of the Antidumping Agreement, the GATT 1994 and the WTO Agreement. Consultations were held on November 14, 2006 and February 28, 2007. On May 10, 2007, the European Communities requested the establishment of a panel. At its meeting on June 4, 2007, the DSB established a panel. On July 6, 2007, the Director-General composed the panel as follows: Mr. Faizullah Khilji, Chair; and Ms. Lilia R. Bautista and Mr. Michael Mulgrew, Members. Following the resignation on November 8, 2007, of Ms. Lilia R. Bautista as a Member of the panel, the United States and the EU agreed on November 27, 2007, that Ms. Andrea Marie Brown would replace her.

The panel met with the parties on January 29-30, 2008 and on April 22, 2008, and met with the parties and third parties on 30 January 2008. Pursuant to the parties' request, the meetings with the parties, as well as a portion of the third-party session, were open for public observation.

The panel circulated its final report on October 1, 2008. The panel agreed with the United States that the EU had improperly tried to challenge the continued application, or application, of antidumping duties in 18 cases; in addition the panel agreed that the EU had improperly tried to challenge four measures that were not final at the time of panel establishment. The panel, however, disagreed with the United States that 14 measures included in the EU's panel request, but not its consultations request, were outside the panel's terms of reference. The panel also found that the EU had not proved the use of zeroing in seven of 37 administrative reviews, and excluded those reviews from its findings. In addition, although the panel said it tended to agree with the United States and prior panel reports finding zeroing permissible in administrative reviews, and that it found that the U.S. interpretation was "permissible," the panel nevertheless concluded that the United States acted inconsistently with the Antidumping Agreement and the GATT 1994 by using zeroing in 29 administrative reviews, eight sunset reviews, and four original investigations. In doing so, the panel said it felt constrained to follow prior Appellate Body reasoning, even though it expressed doubts about that reasoning.

On November 6, 2008, the EU filed a notice of appeal. The United States filed a notice of other appeal on November 18, 2008. The Appellate Body granted a request by the parties to open its hearing to the public, and the public was able to observe the hearing, which was held on December 11-12, 2008, via a simultaneous closed circuit television broadcast.

The Appellate Body issued its report on February 4, 2009. The Appellate Body affirmed the panel's finding that the use of zeroing in 29 administrative reviews was inconsistent with the Antidumping Agreement and the GATT 1994. The Appellate Body disagreed with the panel that the interpretation of the Antidumping Agreement advanced by the United States was a permissible one. Moreover, the Appellate Body affirmed the panel's finding that the eight sunset reviews at issue were WTO-inconsistent, and also upheld the panel's ruling that 14 measures included in the EU's panel request, but not its consultations request, were properly within the panel's terms of reference. The Appellate Body reversed the panel's finding that the EU improperly challenged the application or continued application of antidumping duties in 18 broadly-defined cases. However, the Appellate Body was only able to complete the analysis as to the continued application of duties in 4 of the 18 cases. The Appellate Body reversed

the panel's finding that the EU had improperly challenged four preliminary determinations which were not final at the time of panel establishment. Nevertheless, the Appellate Body declined the EU's request to complete the analysis on these determinations and made no findings of inconsistency concerning them. Finally, the Appellate Body reversed the panel's finding that the EU had not proved the use of zeroing in seven of 37 administrative reviews. However, the Appellate Body declined to complete the analysis as to two of those seven reviews, and there are no findings concerning them. For five of the reviews, the Appellate Body found that the United States had acted inconsistently with the Antidumping Agreement and GATT 1994.

On February 19, 2009, the DSB adopted the recommendations and rulings in this dispute. At the following DSB meeting, on March 20, 2009, the United States informed the DSB of its intention to implement the recommendations and rulings of the DSB in connection with this matter. The United States and the EU agreed that the reasonable period of time for the United States to implement the recommendations and rulings of the DSB would end on December 19, 2009.

United States–Subsidies on large civil aircraft (Second Complaint) (DS353):

On June 27, 2005, the EU filed a second request for consultations regarding large civil aircraft subsidies allegedly applied by the United States. The section above on *United States–Subsidies on Large Civil Aircraft (DS317)* discusses developments with regard to the dispute arising from the initial request for consultations. The June 2005 request covered many of the measures covered in the initial consultations, as well as many additional measures that were not covered. The EU requested establishment of a panel with regard to its second panel request on January 20, 2006. That panel was established on February 17, 2006. On November 22, 2006, the Deputy Director-General composed the panel as follows: Mr. Crawford Falconer, Chair; and Mr. Francisco Orrego Vicuña and Mr. Virachai Plasai, Members.

The panel granted the parties' request to open the substantive meetings with the parties to the public via a screening of a videotape of the public session. The sessions of the panel meeting that involves business confidential information and the panel's meeting with third parties are closed.

United States–Definitive Antidumping and Countervailing Duties on Certain Products from China (China) (WT/DS379):

On September 19, 2008, the United States received from China a request for consultations pertaining to definitive antidumping and countervailing duties imposed by the United States pursuant to final antidumping and countervailing duty determinations and orders issued by the U.S. Department of Commerce (DOC) in investigations on circular welded carbon quality steel pipe, certain pneumatic off-the-road tires, light-walled rectangular pipe and tube, and laminated woven sacks. China claimed that these measures were inconsistent with U.S. commitments and obligations under the GATT 1994, the SCM Agreement, the Antidumping Agreement, and China's Protocol of Accession.

The United States and China held consultations on November 14, 2008. On December 9, 2008, China requested that the DSB establish a panel. The DSB did so at its meeting on January 20, 2009. On March 4, 2009, the Director-General composed the panel as follows: Mr. David Walker, Chair; Ms. Andrea Marie Brown, and Mr. Thinus Jacobsz, Members. The panel held meetings with the parties on July 7-8 and November 11-12, 2009, and met with the parties and third parties on July 7, 2009.

United States–Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products (WT/DS381):

On October 24, 2008, Mexico requested consultations regarding U.S. dolphin-safe labeling provisions for tuna and tuna products. These provisions prohibit labeling tuna and tuna products as dolphin-safe if the tuna was caught by using purse-seine nets intentionally set on dolphins, a technique Mexico uses to catch tuna in the Eastern Tropical Pacific Ocean. Mexico challenges three U.S. measures: (1) the Dolphin Protection Consumer Information Act (19 U.S.C. § 1385); (2) certain dolphin-safe labeling regulations (50 C.F.R. §§ 216.91-92); and (3) the Ninth Circuit decision in Earth Island v. Hogarth, 494 F.3d. 757 (9th Cir. 2007). On April 20, 2009, at Mexico's request, the DSB established a WTO panel to examine these measures. Mexico alleges that these measures accord imports of tuna and tuna products from Mexico less favorable treatment than like products of national origin and like products originating in other countries, and fail to immediately and unconditionally accord imports of tuna and tuna products from Mexico any advantage, favor, privilege, or immunity granted to like products in other countries. Mexico further alleges that the U.S. measures create unnecessary obstacles to trade, and are not based on relevant international standards. Mexico alleges that the U.S. measures are inconsistent with Articles I and III of the *General Agreement on Tariffs and Trade 1994* and Article 2 of the *Agreement on Technical Barriers to Trade*.

On December 14, 2009, the Director General composed the panel as follows: Mr. Mario Matus, Chair; and Mr. Franz Perrez and Mr. Sivakant Tiwari, members.

United States–Antidumping Administrative Reviews and Other Measures Related to Imports of Certain Orange Juice from Brazil (WT/DS382):

On November 27, 2008, the United States received from Brazil a request for consultations pertaining to definitive antidumping duties imposed by the United States pursuant to the final results issued by the U.S. Department of Commerce (DOC) in the administrative review of the antidumping duty order on imports of certain orange juice from Brazil. Brazil claimed that certain actions by DOC and Customs and Border Protection with respect to this administrative review and with respect to any ongoing or future antidumping administrative reviews concerning this antidumping duty order, as well as various U.S. laws, regulations, administrative procedures, practices, and policies, both as such and as applied, are inconsistent with U.S. commitments and obligations under Articles II, VI:1, and V:2 of the General Agreement on Tariffs and Trade 1994, Articles 1, 2.1, 2.4, 2.4.2, 9.1, 9.3, 11.2, and 18.3 of the Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement), and Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization. Specifically, Brazil complained that DOC used "zeroing" in the administrative review of the antidumping duty order on imports of orange juice.

On May 22, 2009, the United States received a request for consultations from Brazil pertaining to the antidumping duty investigation on certain orange juice from Brazil, the second antidumping duty administrative review on certain orange juice from Brazil, and the "continued use of the US zeroing procedures ('model' or 'simple' zeroing) in successive antidumping proceedings."

On August 20, 2009, Brazil requested the establishment of a panel. The DSB established the panel on September 25, 2009.

United States–Antidumping Measures on Polyethylene Retail Carrier Bags from Thailand (Thailand) (WT/DS383):

On November 26, 2008, the United States received from Thailand a request for consultations pertaining to the application of the so-called "practice of zeroing" in calculating overall weighted average margins of dumping in an investigation by the U.S. Department of Commerce (DOC) on polyethylene retail carrier bags from Thailand. Thailand claimed that the use of "zeroing" in the final antidumping duty determination, amended final determination, and order inflated margins of dumping artificially created margins of dumping where none would otherwise have been found, and was inconsistent with U.S. commitments and obligations under Article VI of the *General Agreement on Tariffs and Trade 1994* and Article 2.4.2 of the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*.

The United States and Thailand held consultations on January 28, 2009. At its meeting on March 20, 2009, the DSB established a panel. On August 20, 2009, the parties agreed to compose the Panel as follows: Mr. Alberto Juan Dumont, Chair; and Ms. Deborah Milstein and Mr. Norman M. Harris, Members.

United States–Certain Country of Origin Labeling (COOL) Requirements (Canada) (WT/DS384):

On December 1, 2008, Canada requested consultations with the United States regarding U.S. mandatory country of origin labeling (COOL) provisions. Canada requested supplemental consultations with the United States regarding this matter on May 7, 2009. Canada challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture ("USDA") Interim Final Rule on COOL published on August 1, 2008 and on August 28, 2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

Canada alleges that the COOL requirements are inconsistent with the *General Agreement on Tariffs and Trade 1994*, Articles III:4, IX:2, IX:4, and X:3(a), the *Agreement on Technical Barriers to Trade*, Articles 2.1, 2.2, and 2.4, or in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Articles 2(b), 2(c), 2(e), and 2(j). Canada asserts that these violations nullify or impair the benefits accruing to Canada under those Agreements and further appear to nullify or impair the benefits accruing to Canada in the sense of GATT 1994, Article XXIII:1(b).

Consultations were held on December 16, 2008, and supplemental consultations were held on June 5, 2009. On October 7, 2009, Canada requested the establishment of a panel, and on November 19, 2009, the DSB established a single panel to examine both this dispute and Mexico's dispute regarding COOL (see WT/DS386).

United States–Certain Country of Origin Labeling (COOL) Requirements (Mexico) (WT/DS386):

On December 17, 2008, Mexico requested consultations regarding U.S. mandatory country of origin labeling (COOL) provisions. Mexico requested supplemental consultations with the United States regarding this matter on May 7, 2009. Mexico challenges the COOL provisions of the *Agricultural Marketing Act of 1946*, as amended by the *Farm, Security and Rural Investment Act of 2002* (2002 Farm Bill), and the *Food, Conservation, and Energy Act, 2008* (2008 Farm Bill), the U.S. Department of Agriculture ("USDA") Interim Final Rule on COOL published on August 1, 2008 and on August 28,

2008, respectively, the USDA Final Rule on COOL published on January 15, 2009, and a February 20, 2009 letter issued by the Secretary of Agriculture. These provisions relate to an obligation to inform consumers at the retail level of the country of origin of covered commodities, including beef and pork.

Mexico alleges that the U.S. measures are inconsistent with the GATT 1994, Articles III:4, IX:2, IX:4, and X:3(a), the *Agreement on Technical Barriers to Trade*, Articles 2.1, 2.2, 2.4, 12.1, and 12.3, or, in the alternative, the *Agreement on the Application of Sanitary and Phytosanitary Measures*, Articles 2, 5, and 7, and the *Agreement on Rules of Origin*, Articles 2(b), 2(c), 2(d), and 2(e). Additionally, Mexico asserts that these violations nullify or impair the benefits accruing to Mexico under those Agreements, and further appear to nullify or impair the benefits accruing to Mexico within the meaning of the GATT 1994, Article XXIII:1(b).

Consultations were held on February 27, 2009, and supplemental consultations were held on June 5, 2009. On October 9, 2009, Mexico requested the establishment of a panel in this dispute, and November 19, 2009.the DSB established a single panel to examine both this dispute and Canada's dispute regarding COOL (see WT/DS384).

United States–Certain Measures Affecting Imports of Poultry from China (China) (DS392):

On April 17, 2009, China requested consultations with the United States on a provision of the Omnibus Appropriations Act of 2009 that prohibits the use of appropriated funds for fiscal year (FY) 2009 to establish or implement a rule allowing the import of poultry products from China. China alleges that the U.S. measure appears to be inconsistent with Articles I and XI of the *General Agreement on Tariffs and Trade 1994* and Article 4 of the *Agreement on Agriculture*. In addition, although China noted that it does not believe the measure at issue to be a sanitary and phytosanitary measure, China also stated that, if it were demonstrated that it is an SPS measure, China also would request consultations pursuant to Article 11 of the *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement). China further alleged that, to the extent any measure at issue is demonstrated to be an SPS measure, China considers that the measure is in breach of Articles 2, 3, 5, and 8 of the SPS Agreement. Consultations were held on May 15, 2009. On July 20, 2009, China requested the establishment of a panel. At its meeting on July 31, 2000, the DSB established a panel. On September 23, 2009, the Director-General composed the panel as follows: Mr. Ole Lundby, Chair; and Mr. Mohammad Saeed and Mr. Felipe Lopeandia, Members. The panel met with the parties on December 15-16, 2009, and met with the parties and third parties on December 16, 2009.

United States–Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China (DS399):

On September 14, 2009, China requested consultations with respect to the imposition of additional duties on imports of certain passenger vehicle and light truck tires from China under section 421 of the Trade Act of 1974, as amended, and section 16 of the Protocol on the Accession of the People's Republic of China (Protocol of Accession). China alleges that the additional tariffs are inconsistent with the GATT 1994, the Agreement on Safeguards, and the Protocol of Accession. China alleges that various elements of USITC's determination regarding market disruption are inconsistent with the Protocol of Accession. In addition, China alleges that the level and duration of the additional tariffs are inconsistent with the Protocol of Accession. Finally, China alleges that the Section 421 definition of "significant cause" is in and of itself inconsistent with the Protocol of Accession.

The United States held consultations with China on November 9, 2009. On December 9, 2009, China filed a request for establishment of a panel. As of December 31, 2009, the panel had not been established.

United States–Use of Zeroing in Antidumping Measures Involving Products from Korea (DS402):

On November 24, 2009, the Republic of Korea (Korea) requested consultations regarding the final and amended determinations and antidumping duty order with respect to stainless steel plate in coils from Korea, the final and amended determinations and antidumping duty order with respect to stainless steel sheet and strip in coils from Korea, and the final determination and antidumping duty order with respect to diamond sawblades and parts thereof from Korea. Korea challenges what it describes as the use by the Department of Commerce of "the practice of 'zeroing' negative dumping margins in calculating overall weighted average margins of dumping" in the investigations in those cases. Korea claims that the Department of Commerce's "use of its practice of zeroing" in those investigations is inconsistent with the obligations of the United States under Article VI of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Articles 1, 2.1, 2.4, 2.4.2, and 5.8 of the *Agreement on Implementation of Article VI of the GATT 1994*.

J. Trade Policy Review Body

Status

The Trade Policy Review Body (TPRB) is the subsidiary body of the General Council, created by the Marrakesh Agreement Establishing the WTO, to administer the Trade Policy Review Mechanism (TPRM). The TPRM examines domestic trade policies of each Member on a schedule designed to review the policies of the full WTO Membership on a timetable determined by trade volume. The express purpose of the review process is to strengthen Members' observance of WTO provisions and to contribute to the smoother functioning of the multilateral trading system. Moreover, the review mechanism serves as a valuable resource for improving the transparency of Members' trade and investment regimes. Members continue to value the review process, because it informs each government's own trade policy formulation and coordination.

The Member under review works closely with the WTO Secretariat to provide pertinent information for the process. The Secretariat produces an independent report on the trade policies and practices of the Member under review. Accompanying the Secretariat's report is the Member's own report. In a TPRB session, the WTO Membership discusses these reports together and the Member under review addresses issues raised in the reports and answers questions about its trade policies and practices. Reports cover the range of WTO agreements – including those relating to goods, services, and intellectual property – and are available to the public on the WTO's website at http://www.wto.org. Documents are filed on the website's Document Distribution Facility under the document symbol "WT/TPR."

The TPRB's Report to the Singapore Ministerial Meeting suggested that Members pay greater attention to Least Developed Countries (LDCs) in preparing the TPRB timetable. A 1999 appraisal of the TPRM's operation also drew attention to this matter.

Increasingly, TPRs of LDCs perform a technical assistance function, helping them improve their understanding of the trade policy structure's relationship with the WTO Agreements. The reviews have also enhanced these countries' understanding of the WTO Agreements, thereby better enabling them to comply and integrate into the multilateral trading system. In some cases, the reviews have spurred better interaction between government agencies. The reports' wide coverage of Members' policies also enables Members to identify any shortcomings in policy and specific areas where further technical assistance may be appropriate.

The review process for an LDC now includes a two-to-three-day seminar for its officials on the WTO, in particular on the trade policy review exercise and the role of trade in economic policy. During 2009, the Secretariat conducted seminars for the review process of Benin, Burkina Faso, The Gambia, Mali, Malawi, Niger, Senegal, and Solomon Islands. In addition, similar exercises were conducted in the preparation of the reviews of other Members, including Albania, Armenia, Croatia, the Dominican Republic, Guyana, and the Southern African Customs Union (SACU) countries.

Major Issues in 2009

During 2009, the TPRB reviewed the trade regimes of Guatemala, Japan, Brazil, Fiji, EC, Mozambique, Solomon Islands, New Zealand, Morocco, Guyana, Zambia, Chile, Maldives, Niger, Senegal, Georgia, Botswana, Lesotho, Namibia, South Africa, and Swaziland. The 2009 TPRB review of the trade policies and practices of Georgia was the first for this country. The TPRB reviewed the trade regimes of the five countries (Botswana, Lesotho, Namibia, South Africa, and Swaziland) that make up the South Africa Customs Union (SACU) both as independent WTO Members and as participants in this customs union.

From its inception in 1998 to the end of 2009, the TPRM has conducted 305 reviews, covering 136 out of 153 Members and representing some 97 percent of world trade. Of the 32 LDC Members of the WTO, the TPRB had reviewed 27 by the end of 2009.

While each review highlights the specific issues and measures concerning the individual Member, certain common themes emerged during the course of the reviews conducted in 2009. These included:

- transparency in policy making and implementation;
- economic environment and trade liberalization;
- implementation of the WTO Agreements;
- regional trade agreements and their relationship with the multilateral trading system;
- tariff issues, including the differences between applied and bound rates;
- customs valuation and clearance procedures;
- the use of contingency measures such as anti-dumping and countervailing duties;
- technical regulations, and standards and their equivalence with international norms;
- sanitary and phytosanitary measures;
- intellectual property rights legislation and enforcement;
- government procurement policies and practices;
- state involvement in the economy and privatization programs;
- trade-related investment policy issues;
- sectoral trade-policy issues, particularly liberalization in agriculture and certain services sectors; and
- technical assistance in implementing the WTO Agreements and experience with Aid for Trade, and the Enhanced Integrated Framework.

Prospects for 2010

The TPRM continues to meet its transparency goals. It will continue to be an important tool for monitoring Members' compliance with WTO commitments and an effective forum in which to encourage Members to meet their obligations and to adopt further trade liberalizing measures. For 2010, the proposed program of reviews is the United States, China, Malaysia, Chinese Taipei, Hong Kong China, Albania, Armenia, Belize, Benin, Burkina Faso, Croatia, El Salvador, Gambia, Honduras, Jamaica, Malawi, Mali, Papua New Guinea, and Sri Lanka.

K. Other General Council Bodies/Activities

1. Committee on Trade and Environment

Status

The Committee on Trade and Environment (CTE) was created by the WTO General Council on January 31, 1995, pursuant to the Marrakesh Ministerial Decision on Trade and Environment. Since then, the CTE has discussed many important issues, with a focus on those identified in the Doha Declaration. These issues include: market access associated with environmental measures (Doha sub-paragraph 32(i)); the TRIPS Agreement and the environment (Doha sub-paragraph 32(ii)); labeling for environmental purposes (Doha sub-paragraph 32(iii)); capacity-building and environmental reviews (Doha paragraph 33); and discussion of the environmental aspects of the Doha negotiations (Doha paragraph 51). These issues identified in the Doha Declaration are separate from those that are subject to specific negotiating mandates that are being taken up by the Committee on Trade and Environment Special Session (CTESS). *(For additional information, see Chapter II.C.6.)*

Major Issues in 2009

In 2009, the CTE met twice, on July 10 and November 20. Members were not very active, reflecting a greater degree of engagement in other WTO negotiating bodies. Much of the CTE discussion focused on trade and climate change, which reflected national governments' actions and concerns in the global negotiations to address climate change.

Trade and Climate Change:

Many Members expressed their interest in the CTE's considering a variety of trade issues stemming from efforts to address climate change, such as carbon footprint labeling schemes for products and related methodologies for counting carbon. In order to structure such future discussions, several Members suggested that the Secretariat make a presentation on its joint publication with United Nations Environment Program (UNEP), published in June 2009, "Trade and Climate Change," which examines "how trade and climate change policies interact and can be mutually supportive." The WTO Secretariat is expected to make such a presentation at the next meeting of the CTE in early 2010. The joint UNEP-WTO report is available on the WTO website at www.wto.org/english/res_e/publications_e/trade_climate_change_e.htm.

Market Access under Doha Sub-Paragraph 32(i):

Following a Secretariat-sponsored workshop on private voluntary standards in July, several developing countries expressed concerns that private environmental standards hampered market access for their exports. The workshop presentations are available on the WTO website, www.wto.org/english/tratop_e/envir_e/events_e.htm.

The *TRIPS Agreement and the Environment under Doha Sub-Paragraph 32(ii):*

There were no discussions during 2009 under this agenda item.

Labeling for Environmental Purposes under Doha Sub-Paragraph 32(iii):

Discussions under this agenda item continued to reflect a lower level of interest, with the exception of the European Communities, which continue to press for future focused work on eco-labeling in the CTE. However, we anticipate that broader interest could increase in the future, due to the aforementioned interest in carbon footprint labeling schemes.

Capacity Building and Environmental Reviews under Doha Paragraph 33:

Developing country Members continued to stress the importance of benefiting from technical assistance related to WTO negotiations on trade and environment, particularly given the complexity of some of these issues. Several Members briefed the Committee on cooperative trade and environment programs undertaken in relation to Free Trade Agreements. The Secretariat informed the CTE of its trade and environment technical assistance activities undertaken in 2009 and planned for 2010. UNEP briefed the CTE on its online training program focused on organic product trade opportunities, and UNCTAD briefed Members on its activities related to organic agriculture trade and its trade and environment report.

The CTE also received briefings by several multilateral environment agreement (MEA) secretariats regarding recent and upcoming meetings, including: the United Nations Framework Convention on Climate Change (UNFCCC); the Convention on International Trade in Endangered Species (CITES); and the Convention on Biological Diversity (CBD).

Prospects for 2010

It is expected that the CTE's discussions will become more structured and focused on climate change in 2010, including further study of carbon-related labeling schemes and related methodologies for counting carbon. It is also expected that developing country Members' interest in private, environmental standards will continue in 2010, and discussion in the CTE is likely to focus on the impact of private environmental standards on market access for developing country exports.

2. Committee on Trade and Development

Status

The Committee on Trade and Development (CTD) was established in 1965 to strengthen the GATT 1947's role in the economic development of less-developed GATT Contracting Parties. In the WTO, the CTD is a subsidiary body of the General Council. Since the Doha Development Round was launched, Members have established two additional sub-groups of the CTD, a Subcommittee on Least Developed Countries (LDCs) and a Dedicated Session on Small Economies.
The CTD addresses trade issues of interest to Members with particular emphasis on issues related to the operation of the "Enabling Clause" (the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries). In this context, the CTD focuses on the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing country Members, and regional integration efforts among developing country Members. In addition, the CTD focuses on issues related to the fuller integration of all developing country Members into the international trading system, technical cooperation and training, trade in commodities, market access in products of interest to developing countries, and the special concerns of LDCs, small, and landlocked economies.

The CTD has been the primary forum for discussion of broad issues related to the nexus between trade and development, rather than the implementation or operation of a specific agreement. Since the initiation of the DDA, the CTD has intensified its work on issues related to trade and development. The CTD has focused on issues such as expanding trade in products of interest to developing country Members, problems associated with reliance on a narrow export base and on trade in commodities, the WTO's technical assistance and capacity building activities, and an overall assessment of the development aspects of the DDA and sustainable development goals. As directed in the 2005 Hong Kong Ministerial Declaration, the CTD also conducts annual reviews of steps taken by WTO Members to implement the decision on providing duty-free, quota-free (DFQF) market access to the LDC Members.

Work in the Sub-Committee on LDCs and the Dedicated Session on Small Economies has included review of market access challenges related to exports of LDC Members and discussed options for improving export competitiveness in textiles and clothing, and the use of regional bodies to address the trade-related needs of small, vulnerable economies, including island and landlocked states.

Major Issues in 2009

The CTD in Regular Session held five formal sessions in March, May, July, October, and December 2009. Activities of the CTD and its subsidiary bodies in 2009 included:

- *Technical Cooperation and Training:* The CTD took note of the Annual Report on Technical Assistance and Training, January 1 to December 31, 2008 (WT/COMTD/W/168), and of the Technical Cooperation Audit Report for 2008 (WT/COMTD/W/169 and Rev.1). The Secretariat provided information on preparations for the implementation of the Technical Assistance and Training Plan for 2010.

- *Notifications Regarding Market Access for Developing and Least-Developed Countries:* The CTD continued its consideration of Norway's GSP notification (WT/COMTD/N/6/Add.4) on the basis of questions submitted by Brazil (WT/COMTD/65 and Add.2). The CTD also reviewed notifications concerning the GSP schemes of the European Union (WT/COMTD/N/4/Add.4), Switzerland (WT/COMTD/N/7/Add.3), and the United States (WT/COMTD/N/1/Add.6).

- *Transparency of Preferential Trading Arrangements (PTAs):* In December 2006, the General Council invited the CTD to review the transparency of GSP programs and other preferential agreements under its mandate. The proponents of a Transparency Mechanism for PTAs (Brazil, China, India, and the United States) circulated a revised draft proposal (JOB (08)/103/Rev.1) in November 2009. The Committee considered the revised proposal after proponents introduced it. Members indicated their interest in continuing their consideration of the revised proposal. It was agreed at the December CTD that the Chairman would request that the General Council grant the Committee an extension of its mandate until July 2010 to consider the matter and report back for appropriate action.

- *Duty-Free, Quota-Free Market Access for LDCs Members:* The Decision taken at the Hong Kong Ministerial Conference on duty-free and quota-free (DFQF) market access for least-developed countries (LDCs) remains a standing item on the CTD's agenda. At the 74th Session, India provided an update on the implementation of its Duty Free Tariff Preference (DFTP) Scheme for LDCs. During the December meeting, the CTD conducted its fourth annual review of the implementation of the Hong Kong Decision, as mandated in Annex F of the Hong Kong Ministerial Declaration.

- *Review of Regional Trade Agreements (RTAs) between Developing Country Members:* Formal sessions of the CTD Dedicated Session on RTAs were held in July and September 2009. The CTD

considered the Free Trade Agreement between Pakistan and Sri Lanka (Goods) and the Closer Economic Partnership Agreement between Pakistan and Malaysia (Goods). Members also considered issues relating to the requested change in the notification status of the Gulf Cooperation Council (GCC) Customs Union to the Enabling Clause (WT/REG222/N/1 and Corr.1, WT/COMTD/N/25, WT/COMTD/66 and Add.1 to Add.3). Following a decision taken by the Committee on Regional Trade Agreements (CRTA), Members agreed that RTAs notified under the Enabling Clause involving non-WTO Members would be considered using the same procedures as those being used to consider RTAs involving WTO Members only.

- *Dedicated Session on Small Economies:* In 2009, following on work of the CTD in the Dedicated Session on Small Economies to identify the unique characteristics and problems of Small Economies in the trading system, Members continued to monitor the progress of the small economies' proposals in the negotiating and other bodies. The Dedicated Session on Small Economies held meetings in July and October 2009, where the Secretariat presented an updated compilation paper of the small economies' negotiating proposals to assist the Dedicated Session with its monitoring role, and Members adopted the draft Dedicated Session's report to the General Council (WT/COMTD/SE/6).

- *Aid for Trade:* The CTD held five sessions on Aid for Trade in 2009, in February, April, June, October, and November. Work focused on the Director-General's proposed Aid-for-Trade Roadmap (WT/COMTD/AFT/W/11), work related to the joint OECD/WTO Aid-for-Trade at a Glance 2009 Report, and preparations for the 2nd Global Review of Aid for Trade. Presentations were made by the regional development banks, the OECD, and UNIDO related to Aid for Trade. The 2nd Global Review of Aid for Trade took place on July 6-7, 2009. It evaluated progress made since the 1st Global Review held in November 2007 and examined how Aid for Trade was being operationalized on the ground. In 2009, Members also worked on a draft Aid-for-Trade Work Program covering the period 2009 to 2011. The work program is focused around four main headings: resource mobilization, mainstreaming, implementation (with a particular focus on the regional dimension), and engaging the private sector.

- *LDC Subcommittee:* The Subcommittee held two meetings in 2009 where it mainly focused on the implementation of the WTO Work Program for LDCs adopted by Members in 2002. The subjects discussed included: market access for LDCs; trade-related technical assistance and capacity-building initiatives for LDCs; and accession of LDCs to the WTO.

- *Other CTD Issues:* In order to assist the Committee with its requirement to keep under continuous review the participation of developing country Members in the multilateral trading system, the Secretariat prepared a report (WT/COMTD/W/172 and Corr.1) highlighting salient features concerning the participation of developing economies in the global trading system, including recent developments during the financial and economic crisis. Additionally, the Joint Advisory Group (JAG) on the International Trade Centre, UNCTAD and the WTO provided a report to the CTD on its 42nd Session (ITC/AG/ (XLI)/225).

Prospects for 2010

The CTD is expected to continue to monitor developments as they relate to issues of concern to developing country Members, including those related to technical assistance. Interest in market access is expected to continue. In this vein, the CTD will undertake its responsibility to review steps taken by Members to provide DFQF market access to the LDC Members in line with the Hong Kong Declaration, review the participation of developing country Members in the multilateral trading system, and review market access for LDCs in the LDC Subcommittee. The CTD will also continue its work on Aid for

Trade in line with the work program for 2009-2011. In addition, the CTD's examination of RTAs between developing country Members will continue as new RTAs are notified to the WTO, including a notification concerning the Chile-India Agreement (WT/COMTD/N/30). A new transparency mechanism to facilitate the review of PTAs is also expected to be implemented, and the CTD could review the first arrangements in late 2010.

3. Committee on Balance-of-Payments Restrictions

Status

The Uruguay Round Understanding on Balance-of-Payments (BOP) substantially strengthened GATT disciplines on BOP measures. Under the WTO Agreement, any Member imposing restrictions for BOP purposes must consult regularly with the BOP Committee to determine whether the use of such restrictions are necessary or desirable to address a Member's BOP difficulties. The BOP Committee works closely with the International Monetary Fund in conducting consultations. Full consultations involve examining a Member's trade restrictions and balance-of-payments situation, while simplified consultations provide for more general reviews. Full consultations are held when restrictive measures are introduced or modified, or at the request of a Member in view of improvements in its balance-of-payments.

Major Issues in 2009

Following Ecuador's notification on February 18, 2009 (WTO document WT/BOP/N/65) that it had applied measures for balance-of-payments purposes, the Committee held consultations with Ecuador in April, June, September, and October 2009. Ecuador agreed to replace most of the quantitative restrictions with price-based measures no later than September 1, 2009, and to progressively modify the level and scope of the measures as its balance of payments situation improved. Ecuador also committed to remove all trade measures applied for balance of payments purposes no later than January 22, 2010, and to immediately notify the steps taken to the Committee. The Committee agreed, in the light of the commitments taken by Ecuador, that the measures applied could remain in place temporarily under the provisions of Art. XVIII:B of the GATT 1994.

Following Ukraine's notification on March 4, 2009 of the introduction of an import surcharge of 13 percent on imports of certain products for balance-of-payments purposes for a period of up to six calendar months (document WT/BOP/N/66), the Committee held consultations with Ukraine in June. The Committee concluded that the measures taken by Ukraine were not justified by its balance-of-payments situation and had not been applied in a manner consistent with the requirements set forth in Article XII of GATT 1994 and the Understanding. The Committee noted Ukraine's commitments to eliminate the measures no later than September 7, 2009, as set out by the legislation, to firmly endeavor to eliminate them by mid July, and to immediately notify to the Committee the action taken. On September 8, 2009, Ukraine notified the Committee that the measures applied for balance-of-payments purposes had been discontinued as of September 7, 2009.

The Committee met in October to hold its eighth annual review under China's Transitional Review Mechanism according to paragraph 18 of China's Protocol of Accession. In light of China's balance-of-payments position, there was little discussion.

Prospects for 2010

Should a Member resort to new BOP measures, WTO rules require a thorough program of consultation with the Committee. We expect the BOP Committee to continue to ensure that BOP provisions are used as intended to address legitimate problems through the imposition of temporary, price-based measures.

4. Committee on Budget, Finance and Administration

Status

The Committee on Budget, Finance and Administration (the Budget Committee) is responsible for establishing and presenting the budget for the WTO Secretariat to the General Council for Members' approval. The Budget Committee meets throughout the year to address the financial requirements of the organization. The budget process in the WTO operates on a biennial basis. As is the practice in the WTO, decisions on budgetary issues are taken by consensus. The United States is an active participant in the Budget Committee.

In the WTO, the assessed contribution of each Member is based on the share of that Member's trade in goods, services, and intellectual property. The United States, as the Member with the largest share of world trade, makes the largest contribution to the WTO budget. For the 2010 budget, the U.S. assessed contribution is 12.962 percent of the total budget assessment, or Swiss Francs (CHF) 24,550,028 (about $23.7 million). (*Details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget for 2009 and 2010 are provided in Annex II.)*

Major Issues in 2009

Activities of the Committee in 2009 included:

- *WTO Budget:* The Committee recommended a budget for the WTO of CHF 194 million (about $187.8 million) for 2010 and CHF 198 million (about $191.7 million) for 2011, which represent annual increases of 2.5 percent and 2.17 percent respectively.

- *WTO Facilities:* The work on the first renovated area in the South Wing of the Centre William Rappard building was completed on October 7, 2009. The work in the next area was started and is expected to be completed in June 2010. The construction permit for the intra-muros project was adapted following meetings with local authorities and is expected to be granted before the end of March 2010. The project was presented to the two federal chambers in Bern at the end of December in order to obtain a loan of CHF 20 million (about $19.4 million) at the beginning of 2010, which is an interest-free loan to be repaid by the WTO over 50 years. A CHF 27 million grant (approximately $26.1 million) was approved by the local Swiss authorities for the construction of a 400-space parking garage, fulfilling the last requirement for the WTO to become owner of the Centre William Rappard.

- *Change in Normal Retirement Age and Pension Contribution:* A change in the normal retirement age from 62 to 65 was adopted and becomes effective as of January 1, 2010. An increase in the contribution rate to the WTO Pension Plan from 22.5 percent to 23.7 percent was also adopted and becomes effective as of January 1, 2010. The purpose of these changes was to address a projected actuarial deficit in the WTO's Pension Fund.

- *Diversification of the WTO Secretariat:* In response to a proposal by several Members on the need to improve the diversification of the WTO Secretariat, the Secretariat prepared and presented the "Report on Diversity of the WTO Secretariat" (WT/BFA/W/191 and CPR(09)29), which explains that the WTO is required by its own regulations to ensure diversity in its hiring practices and that the Director-General is committed to the principle of equal opportunity for all, regardless of nationality or gender. The Secretariat intends to present a full report on staff diversification to the Committee at its first meeting in 2010.

Prospects for 2010

The Budget Committee will continue to monitor the financial and budgetary situation of the WTO on an ongoing basis. The Budget Committee will actively work with the Director-General on the progress and any and all financial requirements incurred for the planned new facility renovation and relocation for the WTO. It will also be regularly consulted and kept informed of all aspects concerning the finalization and implementation of security enhancements.

5. Committee on Regional Trade Agreements

Status

The Committee on Regional Trade Agreements (CRTA), a subsidiary body of the General Council, was established in early 1996 as a central body to oversee all regional agreements to which Members are party.

The CRTA is charged with conducting reviews of individual agreements, seeking ways to facilitate and improve the review process, implementing the biennial reporting requirements established in the Uruguay Round Agreements, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system. Prior to 1996, these reviews were typically conducted by a "working party" formed to review a specific agreement.

GATT Article XXIV is the principal provision governing Free Trade Areas (FTAs), Customs Unions (CUs), and interim agreements leading to an FTA or CU concerning goods. Additionally, the 1979 Decision on Differential and More Favorable Treatment, Reciprocity and Fuller Participation of Developing Countries, commonly known as the "Enabling Clause," provides a basis for certain agreements between or among developing country Members, also concerning trade in goods. The Uruguay Round added three more provisions: the Understanding on the Interpretation of Article XXIV, which clarifies and enhances the requirements of Article XXIV of GATT 1994; and Articles V and Vbis of the General Agreement on Trade in Services (GATS), which govern services and labor markets economic integration agreements.

FTAs and CUs are authorized departures from the principle of MFN treatment, if certain requirements are met. With respect to goods, tariffs and other restrictions on trade must be eliminated on substantially all trade between the parties. In addition, duties and commercial measures applied to third countries upon the formation of an FTA or CU must not be higher or more restrictive than was the case before the agreement. If, in forming a CU, a Member exceeds its WTO bound rates, it must so notify the WTO in order to negotiate, with other Members, compensation in the form of market access concessions. Finally, while interim agreements leading to FTAs or CUs are permissible, transition periods to full FTAs or CUs should exceed ten years only in exceptional cases.

With respect to trade in services, the CU or FTA must have "substantial sectoral coverage" and prohibit or eliminate substantially all discrimination; in addition, the FTA or CU may not exclude *a priori* any mode of supply from the agreement. As with agreements on goods, barriers or restrictions to trade in services applicable to third parties upon formation of the FTA or CU may not be higher than was the case previously. Finally, a compensation requirement analogous to that in goods agreements exists for services agreements.

Major Issues in 2009

As of October 15, 2009, 457 RTAs have been notified to the GATT or WTO.[16] Of the notified agreements, 266 are currently in force. These figures correspond to 364 integrated RTAs (goods and services together), of which 186 are in force. Of the RTAs in force, 162 are notified as GATT Article XXIV agreements; 27 are notified as Enabling Clause agreements;[17] and 77 are notified as GATS Article V agreements.

At the end of 2006, the General Council established, on a provisional basis, a new transparency mechanism for all RTAs which was implemented in 2007. The main features of the mechanism, agreed upon in the Negotiating Group on Rules, include the early announcement of any RTA; guidelines regarding the notification of RTAs; the preparation by the WTO Secretariat, on its own responsibility and in full consultation with the parties, of a factual presentation of RTAs to assist Members in their consideration of a notified RTA; timeframes associated with the consideration of RTAs; provisions regarding subsequent notification and reporting of notified RTAs; technical support for developing countries; and the distribution of work between the CRTA – entrusted to implement the mechanism *vis-à-vis* RTAs falling under Article XXIV of GATT 1994 and Article V of the GATS – and the Committee on Trade and Development, entrusted to do the same for RTAs falling under the Enabling Clause.

In the years prior to the adoption of the transparency mechanism, the CRTA had completed the examination of a total of 67 agreements, of which 46 were in the area of trade in goods and 21 in trade in services. Since the adoption of the transparency mechanism three years ago, 67 agreements have been examined (23 in 2009). Of these agreements, 64 have been reviewed in the CRTA and three in the CTD. A total of 95 RTAs remain to be reviewed, comprising 92 RTAs for which the factual presentation is under preparation and three RTAs for which the factual presentation is on hold because commitments in the agreements are still being negotiated by the parties.

At the time of the adoption of the Decision on the Transparency Mechanism for Regional Trade Agreements in December 2006, the Chair of the General Council had noted that Members intended to conduct an initial review of the Mechanism within one year. However, in December 2009 the United States and other Members acknowledged that that there was not yet enough experience, particularly with regard to RTAs falling under the Enabling Clause, for the review to take place.

Under the transparency mechanism, the WTO Secretariat was tasked to establish and maintain an updated electronic database on individual RTAs. The database was launched in January 2009 and includes extensive information, all of which is available to the public. The RTAs database may be accessed at: http://rtais.wto.org.

[16] This figure counts the goods and services portions of some RTAs as separate agreements.

[17] Consistent with past practice, RTAs notified under the Enabling Clause continue to be reviewed in the Committee on Trade and Development (CTD).

Prospects for 2010

Four sessions of the Committee on Regional Trade Agreements are foreseen in 2010. The United States-Bahrain Free Trade Agreement, the United States-Peru Free Trade Agreement, and Dominican Republic-Central America-United States Free Trade Agreement are among those RTAs that are likely to be reviewed under the Transparency Mechanism in 2010.

6. Accessions to the World Trade Organization

Status

Work on accessions in 2009 slowed perceptibly from the previous year. Both the number of active accessions and the frequency of Working Party (WP) meetings dropped sharply from 2008. There were no new applications for accession nor did any accession applicant become a WTO Member in 2009. The number of countries in accession negotiations remained at twenty-nine.[18] Montenegro had substantially completed its multilateral negotiations in 2008. At the end of 2009, however, bilateral market access negotiations were still going on with one Member. Samoa's excellent progress in the first half of 2009 slowed markedly after a devastating tsunami hit the Pacific island country in September. Through early June, bilateral and multilateral work with Russia and Kazakhstan gained momentum; however, on June 9th, Russia, Kazakhstan, and Belarus suspended their WTO accession processes and announced they were forming a customs union with a common external tariff (CXT) that would enter into force on January 1, 2010. They indicated they intended to reformulate their accession and join as a customs union. Based on reactions from Members to this proposal, the three governments are reconsidering how they will approach the WTO accession process.

During 2009, WP meetings and/or bilateral market access negotiations were held in Geneva with Azerbaijan, Bosnia and Herzegovina, Laos, Lebanon, Serbia, Tajikistan, and Yemen. Additionally, Chair's consultations, similar to informal WP meetings, were convened for Samoa and Russia. Market access negotiations and bilateral consultations on other issues also took place at the time of these meetings. Two informal consultations also were held to receive information from Russia, Kazakhstan, and Belarus on their plans for a customs union and harmonized tariffs and the impact on their WTO accessions. Afghanistan, The Bahamas, and Iran circulated their initial documentation, the Memorandum on the Foreign Trade Regime (MFTR), the action necessary to activate their Working Parties and begin negotiations. For Afghanistan and The Bahamas, Members developed initial questions and comments on the respective document for written response by these applicants. Responses had not been received as of the beginning of 2010. Members will similarly submit questions and comments on Iran's MFTR at the beginning of 2010. Vanuatu and the Seychelles resumed negotiations for accession after a break of 8 years and 11 years respectively.

Five of the twenty-nine current applicants for WTO accession (Comoros, Equatorial Guinea, Liberia, Libya, and Sao Tome and Principe) have not yet submitted initial descriptions of their trade regimes. The Working Parties on the accessions of four other applicants – Andorra, Belarus, Sudan, and Uzbekistan – remained dormant, and the accessions of Algeria and Bhutan also were inactive during 2009. The Working Parties on the accessions of Ethiopia, Iraq, Kazakhstan, and Montenegro, did not meet in 2009, but bilateral work continued on each of these accessions and each government engaged in domestic

[18] Accession Working Parties have been established for Afghanistan*, Algeria, Andorra, Azerbaijan, Bahamas, Belarus, Bhutan*, Bosnia and Herzegovina, Comoros*, Equatorial Guinea*, Ethiopia*, Iran, Iraq, Kazakhstan, Laos*, Lebanon, Liberia*, Libya, Montenegro, Russia, Samoa*, Sao Tome and Principe*, Serbia, Seychelles, Sudan*, Tajikistan, Uzbekistan, Vanuatu*, and Yemen* (The 12 countries marked with an asterisk are LDCs).

efforts to enact legislation to implement WTO provisions. The chart included in Annex II reports the current status of each accession negotiation.

Background:

Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members, as provided for in Article XII of the WTO Agreement. The accession process, with its emphasis on implementation of WTO provisions and the establishment of stable and predictable market access for goods and services, provides a proven framework for adoption of policies and practices that encourage trade and investment and promote growth and development.

In a typical accession negotiation, an application is submitted to the WTO General Council, which establishes a "Working Party" composed of all interested WTO Members to review the applicant's trade regime and to conduct the negotiations. WP meetings normally are scheduled when there is sufficient new documentation or progress in WTO implementation to justify further discussion. The number of WP meetings, as well as the length of the negotiations, largely depends on the speed with which the applicant is prepared to address the identified issues and to complete the negotiations. Accession applicants also negotiate trade liberalizing specific commitments on market access for industrial and agricultural goods, as well as for services, based on requests from WP Members. Applicants also are expected to make necessary legislative changes to implement WTO institutional and regulatory requirements and to eliminate existing WTO-inconsistent measures. Almost all accession applicants take all of these actions on WTO rules prior to accession.[19]

At the conclusion of its work, the Working Party adopts the agreed results of the negotiations (the recommended "terms of accession" developed with WP Members in bilateral and multilateral negotiations) and transmits them with its recommendation for approval to the General Council or Ministerial Conference.[20] These terms, the accession "protocol package," consist of the Report of the Working Party and Protocol of Accession, consolidated schedules of specific commitments on market access for imported goods and services by foreign suppliers, and agriculture schedules that include commitments on export subsidies and domestic supports. After General Council or Ministerial Conference approval, accession applicants submit the package to their domestic authorities for acceptance (ratification). Thirty days after the WTO receives the applicant's instrument accepting the terms of accession, the applicant becomes a WTO Member.

The accession process strengthens the international trading system by ensuring that new Members understand and implement WTO rules from the outset. The process also offers current Members the opportunity to secure market access opportunities from acceding countries, to work with acceding Members towards full implementation of WTO obligations, and to address outstanding trade issues covered by the WTO in a multilateral context.

LDC Accessions:

WTO Members are committed to accelerating the accession process of least-developed countries (LDCs) and in making WTO accession more accessible to these applicants. The accession negotiations for all LDC accession applicants are guided by the simplified and streamlined procedures developed for these

[19] As outlined below, negotiations with applicants designated as "least-developed" by the United Nations are subject to special procedures and guidelines, and do not, as a rule, fully implement WTO provisions prior to accession.

[20] Working Party adoption is by "consensus," or without an objection by any WP Member. While there are provisions in the WTO Agreement for the Ministerial Conference or General Council to approve accessions by a two-thirds affirmative vote, in practice, accessions are approved by consensus.

countries at the end of 2002 in the WTO General Council Decision on Accessions of Least-Developed Countries (WT/L/508). Under these guidelines, the accession process becomes a tool for economic development, incorporating the applicant's own development program and laying out an action plan for progressive implementation of WTO rules. The market access schedules and protocols of accession developed under these guidelines reflect the need to address realistically these countries' real trade capacity deficiencies and the difficulties they face in achieving normal WTO accession objectives. Using the guidelines, WTO Members pledged to exercise restraint in seeking market access concessions and to agree to transitional arrangements for implementation of WTO Agreements.

U.S. Leadership and Technical Assistance:

As a matter of longstanding policy, the United States takes a leadership role in all aspects of the accessions, including bilateral, plurilateral, and multilateral negotiations. The objective is to ensure that new Members fully implement WTO provisions and to encourage trade liberalization in developing and transforming economies, as well as to use the opportunities provided in these negotiations to expand market access for U.S. exports. The United States also provides a broad range of technical assistance to countries seeking accession to the WTO to help them meet the requirements and challenges presented, both by the negotiations and the process of implementing WTO provisions in their trade regimes. This assistance is provided through USAID, USDA, and the Commercial Law Development Program (CLDP) of the U.S. Department of Commerce.

This assistance can include short-term technical expertise focused on specific issues (e.g., customs procedures, intellectual property rights protection, or technical barriers to trade) and/or a WTO expert in residence in the acceding country or customs territory. A number of the WTO Members that have acceded since 1995 received technical assistance in their accession process from the United States, e.g., Albania, Armenia, Bulgaria, Cape Verde, Croatia, Estonia, Georgia, Jordan, Kyrgyz Republic, Latvia, Lithuania, Macedonia, Moldova, Nepal, Ukraine, and Vietnam. Most of these countries had U.S.-provided resident experts for some portion of the process.

Current accession applicants to which the United States provided a resident expert or other long-term assistance for the accession process during 2009 include: Afghanistan, Azerbaijan, Bosnia and Herzegovina, Ethiopia, Iraq, Laos, Lebanon, Montenegro, Serbia, and Yemen. In addition, a U.S.-funded WTO expert resident in Bishkek provides resident WTO accession assistance to Kazakhstan and Tajikistan, as well as post-accession assistance to the Kyrgyz Republic. In February 2009, members of the National Assembly of Laos PDR participated in a USAID-sponsored workshop on the WTO accession process and Member obligations under the WTO Agreement. Among current accession applicants, Algeria, Belarus, Russia, and Uzbekistan also received U.S. technical assistance earlier in their accession processes.

Major Issues in 2009

All accession-related negotiations will require attention and resources from WTO delegations. Work on accessions tends to focus on those applicant countries that demonstrate a strong interest in completing the process (e.g., by submitting usable documentation on a timely basis), through progress on market access and legal changes to implement WTO provisions, or by making progress on development of the text of the report of the Working Party. Work on other applicants' accession processes moves forward as well, but more slowly. Activity was more evenly distributed in 2009, however. Negotiations with Montenegro, Samoa, Russia, and Kazakhstan, which had been advancing towards conclusion, all slowed in the second half of the year, providing an opportunity for other applicants (e.g., Serbia) to shift Members' focus towards their negotiations.

Montenegro:

Montenegro had successfully completed its market access negotiations with all Members except Ukraine at the end of 2008. Since its draft WP report is also substantially finalized, General Council approval of the terms of accession was expected early in 2009. Montenegro and Ukraine met several times during 2009 and made substantial progress towards agreement on both goods and services market access. However, these negotiations had not been completed at the end of 2009.

Serbia:

Serbia made substantial progress in both market access negotiations and multilateral review of its trade regime in 2009. In addition, legislative implementation of WTO provisions, which had been suspended by an extended political crisis, resumed in May. By the end of the year, Serbia was still negotiating bilaterally with only a few Members (including the United States, Ukraine, Korea, Ecuador, Brazil, and Norway) and in a few cases on only one or two issues. WP review of Serbia's trade regime, as reflected in the draft WP report, also moved forward based on comprehensive comments submitted by the United States and other WTO delegations after the July WP meeting. WP Members also reviewed new legislation on standards and technical regulations, sanitary and phytosanitary measures, and the new Customs Code. Less promising was Serbia's enactment in June of a new law banning trade in any products containing genetically modified organisms (GMO). The United States and other WTO Members have objected to this measure, and Serbia has agreed to modify it to bring it into line with WTO rules.

Russia:

At the end of May 2009, Russia's WTO accession process seemed to be entering its concluding phase. Russia had completed its bilateral market access negotiations on tariffs and services commitments with all interested WTO Members except for Georgia, and the Secretariat was working to merge these bilateral market access agreements into consolidated schedules. Plurilateral review of Russia's recent data on agricultural supports and export subsidies had commenced. Further plurilateral review of new draft legislation on sanitary and phytosanitary measures was planned. Notwithstanding this progress, work remained to be completed on enacting remaining WTO implementing legislation (e.g., in the areas of customs valuation, licensing, intellectual property rights, and sanitary and phytosanitary measures) as well as on a number of other substantive and technical points. In early June, Russia signaled it was ready to move forward and indicated that there would soon be a plan for resolving most of the outstanding issues.

In Moscow on June 9, however, Russia, Kazakhstan, and Belarus announced they would form a customs union, beginning with the establishment of a common external tariff (CXT) by January 1, 2010. They suspended their accession negotiations and, for a time, indicated their intent to join the WTO as a customs union. Subsequent Russian statements (as well as those of Kazakhstan and Belarus) made bilaterally to the press and in informal meetings with WTO Members in Geneva did not fully clarify the implications of this decision on their WTO accession processes or present a clear plan for moving forward. Bilateral and multilateral work on Russia's WTO accession halted. Most recently, the three customs union partners have indicated their intent to move forward in their individual accession negotiations, but to accede to the WTO "simultaneously" and "on the same terms" in areas where customs union regulations have superseded the respective national trade regimes. At the last informal consultation, in October in Geneva, WTO Members emphasized the need to receive information on the changes that customs union membership would require in their trade regimes, as well as data on changes that were contemplated in the tariff and other commitments they had already made in their accession negotiations. The customs

union partners were asked to provide WTO Members with this information in writing. At the end of 2009, Members had not received this information.

Kazakhstan:

Prior to the June 9 announcement of formation of a customs union with Russia and Belarus, Kazakhstan had intensified its efforts to complete its bilateral negotiations on market access for goods and services, concluding several more agreements. In a series of video conferences in April, the United States and Kazakhstan recorded significant progress on goods tariffs and on other issues affecting market access (e.g., on sanitary and phytosanitary measures, and on protection of intellectual property rights). Kazakhstan also continued to make necessary legislative changes to implement WTO provisions. Bilateral discussions in April helped to clarify outstanding issues for both sides on trade in services. Since the customs union does not cover services, USTR expects that Kazakhstan will provide a revised offer when negotiations restart. Other outstanding bilateral issues include completion of tariff negotiations, the provision of trading rights, import licensing procedures for electronic goods with encryption, and the operation of state-owned and state-controlled enterprises. Multilaterally, Kazakhstan is working on responses to questions received from the WTO Members after its last WP meeting. These responses will form the basis for a revised WP report text to be considered at the next meeting of its WP. As with Russia, Kazakhstan suspended bilateral and multilateral work on its accession after the June 9 announcement. In addition, Kazakhstan has indicated that it intends to renegotiate tariff commitments already agreed in its accession process in order to be able to establish harmonized tariff commitments with Russia and Belarus upon accession to the WTO. The United States and other WTO Members await a signal from Kazakhstan that it is prepared to resume work as well as the information necessary to undertake that work.

LDC Accessions

During 2009, Members continued to give priority attention to LDC accession applicants actively negotiating. These applicants are Afghanistan, Ethiopia, Laos, Samoa, Vanuatu, and Yemen, the last four of which met either bilaterally or multilaterally with Members at least once in 2009. Negotiations with Samoa and Vanuatu are well advanced. Afghanistan, whose accession process had not been activated in 2008, circulated its MFTR in April and intensified its efforts, with U.S. technical assistance, to develop the legislation and institutions necessary for the implementation of WTO provisions.

Samoa:

Samoa's WTO accession made significant progress during 2009, and many had hoped that its terms of accession would be approved by the Seventh Ministerial Conference in December. The Working Party met informally twice. Three technical assistance visits by the WTO Secretariat, additional help from Australia on legislative drafting, and comprehensive comments submitted by WP Members provided the basis for a substantial revision of the draft WP report. Samoa also completed its bilateral market access negotiations with Australia, New Zealand, and Japan and nearly completed work on trade in goods with the United States and the EU. A devastating tsunami hit Samoa's capital city in September, however, dashing hopes for completing the work in 2009. At the last informal meeting of the Working Party in October, the WP Chairman noted that Samoa needs to complete its market access negotiations with the United States, the EU, and Ukraine as soon as possible. She also called on Samoa to finalize its commitments on WTO implementation in the areas of trading rights, customs valuation, and intellectual property rights; to circulate revised draft legislation in these areas; and to work with interested delegations to replace a handful of WTO-inconsistent import bans still in place in its trade regime.

Vanuatu:

Vanuatu completed negotiations with WTO Members in 2001, but refused to have the terms of its accession submitted to the Ministerial Conference for approval. In 2004 and again in 2008, Vanuatu formally notified the WTO Secretariat that it wanted to renegotiate its accession package (specifically, certain services commitments) with a view to finally completing the process and becoming a WTO Member. Vanuatu has agreed that this will require some updating of the 2001 package in addition to its revised offer on trade in services and the re-submission of the revised terms of accession to the current WTO membership. In bilateral negotiations in November 2008, Vanuatu accepted the U.S. response to its proposal for renegotiation (i.e., new commitments in services sectors of interest to the United States in exchange for agreement to the requested changes) and has shared the new offer with other delegations that had negotiated market access in 2001. The WTO Secretariat has updated the WP report text based on material submitted by Vanuatu. At the end of 2009, Vanuatu was reviewing the revised WP report text and its 2001 Protocol and tariff schedule commitments in light of its current legislation and applied tariff rates.

Other Developments:

During 2009, developing country and LDC Members and accession applicants intensified their complaints about the current accession process and on how the WTO guidelines on LDC accessions are being implemented. Complaints focused on the length of time it may take to complete an accession, the demands made by current WTO Members in the negotiations, and in general a perceived lack of transparency and automaticity in the entire accession process. Discussions on these issues, and proposals to revise the LDC accession process to address them, continued in various WTO fora throughout the year, including at several sessions of the General Council, at the March and September meetings of the Subcommittee for LDCs under the Committee on Trade and Development, and at a special informal meeting in May labeled a "Dialogue on LDC Accessions." In addition, the issue was on the agenda of meetings of LDCs in Phnom Penh, Cambodia and in Dar-Es-Salam, Tanzania in October preparing for the WTO's Seventh Ministerial Conference in December. Specific proposals ranged from revising or interpreting the Decision on LDC Accessions (WT/L/508) to make its provisions more specific and more automatic, to encouraging additional interventions on LDC applicants' behalf by the WTO Director-General, to requiring periodic discussions on the status of LDC accessions in the General Council that better reflected LDC complaints. At the end of 2009, however, none of these proposals had been adopted, as many Members disagreed with the contention that new institutions or changes in the 2002 Decision were necessary.

The United States and other developed country WTO Members have strongly supported the General Council Decision on LDC Accessions, strictly adhering to the guidelines in formulating more flexible negotiating positions on market access and WTO implementation commitments for LDCs since its implementation in 2002. The guidelines in the Decision also have worked well in encouraging the provision of technical assistance to LDCs, thus ensuring that LDCs are better prepared for the responsibilities of WTO Membership and in general facilitating their integration into the multilateral trading system. In this way, the accession process for LDCs becomes a development tool and an opportunity to build trade capacity and to help establish a better economic environment for investment and growth.

Prospects for 2010

The pace of work on WTO accessions should accelerate in 2010. A number of applicants have just activated their negotiations and those nearing completion will press forward. Montenegro is completing

its accession process and will likely become the 154th WTO Member. It appears that Samoa's prospects for completing negotiations in early 2010 remain good, and Vanuatu's revised accession package may also be forwarded for review and approval by the General Council later in the year. Afghanistan, Iran, and The Bahamas will be eligible for initial WP meetings after they respond to Members' questions and comments on the MFTRs. Working Party meetings with Bosnia and Herzegovina, Serbia, and Yemen are planned for January and February 2010, at which time WTO Members also will continue bilateral goods and services market access negotiations. Additional WP sessions during 2010 are also likely for Ethiopia, Iraq, Laos, Seychelles, and Tajikistan. Resumption of WP deliberations with Azerbaijan and Lebanon are possible, but will depend on the timing and the quality of requested revised market access offers, as well as on tangible progress on legislative implementation. Work on the accessions of Russia and Kazakhstan should resume in 2010 after information on their new trade regimes has been circulated and reviewed by Members.

Efforts to advance the accessions of LDCs will continue, as will stepped-up monitoring of the application of the Decision on LDC Accessions in ongoing negotiations. Special focus on completing negotiations with Samoa and Vanuatu is expected, as they are already well advanced. Ethiopia, Laos, and Yemen are other LDCs in the accession process that are actively negotiating at this time.

7. Aid for Trade

Status

Aid for Trade is an effort to help developing countries in their efforts to take advantage of the opportunities of the multilateral trading system by connecting the trade priorities of developing countries with trade capacity building assistance to help those countries implement trade commitments. WTO Members have agreed on the need to improve the efficacy and efficiency of aid and capacity building efforts amongst WTO Members and other international organizations.

The Enhanced Integrated Framework (EIF) for trade-related technical assistance for least-developed countries (both WTO Members and non-Members) is the subset of Aid for Trade designed exclusively for that set of countries. The EIF is a multi-organization (including the WTO, World Bank, IMF, UNCTAD, UNDP, UNIDO, and the International Trade Centre), multi-donor program that operates as a coordination mechanism for trade-related assistance to LDCs with the overall objective of integrating trade into national development plans.

Major Issues in 2009

Work on Aid for Trade during 2009 focused on design and implementation of the monitoring framework envisioned in the task force report and preparations for the second Global Review of Aid for Trade in July 2009. The WTO Secretariat and its regional development bank partners held a number of focused regional discussions of Aid for Trade in Latin America, Africa, and Asia with participation from trade, finance, and development officials in preparation for the global review

The monitoring framework includes global monitoring of aid flows using the data resources of the OECD's Development Assistance Committee, country-level monitoring of progress in mainstreaming/integrating trade in national development plans, and case studies of best practices.

The EIF began its work in earnest, finalizing the monitoring and evaluation framework developed during 2008 and approving projects. Approval of the first projects under the second window will begin early in 2010.

Prospects for 2010

Based on the Committee on Trade and Development's Aid for Trade Roadmap: 2010-11, work in 2010 will focus on several main projects:

- The joint OECD Development Assistance Committee/Trade Committee will continue its work on efficient and effective ways to evaluate Aid for Trade activities;
- Focused events in Geneva to highlight the role of trade-related activities in development sectors like agriculture (including food security), underlining the importance of mainstreaming trade in national development plans;
- Support for regional integration; and
- Highlighting effective aid for trade strategies.

The third Global Review of Aid for Trade will take place in 2012.

L. Plurilateral Agreements

1. Committee on Trade in Civil Aircraft

Status

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) entered into force on January 1, 1980, and is one of two WTO plurilateral agreements (along with the Agreement on Government Procurement) that are in force only for those WTO Members that have accepted it.[21]

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components, and to provide these benefits on a nondiscriminatory basis to other signatories. In addition, the Signatories have agreed provisionally to provide duty-free treatment for ground maintenance simulators, although this item is not covered under the current agreement. The Aircraft Agreement also establishes various obligations aimed at fostering free market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

There are currently 31 Signatories to the Aircraft Agreement: Albania,[22] Canada, the EU[23] (the following 20 EU Member States are also Signatories to the Aircraft Agreement in their own right: Austria, Belgium, Bulgaria, Denmark, Estonia, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Spain, Sweden and the United Kingdom), Egypt, Georgia, Japan, Macao China, Norway, Switzerland, Chinese Taipei and the United States. Those WTO Members with observer status in the Committee are: Argentina, Australia, Bangladesh, Brazil, Cameroon, China, Colombia, Gabon, Ghana, India, Indonesia, Israel, the Republic of Korea, Mauritius, Nigeria, Oman,

[21] Additional information on this agreement can be found on the WTO's website at: http://www.wto.org/english/tratop_e/civair_e/civair_e.htm.
[22] Albania became a Signatory to the Aircraft Agreement in 2009.
[23] Currently comprising 27 Member States: Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Ireland, Greece, Spain, France, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, the Netherlands, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland, Sweden, and the United Kingdom.

Saudi Arabia, Singapore, Sri Lanka, Trinidad and Tobago, Tunisia, Turkey, and Ukraine.[24] In addition, the Russian Federation is an observer. The IMF and UNCTAD are also observers.

The Committee on Trade in Civil Aircraft (Aircraft Committee), permanently established under the Aircraft Agreement, provides the Signatories an opportunity to consult on the operation of the Aircraft Agreement, to propose amendments to the Agreement, and to resolve any disputes.

Major Issues in 2009

The Aircraft Committee held one regular meeting on October 15, 2009. At this meeting, the Committee discussed the Technical Note prepared by the Secretariat on possible revisions to the Product Coverage Annex in the light of the Harmonized Commodity and Description System that entered into force in 2007. The Committee agreed to request the Secretariat to prepare and circulate an updated Technical Note, taking into account the comments and questions received thus far, which could serve as a basis for further discussions at the next meeting of the Committee in 2010. The Committee also reconsidered the February 2009 letter from the Chair of the General Council inviting Signatories to hold consultations on ways to improve the timeliness and completeness of notifications and other information flows on trade measures falling within the scope of its areas of responsibility under the Aircraft Agreement. The Committee agreed that, at present, there was no need to discuss how to improve the information flows on trade measures falling within its scope of work. The Technical Sub-Committee of the Committee on Trade in Civil Aircraft did not meet during the period under review and neither did the Sub-Committee of the Committee on Trade in Civil Aircraft.

Prospects for 2010

The Aircraft Committee agreed to meet at least once, in the fall of 2010. The United States will continue to encourage Croatia and Oman to become Signatories pursuant to their respective protocols of accession and will continue to encourage current Committee observers and other WTO Members to become Signatories to the Aircraft Agreement.

2. Committee on Government Procurement

Status

The WTO Agreement on Government Procurement (GPA) is a "plurilateral" agreement included in Annex 4 to the WTO Agreement. As such, it is not part of the WTO's single undertaking and its membership is limited to WTO Members that specifically signed the GPA in Marrakesh or that have subsequently acceded to the Agreement. WTO Members are not required to join the GPA, but the United States strongly encourages all WTO Members to participate in this important agreement.

Forty-one WTO Members are parties to the GPA: Canada; the EU and its 27 Member States (Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong China, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, Switzerland, Taiwan (Chinese Taipei), and the United States (collectively the GPA Parties).

[24] Ukraine became an observer to the Aircraft Committee in 2009.

As of the end of 2009, nine Members are in the process of acceding to the GPA: Albania, Armenia, China, Georgia, Jordan, Kyrgyz Republic, Moldova, Oman, and Panama. Five additional Members have provisions in their respective Protocols of Accession to the WTO or Working Party reports regarding accession to the GPA: Croatia, the Former Yugoslav Republic of Macedonia, Mongolia, Saudi Arabia, and the Ukraine.

When China joined the WTO in 2001, it committed to commence negotiations to join the GPA "as soon as possible." In April 2006, China agreed in the Joint Committee on Commerce and Trade (JCCT) to submit its initial offer of coverage by the end of 2007. Based on these commitments, China submitted its application for accession to the GPA and its Initial Appendix I Offer on December 28, 2007. The United States submitted its Initial Request for improvements in China's Initial Offer on May 19, 2008. China also submitted its responses to the Checklist of Lists for Provision of Information relating to its GPA accession on September 15, 2008. At the U.S-China Strategic and Economic Dialogue in July 2009, China committed to submit a report to the WTO Committee on Government Procurement setting out the elements of its revised offer. At the JCCT meeting in October 2009, China committed to table a revised offer in 2010. In October, China submitted a report to the GPA Committee on its plans for submission of a revised offer, and the difficulties it has encountered in revising its offer.

Armenia submitted its application for accession and initial coverage offer on September 4, 2009. In addition, the Kyrgyz Republic's accession to the GPA, which had been inactive since 2003, moved forward with its submission of updated responses to the checklist of issues. Moldova, which had commenced its accession in November 2008, requested in May that further active consideration of its accession be deferred until its government completed a reorganization. Jordan made little progress in its accession as it is encountering domestic difficulties.

Twenty-one WTO Members, including those in the process of acceding to the GPA, have observer status in the GPA Committee: Albania, Argentina, Armenia, Australia, Bahrain, Cameroon, Chile, China, Colombia, Croatia, Georgia, Jordan, Kyrgyz Republic, Moldova, Mongolia, New Zealand, Oman, Panama, Saudi Arabia, Sri Lanka, and Turkey. Four intergovernmental organizations (IMF, International Trade Centre, OECD, and UNCTAD) also have observer status.

Article XXIV:7(b) of the GPA calls for the Parties to undertake further negotiations to improve the Agreement and to expand the procurement that they cover under the GPA. In December 2006, the GPA Committee reached provisional agreement on a substantial revision of the text, subject to a legal check and to a mutually satisfactory outcome in the coverage negotiations. The new GPA text will be used as the basis for negotiations with countries in the process of acceding to the GPA. Most of the work on the legal check of Articles I through XXI of the revised text was completed in 2007. Issues remain on the Final Provisions in Article XXII and related texts, and significant work remains on the draft decisions on arbitration procedures and indicative criteria.

Major Issues in 2009

Chinese Taipei became a GPA Party in July 2009. With its accession, Chinese Taipei fulfilled a commitment when it joined the WTO in 2002.

During 2009, the GPA Committee held five meetings (in February, May, July, October, and December) during which Parties focused primarily on the accessions of China, Jordan, Chinese Taipei, and Armenia. It also continued negotiations on both coverage and text-related issues. With respect to the revision of the GPA text, the Committee neared completion of verification of the linguistic consistency of the English, French, and Spanish texts of the revision of the GPA.

With respect to the negotiations under GPA Article XXIV:7 that are aimed at expanding procurement covered by the Agreement, little progress was made during 2009, other than Singapore's submission of a revised offer. As of the end of 2009, 11 Parties had submitted initial offers (the United States, Canada, the EU, Iceland, Israel, Japan, Korea, Norway, Singapore, Switzerland, and Aruba), but only 7 Parties had submitted revised offers (the United States, Japan, Korea, the EU, Norway, Singapore, and Switzerland). Initial offers have not yet been submitted by Hong Kong China or Liechtenstein.

The GPA Committee held discussions at informal meetings on China, Jordan and Armenia's accessions to the GPA.

Prospects for 2010

The GPA Committee has tentatively scheduled five meetings for 2010, with the first set for the week of February 8, where it is expected to continue work on the accessions of Jordan, China, Armenia, and Moldova. The Committee also will make a renewed effort to complete the revision of the GPA during 2010.

3. Committee of Participants on the Expansion of Trade in Information Technology Products

Status

The WTO Ministerial Declaration on Trade in Information Technology Products (Information Technology Agreement (ITA)) was concluded at the WTO's First Ministerial Conference at Singapore in December 1996. Original participants in the ITA eliminated tariffs as of January 1, 2000 on a wide range of information technology products and modified their WTO schedules of tariff concessions accordingly. In 2009, the ITA had 45 participants (covering 72 Members and States or separate customs territories in the process of acceding to the WTO) representing approximately 97 percent of world trade in information technology products.[25] The ITA covers a wide range of information technology products including computers and computer peripheral equipment, electronic components including semiconductors, computer software, telecommunications equipment, semiconductor manufacturing equipment, and computer-based analytical instruments.

Major Issues in 2009

The WTO Committee on the Expansion of Trade in Information Technology Products did not hold a formal meeting in 2009. However, the Committee did hold an informal consultation with ITA participants in March to discuss classification divergences on certain ITA products. The Committee also discussed the EU's September 2008 proposal calling for immediate negotiations to review the ITA, under the premise that the existing Agreement is inadequate to address new developments in technology. Several countries, including the United States, continued to raise significant questions and concerns about the EU proposal.

[25] ITA participants are: Albania; Australia; Bahrain; Canada; China; Costa Rica; Croatia; Dominican Republic, Egypt; El Salvador; European Communities (on behalf of 27 Member States); Georgia; Guatemala, Hong Kong, China; Honduras, Iceland; India; Indonesia; Israel; Japan; Jordan; Korea; Krygyz Republic; Macao, China; Malaysia; Mauritius; Moldova; Morocco; New Zealand; Nicaragua, Norway; Oman; Panama; Peru; Philippines; Saudi Arabia; Singapore; Switzerland (on the behalf of the customs union of Switzerland and Liechtenstein); Chinese Taipei; Thailand; Turkey; United Arab Emirates; Ukraine; Vietnam; and the United States.

On August 18, 2008, the United States, Japan, and Chinese Taipei jointly requested the establishment of a dispute settlement panel to determine whether the EU is acting consistently with its WTO obligations in its tariff treatment of certain ITA products. WTO Dispute Settlement Panel meetings were held in this dispute in 2009. *(For additional information, see Chapter II.I.)*

Prospects for 2010

The next meeting of the Committee has not yet been determined.

III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

A. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. U.S. two-way trade with Australia was $26.7 billion in 2009, up 23 percent from 2004. U.S. goods exports were $18.9 billion in 2009, up 33 percent from 2004, and U.S. goods imports were $7.8 billion, up 3.5 percent from 2004.

Agricultural trade between the United States and Australia continued to grow in 2009. The FTA established working groups aimed at promoting closer cooperation between the two countries in this sector and creating fora for discussing agricultural and sanitary and phytosanitary issues. The working groups met in August 2009 to address specific bilateral animal and plant health matters with a view to facilitating agricultural trade.

In October 2009, the United States and Australia completed the fourth annual FTA review. The two sides reviewed implementation of the agreement and exchanged views on a range of issues under the FTA, including trade in agriculture products, sanitary and phytosanitary issues, government procurement, and protection of intellectual property rights.

The United States and Australia also discussed each government's implementation of the obligations contained in the environment chapter of the FTA and exchanged views on how to improve communication on trade and environment issues, including possible collaboration. Both governments agreed to hold discussions between trade and environment experts in the coming months.

The FTA review also provided an opportunity to further a discussion of labor issues and potential areas for labor cooperation. As a result, it was agreed that labor officials from the two governments would meet in the coming months to build on this dialogue.

2. Bahrain

The United States-Bahrain FTA, which entered into force on January 11, 2006, generates export opportunities for the United States, creating jobs for U.S. farmers and workers. The agreement also supports Bahrain's economic and political reforms and enhances commercial relations with an economic leader in the Arabian Gulf. On the first day the agreement took effect, 100 percent of the two-way trade in industrial and consumer products began to flow without tariffs. Because of the FTA, U.S. farmers have significantly increased their agricultural exports to Bahrain. In addition, Bahrain opened its services market wider than any previous FTA partner, creating important new opportunities for U.S. financial service providers and companies that offer telecommunications, audiovisual, express delivery, distribution, healthcare, architecture, and engineering services.

The central oversight body for the Agreement is the United States-Bahrain Joint Committee (JC), chaired jointly by the Office of the U.S. Trade Representative and Bahrain's Ministry of Industry and Commerce. The second meeting of the JC was held on October 21, 2009. During this meeting officials discussed a

broad range of trade issues. In particular, they discussed the considerable efforts during 2009 by both governments to ensure effective implementation of key customs-related aspects of the FTA, including through targeted technical assistance to Bahrain's customs authorities, as well as trade initiatives by the Gulf Cooperation Council, of which Bahrain is a member. Officials also signed a Joint Committee Decision on the Government Procurement Annex and a Protocol regarding changes to Annex 3-A of the Agreement related to the Harmonized Commodity Description and Coding System. In addition, the two governments discussed initiatives to monitor implementation and compliance with the labor and environmental obligations in the FTA and additional cooperative efforts related to labor rights and environmental protection.

The discussion on labor issues during the JC meeting built upon a USTR-led mission to Bahrain earlier in the month under the auspices of the FTA labor chapter. During the visit, U.S. government officials from USTR and the Departments of Labor and State held meetings with Bahrain's Ministry of Labour and Social Affairs as well as with representatives from labor and business groups and other government officials. As part of ongoing labor cooperation and capacity building activities, the U.S. Department of Labor is funding a project implemented by the International Labor Organization to increase the effectiveness of labor inspections by Bahrain's labor ministry. During the next year, the two governments will continue to hold discussions between their respective experts on labor and environmental issues to ensure effective compliance with FTA obligations. In addition, the two governments will initiate steps to formally establish a Subcommittee on Labor under the Joint Committee of the FTA.

The U.S.-Bahrain FTA also promotes the policy of advancing economic reforms and liberalization in the Middle East. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

3. Central America and the Dominican Republic

a. Overview

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. The CAFTA-DR is the first free trade agreement between the United States and a group of smaller developing economies. This agreement is creating new economic opportunities by eliminating tariffs, opening markets, reducing barriers to services, and promoting transparency. It is facilitating trade and investment among the seven countries and furthering regional integration.

Central America and the Dominican Republic represent the third largest U.S. export market in Latin America, behind Mexico and Brazil. U.S. exports to the CAFTA-DR countries were valued at $19.5 billion in 2009. Combined total two-way trade in 2009 between the United States and Central America and the Dominican Republic was $37.9 billion.

The agreement entered into force for the United States and El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009. With the addition of Costa Rica, the CAFTA-DR is in force for all seven countries that signed the agreement.

On August 15, 2008, the CAFTA-DR Parties implemented important changes to the agreement's textiles provisions, including changing the rules of origin to ensure that pocket fabric in apparel is sourced from the United States or another CAFTA-DR Party. The Parties also implemented a reciprocal textile input

sourcing rule with Mexico. Under this rule, Mexico will provide duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. input, and the United States will provide reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican input. These changes will further strengthen and integrate regional textile and apparel manufacturing and create new economic opportunities in the United States and the region.

b. Elements of the CAFTA-DR

i. Operation of the Agreement

The central oversight body for the CAFTA-DR is the Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the trade ministers of the other CAFTA-DR Parties or their designees. The FTC is responsible for supervising the implementation and operation of the agreement.

ii. Labor

The CAFTA-DR Vice Ministers of Labor met in February 2009. The vice ministers reviewed progress on the implementation of the CAFTA-DR labor chapter, discussed labor cooperation and capacity building efforts to date, and identified priorities for future capacity building activities. Ongoing labor capacity building activities are supporting efforts to improve the enforcement of labor laws in the CAFTA-DR countries. In particular, U.S. Government assistance focuses on strengthening and modernizing the labor ministries and justice systems in the CAFTA-DR countries, and promoting a culture of compliance with labor laws in each CAFTA-DR country.

The AFL-CIO and several Guatemalan unions filed a submission in April 2008 under the CAFTA-DR labor procedures, alleging that the government of Guatemala is failing to effectively enforce its domestic labor laws with regard to freedom of association, the right to bargain collectively, and acceptable conditions of work in five separate cases. The U.S. Department of Labor conducted a review and issued a public report on January 16, 2009 in which it identified significant weaknesses in Guatemala's ability to enforce its labor laws and made recommendations on steps that Guatemala should take to address these concerns. Throughout 2009, an interagency team including USTR, the Department of Labor, and the State Department worked extensively with the government of Guatemala to address issues identified in the report. This engagement included several high-level meetings in Guatemala and the United States between U.S. and Guatemalan officials. The government of Guatemala has made some progress in addressing the concerns identified in the report, including the reinstatement of several workers that had been wrongfully discharged. The United States will continue to work closely in 2010 with the Guatemalan government in an effort to resolve outstanding issues and address systemic concerns with the administration and enforcement of labor law in Guatemala.

iii. Environment

In March 2009, the Parties held the fourth meeting of the CAFTA-DR Environmental Affairs Council (EAC). The EAC discussed the implementation of, and progress under, the environment chapter of the agreement. Among other things, the EAC reviewed the Working Procedures and a Public Outreach Plan for the Secretariat for Environmental Matters under the CAFTA-DR ("Secretariat"), appointed a new General Coordinator for the Secretariat, and considered presentations on various accomplishments under the CAFTA-DR Environmental Cooperation Program. The Council also met in a public session to provide civil society an opportunity to discuss matters relating to the implementation of the environment chapter, including environmental cooperation and capacity building.

A submission alleging that El Salvador is failing to effectively enforce its environmental laws was filed with the Secretariat in 2009. The Secretariat also continues work on a submission concerning the Dominican Republic that was filed in 2007. USTR and other U.S. Government agencies are working with the Secretariat to improve the timeliness of its work on these submissions.

iv. Trade Capacity Building

Trade Capacity Building (TCB) programs and planning continued in 2009 with USTR, and with USAID and other donors, such as the U.S. Department of Agriculture, meeting bilaterally with CAFTA-DR partner countries. Discussions focused on the prioritization of CAFTA-DR partners' trade capacity building objectives, including successful implementation and full utilization of the opportunities created by the CAFTA-DR. These bilateral meetings also focused on the prioritization and coordination of donor responses to countries' TCB objectives, in areas such as customs, telecommunications, and intellectual property. *(For additional information, see Chapter VI.A.5.)*

v. Other implementation matters

The political crisis in Honduras hindered the United States' ability to work with its CAFTA-DR partners on plurilateral matters in 2009. However, the United States continued to work closely with its CAFTA-DR partners on bilateral matters related to the agreement, with a particular focus on ensuring that its partners properly implement the agreement. For example, the U.S. Government worked with the government of Costa Rica to review and support its efforts to follow through on commitments it made to enact legislation making certain corrections to its intellectual property rights laws and to ensure effective regulations on agricultural chemicals. The United States also closely followed developments in Costa Rica's telecommunications sector on opening wireless services to competition. Moreover, a joint USTR and U.S. Department of Agriculture delegation traveled to El Salvador, Guatemala, and Nicaragua to meet with trade, agriculture, and customs officials in those countries to discuss the administration of agricultural tariff-rate quotas under the CAFTA-DR, which form an important component of U.S. market access under the agreement.

4. Chile

a. Overview

The United States-Chile Free Trade Agreement (FTA) entered into force on January 1, 2004.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for trade in services, provides protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anticompetitive business conduct, and requires effective labor and environmental enforcement. In 2009, U.S. exports to Chile decreased by 26 percent to $8.8 billion, while U.S. imports from Chile decreased by 29 percent to $5.8 billion.

b. Elements of the United States-Chile FTA

i. Operation of the Agreement

The central oversight body for the Agreement is the United States-Chile Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Chilean General Directorate for International Economic Affairs or their designees.

The FTC held its sixth meeting on November 10, 2009, during which the two governments evaluated progress on implementing the FTA during 2009. The FTC reviewed the operation of the specialized committees established under the FTA and concluded that good progress had been made. The Committee on Sanitary and Phytosanitary (SPS) issues and the Committee on Technical Barriers to Trade met during 2009. Experts from respective Labor Departments engaged in a number of robust technical level discussions in 2009, and a meeting of the Environmental Affairs Council has been scheduled for January 2010.

The United States and Chile also discussed modifications to Annex 7.8 of Chapter 7 (Technical Barriers to Trade) of the FTA to reflect a change for Chile in the government agency responsible for implementation of the Annex. The Parties expect to complete the modification in 2010.

In early 2009, U.S. and Chilean officials concluded an agreement with an exchange of letters regarding U.S. certification of beef grade labeling. This agreement allowed for a partial resumption of American beef shipments to Chile in 2009.

ii. Labor

The FTA establishes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. In 2009, the U.S. and Chilean Ministries of Labor held a number of technical exchanges on workforce development, labor inspections and labor market information. U.S. Secretary of Labor Hilda Solis and Chilean Minister of Labor Claudia Serrano met in Buenos Aires in October 2009 to discuss areas of mutual interest including future cooperative activities.

iii. Environment

On January 20, 2010, the U.S. and Chilean governments convened the fifth meeting of the Environmental Affairs Council, co-led by USTR and the Department of State for the United States, and by the National Council on Environment (CONAMA) and the Foreign Ministry for Chile, to discuss implementation of the FTA's environment chapter. At this meeting, both governments agreed to improve monitoring of implementation and compliance efforts related to the FTA's environment chapter, including through an exchange of information related to any changes to environmental laws, regulations or other measures.

The Environmental Affairs Council invited the U.S. Trade and Environmental Policy Advisory Committee (TEPAC) Members and Liaisons to participate in the January 2010 meeting and to have an exchange on trade and environment issues. Participants in the meeting reviewed public outreach activities and transparency in environmental decision making during 2009. The Parties agreed to hold the next Environmental Affairs Council meeting in Chile in late 2010 or early 2011.

iv. Intellectual Property Rights

The assessment that Chile's protection and enforcement of intellectual property rights (IPR) continues to fall well below expectations of a U.S. FTA partner was reflected in USTR's 2009 decision to maintain Chile on the Special 301 Priority Watch List. There remain substantive deficiencies in Chile's IPR laws and regulations and concerns about inadequate IPR enforcement, including significant copyright piracy of movies, music, and software. The United States also remains concerned about inadequate protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products, and urges Chile to provide an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. Chile's Congress continues to deliberate on a number of bills that must be enacted in order for Chile to make further progress in bringing its IPR regime into line with its commitments under the FTA. The United States will continue working with Chile to improve IPR protection and enforcement so as to ensure full implementation of the FTA. At the sixth meeting of the FTC in November 2009, the Commission recognized the constructive exchange of information between the United States and Chile regarding Chile's implementation of its IPR commitments, while noting U.S. concerns regarding specific areas of Chile's implementation.

5. Israel

This year, 2010, marks the twenty-fifth anniversary of the United States-Israel Free Trade Agreement, which was the first FTA entered into by the United States. It continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency. In 2009, U.S. goods exports to Israel declined by 36 percent to $9.3 billion, while U.S. imports from Israel decreased 18 percent to $18.3 billion.

The central oversight body for the FTA is the United States-Israel Joint Committee. In December 2009, the Joint Committee met to exchange views on issues and concerns related to agricultural market access and telecommunications and government procurement, among other topics. Both governments acknowledged the progress and collaborative work that has taken place since the last meeting of the Joint Committee in Washington, DC which was in October 2007. At the 2009 meeting, the United States and Israel agreed that the two sides would explore discussions of a mutual recognition agreement on telecommunications and explore concerns voiced by U.S. exporters in meeting Israeli customs requirements. They also made progress on a number of market access issues related to standards, customs classification, and technical regulations. Both sides agreed to continue the dialogue through the U.S.-Israel Working Group on Standards and Technical Regulations, which last met in March 2009.

Recognizing in the 1990s that the FTA had not served to liberalize some aspects of bilateral agriculture trade, the United States and Israel concluded an Agreement Concerning Certain Aspects of Trade in Agricultural Products (ATAP), which provided for duty-free or other preferential treatment of certain agricultural products. The 1996 agreement was extended through 2003, and a new agreement was concluded in 2004. In December 2009, the two sides agreed to extend that agreement for a second time, extending through December 31, 2010. The Working Group on Agriculture agreed to meet in early 2010 to continue negotiations of a successor to the 2004 ATAP.

Despite the impasse over agricultural free trade, during 2009, technical experts from the United States and Israel worked together to resolve some existing agricultural trade concerns. The Israelis removed a long-standing obstacle to U.S. pistachio exports to Israel, and the United States opened the U.S. market to Israeli eggplant and resolved customs questions on the transshipment of fresh herbs and flowers. However, many technical barriers still remain for U.S. agricultural products' entry into the Israeli market.

In connection with the 2009 Special 301 out-of-cycle review (OCR), the United States and Israel are continuing negotiations to resolve longstanding issues with Israel's intellectual property rights (IPR) regime for pharmaceutical products.

6. Jordan

In 2009, the United States and Jordan continued to benefit from their extensive economic partnership. A key element of this relationship is the United States-Jordan Free Trade Agreement, which was fully implemented on January 1, 2010. In addition, the Qualifying Industrial Zones (QIZs), established by Congress in 1996, allow products to enter the United States duty-free if manufactured in Israel, Jordan, Egypt, or the West Bank and Gaza. The program has succeeded in stimulating significant business cooperation between Jordan and Israel.

Together these measures have played a significant role in boosting overall United States-Jordanian economic ties. U.S. goods exports were $1.2 billion in 2009, up 27 percent from 2008. QIZ products still account for more than half of Jordanian exports to the United States, but the QIZ share is declining relative to total products shipped under the FTA. This shift toward exporting products manufactured outside of the QIZs demonstrates the important role the FTA plays in helping Jordan diversify its economy.

The United States-Jordan FTA has expanded the trade relationship by reducing barriers for services, providing cutting-edge protection for intellectual property, ensuring regulatory transparency, and requiring effective labor and environmental enforcement. The central oversight body for this Agreement is the United States-Jordan Joint Committee. The two sides met in December 2009 to exchange views on economic conditions in both countries and to discuss the development of bilateral cooperation in areas including: general economic cooperation, investment, agriculture, innovation, IPR protection and enforcement, customs issues, environmental and labor issues, and capacity building. The United States encouraged Jordan to focus on developing a strategy over the next 10 years to build on the success of the FTA, including increasing public awareness in Jordan on how to access FTA benefits and enhancing SME cooperation through the FTA.

Both governments acknowledged the progress and collaborative work that has taken place since the last meeting of the Joint Committee in Washington, DC which was held in October 2008. The Jordanian government removed barriers to U.S. meat and poultry exports while in turn the United States completed a number of food safety reviews that would allow for the importation of certain horticultural products from Jordan.

The two sides also reviewed the past year's activities under the Plan of Action developed in the October meeting of the Joint Committee in Washington, DC. As part of that discussion, officials committed to explore ways to intensify joint work on environment, labor and other issues. Jordan agreed to include the United States in consultations on its environmental law and proposed amendments and arranged for a set of outreach sessions on the margins of the meeting with key environmental stakeholders.

The discussion on labor issues during the Joint Committee meeting built upon a USTR-led mission to Jordan in September 2009. During the visit, U.S. government officials from USTR and the Departments of Labor and State joined with officials from Jordan's Ministry of Labor to hold a meeting of the Labor Subcommittee that was created by the FTA Joint Committee in 2006. In addition to extensive meetings with Jordanian government officials, the U.S. delegation met with representatives from labor unions and worker rights advocates as well as business groups. During the mission, U.S. officials visited factories

located in QIZs to monitor working conditions and urge the government of Jordan to continue making improvements on labor rights issues, especially with regard to migrant workers in the apparel factories. To support this effort, the United States and Jordan are funding an International Labor Organization Better Work program, which will observe working conditions in garment factories and issue public reports. The project was launched in 2008, and began monitoring activities in QIZ factories in 2009.

7. Morocco

The United States and Morocco signed an FTA on June 15, 2004. The Agreement entered into force on January 1, 2006. The United States-Morocco FTA is a comprehensive agreement that is an important part of the effort to promote a more open and prosperous society. The FTA supports the significant economic and political reforms that are underway in Morocco and provides for improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the entry into force of the FTA, the U.S. goods trade surplus with Morocco has risen to $1.2 billion in 2009, up from $79 million in 2005 (the year prior to entry into force). U.S. goods exports in 2009 were $1.6 billion, up 12 percent from the previous year. Corresponding U.S. imports from Morocco were $461 million, down 48 percent. Morocco is now the 62nd largest export market for U.S. goods.

The Joint Committee established by the FTA held its second meeting in November 2009. U.S. and Moroccan experts discussed FTA implementation issues including Morocco's implementation of the tariff-rate quotas provided for under the FTA to afford U.S. wheat producers preferential access to the Moroccan market. The United States continues to have serious concerns about Morocco's administration of these tariff-rate quotas. The Joint Committee also discussed regulatory matters relating to Moroccan exports of vegetables and Morocco's chocolate standard. The Subcommittees on Agricultural Trade and Sanitary and Phytosanitary Matters also met in 2009 and discussed concrete steps to monitor implementation of, and compliance with, the labor and environment chapters of the FTA. Both countries agreed to hold a number of discussions in the next few months between trade and environment experts and agreed to hold a Labor Subcommittee meeting in 2010. Morocco and the United States continued to work together to advance negotiations for an Anti-Counterfeiting Trade Agreement (ACTA), an agreement intended to raise the standard for intellectual property rights enforcement internationally.

8. North American Free Trade Agreement

a. Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada, and Mexico (NAFTA) entered into force. All remaining duties and quantitative restrictions were eliminated, as scheduled, on January 1, 2008. NAFTA created the world's largest free trade area, which now links 449 million people producing over $16 trillion worth of goods and services.

Trade between the United States and its NAFTA partners has soared since the agreement entered into force. U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the European Union and Japan combined. U.S. goods exports to NAFTA partners have more than doubled between 1993 and 2009, from $142 billion to $325 billion.

By dismantling barriers, NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness. From 1993 to 2008, cumulative foreign direct investment (stock) in the NAFTA countries has increased by over $2.3 trillion. Increased investment has brought better-paying jobs, as well as lower costs and more choices for consumers and producers.

The NAFTA was also the first U.S. free trade agreement to link free trade with obligations to protect labor rights and the environment. In connection with the NAFTA, the United States and Mexico also agreed to fund a development bank to address environmental infrastructure needs along the U.S.-Mexico border.

b. Elements of NAFTA

i. Operation of the Agreement

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), comprised of the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy or their designees. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement.

The FTC held its most recent annual meeting in October 2009, in Dallas, Texas. At the meeting, the FTC agreed to build upon the work at the August 2009 North American Leaders Summit, where leaders agreed to "reinvigorate our trading relationship and to ensure that the benefits of our economic relationship are widely shared and sustainable." The Commission asked officials to develop a workplan to incorporate three principles: competitiveness, strengthening institutions, and communications and transparency.

The FTC also decided to strengthen both its relationship with the North American Commission for Environmental Cooperation (CEC), and its relationship with the North American Commission for Labor Cooperation (CLC). To accomplish this, the FTC established an *ad hoc* working group composed of senior trade officials to explore areas of potential collaboration between the FTC and the CEC, and designated senior trade officials to enhance collaboration between the FTC and CLC and further trilateral cooperation on trade and labor issues.

ii. Rules of Origin

In the fall of 2009, the NAFTA partners implemented two sets of changes to the NAFTA rules of origin. The first set was liberalizing changes to the NAFTA rules of origin. These changes cover approximately $100 billion in annual trilateral trade. The second set modified the NAFTA rules of origin to reflect changes agreed to under the International Convention on the Harmonized Commodity and Coding System.

At its October 2009 meeting, the FTC asked the Working Group on Rules of Origin (WGRO) to continue its work to liberalize the NAFTA rules of origin, with a view to reaching agreement at the working level early in 2010. The FTC also asked the WGRO to examine the rules of origin for environmental goods in order to determine whether liberalization of the rules of origin for such products would facilitate additional trade.

iii. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC established a trinational Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat. In addition, each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and the Secretariat, to provide publicly available information to the Secretariat and the other

NAOs, and to provide for the submission and review of public communications on labor law matters. The NAOs, together with the Secretariat, also carry out the Council's Cooperative Activities program.

No new submissions on labor matters were filed under the NAALC in 2009.

iv. NAFTA and the Environment

In 2009, the Parties continued their efforts to ensure that trade liberalization and efforts to protect the environment are mutually supportive. The FTC's *ad hoc* working group of senior trade officials initiated work on enhancing the working relationship between the FTC and the CEC across relevant North American trade and environment issues. The CEC also continued its work on these issues through the implementation of its 2009 Operating Plan. *(For additional information, see Chapter IV.*)

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects in furtherance of the goals of the NAFTA and the North American Agreement on Environmental Cooperation. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with 149 communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of September 30, 2009, the NADB had contracted a total of $1.03 billion in loans and/or grant resources to partially finance 130 infrastructure projects certified by the BECC with an estimated cost of $2.86 billion.

9. Oman

The United States-Oman FTA, which entered into force on January 1, 2009, builds on existing FTAs to promote economic reform and openness. Implementation of the obligations contained in the comprehensive agreement will generate export opportunities for U.S. goods and services providers, solidify Oman's trade and investment liberalization, and strengthen intellectual property rights protection and enforcement.

The first meeting of the FTA Joint Committee (JC), chaired jointly by the Office of the U.S. Trade Representative and Oman's Ministry of Commerce and Industry, took place in February 2010. Officials of the two governments discussed a broad range of trade issues, including implementation of Oman's obligations under the labor and environment chapters and cooperative efforts in those areas.

In order to advance common goals under the Labor Chapter of the FTA, USTR led a mission to Oman in October 2009 to hold discussions on labor issues. During the visit, U.S. government officials from USTR and the Departments of Labor and State held meetings with Oman's Ministry of Manpower as well as with representatives from labor and business groups and other government officials. The mission was successful in furthering a dialogue on key labor issues, and U.S. officials encouraged Oman to continue to implement labor reforms that were discussed as part of the FTA negotiation and implementation process. As part of ongoing labor cooperation and capacity building activities, the U.S. Department of Labor is funding a project implemented by the International Labor Organization to increase the effectiveness of labor inspections by Oman's Ministry of Manpower. During the next year, the two governments will schedule discussions between their respective experts on labor and environmental issues to ensure effective implementation monitoring and compliance with FTA obligations as well as cooperative efforts aimed at ensuring that trade and environmental goals are mutually supportive and sustainable.

10. Peru

a. Overview

The United States and Peru signed the United States-Peru Trade Promotion Agreement (PTPA) on April 12, 2006. The Peruvian Congress ratified the Agreement in June 2006 and a Protocol of Amendment in June 2007. On December 14, 2007, the United States-Peru Trade Promotion Agreement Implementation Act became law, and the PTPA entered into force on February 1, 2009.

The United States' two-way trade with Peru was $8.8 billion in 2009, with U.S. goods exports to Peru at $4.8 billion.

The PTPA eliminates tariffs and removes barriers to U.S. services, provides a secure, predictable legal framework for investors, and strengthens protection for intellectual property, workers, and the environment. The PTPA is the first agreement in force that incorporates groundbreaking provisions concerning the protection of the environment and labor rights that were included as part of the Bipartisan Agreement on Trade Policy developed by Congressional leaders on May 10, 2007.

b. Elements of the PTPA

i. Operation of the Agreement

The PTPA's central oversight body is the U.S.-Peru Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Peruvian Minister of Foreign Trade and Tourism or their designees. The FTC is responsible for overseeing implementation and elaboration of the PTPA. The FTC was convened on February 18, 2010. At the FTC meeting, officials discussed bilateral trade and investment and economic issues of mutual interest, as well as the administration of the PTPA. Both governments acknowledged the progress over the last year to implement the commitments under the agreement, and discussed a plan to effectively monitor implementation of, and compliance with, environmental and labor obligations. Officials also discussed commitments under the Intellectual Property Rights chapter of the agreement. In addition, the Parties formally established the Committee on Agricultural Trade to provide a forum for monitoring and promoting cooperation on the implementation of the agricultural trade provisions in the PTPA, and the Standing Committee on Sanitary and Phytosanitary Matters to promote cooperation and consultation on sanitary and phytosanitary issues.

Additionally, officials discussed the importance of the PTPA to small and medium-sized businesses (SMEs) in both Parties' economies and established a working group to develop ideas on how to further enhance the ability of SMEs to capitalize on the benefits of the PTPA.

ii. Labor

The Parties have continued to engage to ensure effective implementation of labor obligations under the PTPA labor chapter. USTR led an interagency trip to Peru in June 2009 to monitor the implementation of the labor obligations. The team met with representatives from the ministries of labor, trade and foreign affairs as well as with trade union and civil society groups. In January 2010, the Parties convened the first meeting of the Labor Affairs Council in Lima, Peru. This body is responsible for overseeing the implementation and progress of the labor chapter of the PTPA. The Council reviewed progress on the implementation of the PTPA's labor provisions, discussed labor cooperation and capacity building efforts to date, and identified priorities for future capacity building activities. With trade capacity building funds,

USAID supported the development and implementation of a national program to train new labor inspectors.

iii. Environment

The Parties have continued their work to ensure the proper implementation of environmental obligations under the PTPA Environment Chapter and the Annex on Forest Sector Governance. Since ratification of the PTPA in December 2007, Peru has made changes to its legal and regulatory regimes to implement its environmental obligations. For example, with extensive participation from the United States, Peru amended its Criminal Code to increase penalties for forest, wildlife, and environmental crimes. Peru also created a Ministry of Environment and a separate, independent entity to supervise forestry resources (OSINFOR). As provided in the Annex on Forest Sector Governance, Peru has 18 months from entry into force to fully implement its obligations under the Annex.

In June 2009, a technical working group made up of representatives from both Parties met in Washington, DC to finalize provisions of the Environmental Cooperation Agreement work plan. Areas that were identified for possible capacity building initiatives included: strengthening the legal, policy, and institutional framework for effective implementation and enforcement of environmental laws; improving biodiversity conservation and management of forests, protected areas, and other ecologically important ecosystems; and increasing transparency and public participation in environmental decision-making and enforcement.

On July 15, 2009, the Parties held the first meeting of the Forest Sector Sub-Committee, a forum for the Parties to exchange views and share information on any matter arising under the Annex on Forest Sector Governance. During this meeting, Peru formally established a mechanism for consultation with stakeholders in Peru on implementation of the Environment Chapter and Annex. The Committee held an open session with civil society focusing on the concerns of stakeholders related to the new forestry and wildlife law and Peru's compliance with its obligations under the PTPA. Stakeholders expressed appreciation for the efforts of the United States in having an open, transparent, and inclusive implementation process. The second meeting of the Forest Sector Sub-Committee is planned to take place in the spring of 2010.

iv. Trade Capacity Building

The Committee on Trade Capacity Building held its first meeting in March 2009 in Lima, Peru. This Committee is charged with seeking the prioritization and coordination of assistance to support effective implementation of the PTPA and to adjust to more liberalized trade. To this end, Peru presented a preliminary national trade capacity building strategy to address these objectives, highlighting areas such as telecommunications, intellectual property and agricultural standards. The Committee is in the process of working with donors to address these priorities.

11. Singapore

The United States-Singapore Free Trade Agreement has been in force since January 1, 2004. U.S. two-way goods trade totaled $37 billion in 209, up 17 percent from 2003 (the year before the FTA's entry into force). U.S. goods exports were $21.6 billion, up 31 percent from 2003, and U.S. goods imports were $15.4 billion, up 2 percent from 2003.

The United States and Singapore held the fifth annual FTA review in December 2009 to assess implementation of the agreement. The two governments agreed that implementation remains on track and

discussed ways to deepen the bilateral relationship. During the review, the two sides discussed a range of issues covered by the FTA, including trade in textiles and apparel, telecommunications, and protection of intellectual property rights.

The two sides also discussed the implementation of the environment chapter and environmental cooperation efforts. The United States and Singapore agreed to continue exchanging information on each country's implementation efforts and how to improve monitoring of compliance with the obligations of the environment chapter.

The FTA review also provided an opportunity for labor officials from both governments to discuss labor issues and potential areas for labor cooperation. As a result, Singapore's Ministry of Labor has expressed an interest in studying the United States' system for mediating collective bargaining disputes and improving labor-management relations.

B. Other Bilateral and Regional Initiatives

1. The Americas

The United States continues to implement, enforce, and benefit from four free trade agreements (FTAs) with the following countries in the Americas: Canada and Mexico under the North American Free Trade Agreement (NAFTA); Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR); Chile; and Peru. Highlights of USTR's FTA-focused activity in this region during 2009 included: entry into force of the United States-Peru FTA, entry into force of the CAFTA-DR with respect to Costa Rica, successful Free Trade Commission meetings under the NAFTA and the United States-Chile FTA, and ongoing efforts to manage implementation issues with our FTA partners. During 2009, USTR placed additional emphasis on implementation of the labor and environment commitments under these FTAs. Further details on USTR's implementation and enforcement activities associated with these FTAs can be found in Chapter III. A.

During 2009, the U.S. Government worked to address concerns relating to our FTAs with Colombia and Panama. These agreements have been signed, but have not yet been considered by Congress. In the case of Colombia, the Administration worked to identify what further steps Colombia's government needs to take to ensure that workers' fundamental labor rights are protected in law and practice. USTR published a notice in the *Federal Register* soliciting public comment on the Colombia FTA, led an interagency team on a fact-finding trip to Colombia, and discussed these matters with stakeholders, the Colombian government, and the U.S. Congress. In the case of Panama, the Administration worked with Panama's government to address concerns relating to certain aspects of Panama's labor regime and its tax transparency rules.

a. Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms

USTR's meetings under our Trade and Investment Framework Agreements (TIFAs), Joint Committees on Trade and Investment (JCTIs), and Bilateral Consultative Mechanisms (BCMs) with non-FTA partners in the Americas continue to provide effective means of discussing market opening opportunities, including improved access for small and medium-sized businesses, and resolving trade issues with those governments. USTR met with five trading partners in the region in TIFA/JCTI/BCM meetings during 2009, achieving progress toward solving outstanding trade problems and creating more comprehensive trade policy dialogues. Highlights included:

- At a December 9, 2009 meeting of the BCM in Brasilia, the United States discussed with the government of Brazil a number of bilateral and multilateral issues of mutual interest, including trade facilitation, technical barriers to trade, intellectual property protection, and investment issues. Building upon an initiative discussed by Ambassador Ron Kirk and Brazilian Minister of Foreign Relations Celso Amorim during a September 2009 visit to Brazil, both sides agreed to pursue discussions to deepen the bilateral trade and investment relationship framework.
- At a June 5, 2009 Uruguay-United States Trade and Investment Committee meeting, the United States exchanged ideas with the government of Uruguay on a variety of bilateral economic topics under our TIFA, including intellectual property protection, investment, labor, and the implementation of two protocols to the TIFA. These protocols, covering substantive commitments in the areas of trade facilitation and public participation in trade and environment, were signed on October 2, 2008 and entered into force on June 5, 2009.

- The United States exchanged ideas with the government of Paraguay on a number of bilateral issues of mutual interest at a November 20, 2009 United States-Paraguay JCTI meeting. The United States and Paraguay renewed a Memorandum of Understanding (MOU) on intellectual property rights issues, which enumerates Paraguayan commitments to implement institutional and legal reforms and to strengthen intellectual property rights enforcement and prosecution. The MOU will remain in effect through the end of 2011. We agreed to create a working group to exchange information on the experience of small and medium-sized enterprises in the United States and Paraguay, and to identify opportunities for the JCTI work agenda to address the needs of such businesses and their workers.

- On November 9, 2009, the United States and Ecuador held the first meeting in over ten years of the United States-Ecuador Trade and Investment Council (TIC). At the TIC meeting the two sides discussed a broad range of trade and investment related issues, including the U.S.-Ecuador Bilateral Investment Treaty, workers rights, intellectual property, the Andean Trade Preference Act, technical barriers to trade (TBT), and sanitary and phytosanitary (SPS) measures. The forum provided an opportunity to exchange views on our respective concerns and to discuss possible areas of cooperation, such as with respect to TBT and SPS matters.

b. Other Priority Work

The United States continued its engagement with other countries in the region aimed at fostering bilateral trade relations and resolving trade problems during 2009. Highlights of USTR's other priority activities in the region include:

- As a party to the WTO Agreement on Government Procurement (GPA) and to NAFTA, Canada allows U.S. suppliers to compete on a nondiscriminatory basis for its federal government procurement covered by the two agreements. Canada does not have commitments to provide market access for procurement at the sub-federal level. As a result, the United States does not provide access to sub-federal procurement markets in the United States. Canadian concerns about "Buy American" provisions in the American Recovery and Reinvestment Act of 2009 prompted initiation of bilateral discussions in late 2009 on reciprocal sub-federal market access. An agreement was signed in February 2010 which provides for permanent U.S. access to Canadian provincial and territorial procurement contracts in accordance with the World Trade Organization (WTO) Government Procurement Agreement (GPA). In addition, the agreement enables American companies to compete for Canadian provincial and municipal construction contracts not covered by the GPA through September 2011. The United States will provide reciprocal

access for Canadian companies to 37 states already covered by the GPA and a limited number of Recovery Act programs.

- USTR prepared Reports to the U.S. Congress on the implementation of the Hemispheric Opportunity through Partnership Encouragement Act of 2008 (the HOPE II Act) and the operation of the Andean Trade Preference Act and the Caribbean Basin Economic Recovery Act. In the wake of Haiti's January 12, 2010 earthquake, USTR launched new efforts with the U.S. textiles and apparel industry to help Haiti recover, and is working with the U.S. Congress as it crafts legislation. *(For additional information, see Chapter V.B.8.)*

- Faced with an impending review under a U.S. preference program and the possibility of being placed on the Special 301 Watch List, The Bahamas implemented amendments to its Copyright Act and Regulations. These amendments narrowed the scope of its compulsory licensing regime for the reception and transmission of copyrighted works to permit only the compulsory licensing of copyrighted works broadcast free over-the-air. The amendments, which went into effect on October 1, 2009, were designed to fulfill a commitment made by The Bahamas in a November 2000 Letter of Understanding with the United States.

- Mexico remains one of the most important markets for U.S. agricultural products. Although U.S. agricultural exports to Mexico decreased by 21 percent in 2009 to roughly $12 billion, it still ranked as the U.S.'s second largest agricultural export market. In 2009, the United States worked to remove Mexican barriers to U.S. rice exports. In addition, the United States continues to monitor Mexico's use of sanitary and phytosanitary measures to ensure that they are not applied in a way that would improperly impede U.S. exports.

- As a result of the 1998 Canada Record of Understanding on Agricultural Matters, the United States-Canada Consultative Committee on Agriculture (CCA) and the Province/State Advisory Group were formed to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. The CCA met in May 2009 and December 2009 to discuss issues concerning trade in livestock, fruits, vegetables, seed, plant, and biotechnology as well as to reinforce the close working relationship between the two governments and their respective agricultural sectors.

- On June 17, 2009, the United States Department of Agriculture (USDA)'s National Organic Program (NOP) and the Canadian Food Inspection Agency completed an exchange of letters setting out a determination of equivalence of regulations on organics. This determination, negotiated by a USTR-led interagency delegation on behalf of the United States, is the first international organics equivalence agreement. Under a determination of equivalence, producers and processors that are certified to the NOP standards by a USDA-accredited certifying agent do not have to become certified to the Canada Organic Product Regulation (COPR) standards in order for their products to be represented as organic in Canada. Likewise, Canadian organic products certified to COPR standards may be sold or labeled in the United States as organically produced. The determination is expected to lead to greater market opportunities for organic producers in both countries.

2. Europe and the Middle East

USTR's Office of Europe and the Middle East coordinates policy towards, and manages bilateral trade relations with, the European Union (EU) and its 27 Member States, non-EU European countries, Russia and its neighbors, the Middle East, and North Africa. Ongoing priorities include: managing U.S.-EU

trade relations to promote shared interests while addressing chronic and emerging EU barriers to U.S. exports; developing stronger trade and investment relations in the Middle East and North Africa to advance U.S. trade and commercial policy objectives, including through the implementation of free trade agreements (FTAs); and working with Russia and surrounding countries to resolve trade concerns, expand trade and investment opportunities, foster a commercial and trade policy grounded in the rule of law, and integrate Russia into the global trade community through membership in the World Trade Organization.

a. Ensuring Free Trade Agreements Work for American Workers, Farmers and Businesses

The United States continued efforts to implement and enforce the provisions of U.S. FTAs with Bahrain, Israel, Jordan, Morocco, and Oman, to ensure that U.S. businesses, farmers, and workers reap the benefits of these agreements. Highlights of FTA-focused activity in the Middle East and North Africa during 2009 included the entry into force of the United States-Oman FTA, and successful FTA Joint Committee meetings with Israel, Jordan, Morocco, and Bahrain to address U.S. concerns and improve the functioning of each agreement. Joint Committee meetings were supplemented by ongoing contact with partner governments to manage implementation issues. During 2009, USTR focused additional attention on the implementation of the obligations in the labor and environment chapters of its FTAs with regional partners. *(For additional information, see Chapter III.A.)*

b. Managing and Deepening U.S.-EU Trade Relations

The U.S. economic relationship with the EU is the largest and most complex economic relationship in the world, with transatlantic trade and investment flows (goods and services trade plus earnings/payments on investment) averaging approximately $3.2 billion in value each day. This enormous volume of trade and investment promotes economic prosperity both in the United States and Europe.

In 2009, the United States interacted extensively with counterparts in the major EU governing institutions (the European Commission, the European Parliament, and the European Council) and EU Member State governments on key issues for U.S. workers, farmers, and businesses, such as EU restrictions on U.S. agricultural exports, the protection of intellectual property rights (IPR), and the WTO Doha Round.

Principal areas of U.S.-EU trade policy engagement during 2009 included:

- *Beef:* The United States concluded a Memorandum of Understanding (MOU) that opened the EU market to substantial quantities of high-quality U.S. beef produced without growth-producing hormones. The MOU followed a decade of WTO-authorized U.S. trade sanctions imposed on the EU as a result of a successful U.S. challenge in the WTO of the EU scientifically unjustified ban on beef produced with growth-promoting hormones.

- *Environmental Regulations:* The United States continued monitoring the implementation of EU environmental regulations that affect U.S. firms, including the EU's regulation on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), the EU directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment (RoHS), and the EU regulation on Classification, Labeling and Packaging.

- *Intellectual Property:* The U.S.-EU IPR Working Group met twice in 2009. The United States engaged the EU on key IPR issues, including common goals in key third country markets, the Anti-Counterfeiting Trade Agreement negotiations, customs cooperation, and other areas of IPR cooperation. The United States also increased bilateral engagement with a number of EU Member States, including Poland, Hungary, and Italy.

- *Science-Based Regulation:* USTR led continued engagement with the EU regarding U.S. concerns over EU regulations restricting imports of several major U.S. food and agricultural products. Several of the problematic regulations, which resulted in restrictions on the importation and marketing of U.S. poultry and agricultural biotechnology products, also were the focus of enforcement efforts under WTO dispute settlement procedures that will continue into 2010. USTR also sought to engage EU and Member State officials in discussions aimed at avoiding divergent approaches to the regulation of food products derived from livestock cloning. *(For additional information, see Chapter V.A.)*

- *Transatlantic Economic Council (TEC):* Under the TEC umbrella, collaboration with the EU continued throughout 2009 on several initiatives and on a broad range of issues, including efforts to encourage regulatory best practices and information sharing on scientific, technical and related challenges, and to promote investment, IPR, innovation, and emerging technologies. The TEC met in October 2009 to review progress on these issues.

- *Bananas:* In December 2009, the United States finalized negotiations with the EU on an agreement designed to lead to the settlement of a longstanding WTO dispute over the EU's discriminatory bananas trading regime. Final settlement of the banana disputes will require the completion of certain ratification steps by the parties to this agreement – as well as by the parties to the complementary agreement signed by the EU and several Latin American banana-supplying countries – and WTO certification of the EU's new tariffs on bananas. *(For additional information, see Chapter V.A.)*

c. Promoting a More Mature United States-Russia Trade Relationship

U.S. bilateral trade relations with Russia during 2009 focused on continuing engagement aimed at developing a stronger trading relationship. The United States engaged with the government of Russia to secure implementation of several bilateral agreements dating from 2006, which covered the inspection of meat processing facilities, trade in agricultural equipment, IPR protection, and import licensing for products with cryptographic capabilities. Additionally, USTR raised concerns over Russia's increasing protectionism, which has manifested itself through measures such as unjustified sanitary and phytosanitary restrictions, more restrictive tariff-rate quotas, and higher tariffs.

The United States revitalized a bilateral working group with Russia to address IPR concerns as a means to address issues regarding the 2006 agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights. Additionally, USTR officials will participate in several working groups under the newly-established Bilateral Presidential Commission.

In 2009, the United States continued to aggressively pursue work with Russia related to the latter's efforts to join the WTO. Russia's WTO accession talks progressed steadily until June 2009 when Prime Minister Putin announced a shift in policy focus, suspending efforts on WTO accession, and intensified Russia's efforts to complete a customs union between Russia, Kazakhstan, and Belarus. The United States continues to support Russia's accession to the WTO as a separate entity, and, like other WTO Members, awaits further explanation from Russia on the implications of the customs union initiative for Russia's trade regime and how the customs union will affect its bid for WTO accession. *(For additional information, see Chapter II.K.6.)*

d. Enhancing the Trade and Investment Dialogue with Turkey

U.S. bilateral economic ties with Turkey have grown steadily over the last 15 years. However, there is additional room for growth in trade given Turkey's continuing development as a market, as well as its

emerging role as a regional business hub. Recognizing Turkey's importance as a trading partner, USTR, along with the U.S. Department of Commerce, will co-chair U.S. Government participation in a new forum for engagement on economic and trade issues: the Framework for Strategic Economic and Commercial Cooperation (Framework). The Framework aims to reduce barriers to bilateral trade and investment, create opportunities for U.S. workers, farmers and firms, and otherwise enhance bilateral economic cooperation. The Framework will ensure regular coordination and review at a senior political level of our already strong economic partnership.

e. Furthering U.S. Trade Policy Goals through Trade and Investment Agreements

Trade and Investment Framework Agreements (TIFAs), Trade and Investment Cooperation Agreements (TICAs), and Trade and Investment Cooperation Forums provide an effective structure for addressing and resolving bilateral trade problems in countries throughout Europe, the Middle East and North Africa. Currently, 13 such agreements are in force throughout the region. In 2009, USTR organized bilateral meetings with Iceland, Saudi Arabia, Switzerland and Ukraine under these various frameworks, achieving notable progress towards solving outstanding trade issues and fostering an effective trade dialogue with partner countries. Key achievements in 2009 included:

- *Saudi Arabia:* Significant efforts by Saudi Arabia to strengthen its IPR enforcement regime.

- *Ukraine:* The United States secured a roll-back of increased Ukrainian import tariffs on automobiles and refrigeration equipment.

- *Libya:* Following the normalization of U.S. diplomatic relations, the United States conducted negotiations with the Libyan government on a bilateral TIFA.

f. Other Priority Trade Activities

FTAs, along with various trade and investment agreements, provide the context for U.S. trade and investment policy in Europe, the Middle East and North Africa. However, the United States also engages with key countries and regions outside of these established frameworks to promote enhanced trade and investment ties, increased U.S. exports, the development of intraregional economic ties, and WTO accession for economies in the region seeking to join the Organization. (*For additional information, see Chapter II.K.6.)*

- *Egypt:* In 2009, the United States successfully launched a new Strategic Partnership for trade-related and investment issues with Egypt. The new Partnership will pave the way for substantive discussions throughout 2010 and beyond on a range of issues of mutual interest, such as customs, standards, IPR, labor, investment, and the environment.

- *Gulf Cooperation Council (GCC) Countries:* The United States has maintained its engagement with the Gulf Cooperation Council (GCC) and its six Member States as the GCC continues to develop and harmonize rules, standards, import regulations, and conformity assessment systems affecting U.S. trade with the GCC states. The United States has outlined its specific concerns and established an ongoing dialogue with the GCC.

- *Georgia:* The United States sought to strengthen U.S. trade relations with Georgia in 2009 through the TIFA, Strategic Dialogue and other mechanisms. Notably, the United States and Georgia held preliminary discussions on enhancing the existing United States-Georgia Bilateral Investment Treaty.

- *Southeastern Europe:* In 2009, the United States continued to engage the countries of this region on a variety of trade issues including WTO accession, the U.S. GSP program, IPR, and other bilateral trade issues

3. Japan, Korea, and the Asia-Pacific Economic Cooperation forum

a. Japan

United States-Japan Trade Relations

The United States pursued a broad agenda with Japan through a variety of fora to help expand new opportunities for small and large U.S. exporters, as well as for U.S. companies with a direct presence in the Japanese market. The bulk of this work took place through the U.S.-Japan Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative), both in the Initiative's High-Level Officials Group as well as in its various sectoral and cross-sectoral working groups. The United States sought actions by Japan to further open its market, improve its business environment, and level the playing field by enacting reforms in areas such as insurance, intellectual property, regulatory transparency, telecommunications, and distribution. Following several months of work, the Initiative's annual Report to the Leaders was released on July 6, 2009, which listed accomplishments across a broad array of issues. Examples include:

- Strengthening Japan's Copyright Law to make illegal unauthorized Internet downloads of music and motion pictures;

- Approving new food additives already in wide use around the world and in the United States, creating new opportunities for exports of U.S. food products;

- Strengthening Japan's competition law regime, such as by enacting tougher penalties for cartel leaders;

- Cutting the lag time in Japan's regulatory process for the introduction of new medicines and medical devices, including by increasing the number of approval reviewers and reducing waiting times for pharmaceutical clinical trial consultations; and

- Enacting a new law allowing non-bank providers of electronic fund transfer services to operate in Japan.

For more on the Regulatory Reform Initiative, including the full Report to the Leaders as well as a summary list of progress highlights, see: http://www.ustr.gov/countries-regions/japan-korea-apec/japan/regulatory-reform-and-competition-policy-initiative.

Senior-level engagement with Japan also took place through the U.S.-Japan Trade Forum, which convened in October 2009 to address bilateral trade issues including serious concerns relating to the automotive trade, as well as to Japan's failure to bring its measures on beef and beef product imports from the United States into line with science and international standards. The Trade Forum also served as a high level forum for discussing broader trade policy issues including coordination vis-a-vis third country concerns. USTR also continued to engage the Japanese government throughout the year in other ways by increasing coordination and, where possible, jointly addressing third-country trade and other matters of common concern.

b. Republic of Korea

FTA

The United States and the Republic of Korea successfully concluded the negotiation of a free trade agreement on April 1, 2007, and signed the United States-Korea Free Trade Agreement (KORUS FTA), on June 30, 2007. The Administration believes this FTA has the potential to bring significant economic and strategic benefits for the United States and is committed to working together with Korea to move the KORUS FTA forward. This will involve working through a number of outstanding issues, particularly related to automobiles and beef. Concerns have also been raised regarding non-tariff measures more generally. In 2009, the United States Government initiated a thorough review of the FTA and is consulting closely with Congress and U.S. stakeholders to identify the most effective approaches for dealing with these concerns. *(For additional information, see Chapter III.A.12.)*

United States–Korea Trade Relations

In addition to USTR's regular contact with counterparts in the Korean government, formally scheduled bilateral trade consultation meetings are held between the two governments to address potential bilateral trade issues as they emerge. These bilateral trade consultation meetings, led by USTR with participation from the full range of U.S. international economic agencies, serve as the primary forum for discussing and resolving trade-related issues and are augmented by a broad range of senior level policy discussions. In 2009, bilateral trade consultations were held on three occasions, in March, July, and December. Among the bilateral issues that were addressed in 2009 are:

- In September 2009, Korea published final rules that will allow non-Korean labs to test lithium-ion batteries for conformity with Korea's safety regulations. The decision benefits U.S. consumer electronics producers, who need approved batteries to power their final products (laptops, cell phones, etc.). These producers were concerned that requiring battery testing at four Korean labs, as originally planned, would have led to bottlenecks. In December 2009, the Korean government also amended the applicable regulation so that manufacturers can use non-Korean labs to document conformity with Korea's energy efficiency regulations for refrigerators;

- The U.S. Government worked closely with Korea to ensure continued market access for U.S. voice over internet protocol (VOIP) equipment as the Korean government transitions to a VOIP-based network;

- Following the expiration of the mandate to install the Korea-unique WIPI software platform on cell phones in April 2009 and the Korea Communications Commission's decision to provide Apple with a license to provide location-based services in October 2009, the Apple iPhone was launched in the Korean market in late November 2009. Apple iPhones accounted for 10 percent of cell phones sold in Korea in December 2009;

- In August 2009, Korea lifted the ban on U.S. live swine exports which had been imposed following the first occurrence of H1N1 virus in the United States; and

- Korea eliminated its home country approval requirement for medical devices in August 2009. Previously, manufacturers of medical devices undergoing a regulatory review in Korea were required to show that the products had been already approved for sale in the "home country."

In addition, since Korea reopened its market to imports of U.S. beef in June 2008, it has provided reliable market access for U.S. beef and beef products. From January through November 2009, U.S. exports of beef and beef products to Korea have reached $186 million, making Korea the fourth largest U.S. beef export market.

The United States and Korea also cooperated extensively in a wide range of multilateral fora to advance open markets. Korea was a strong partner of the United States in the WTO Non-Agricultural Market Access (NAMA) negotiations, supporting the push for ambitious liberalization. Korea has been an active participant in efforts to strengthen international IPR enforcement by joining the United States and others in negotiating the Anti-Counterfeiting Trade Agreement (ACTA). Korea hosted the most recent ACTA negotiations in November 2009. In APEC, the two countries worked closely together on efforts to strengthen regional economic integration in the Asia-Pacific, including on initiatives to promote trade in cross-border services and to simplify rules of origin documentation and procedures.

c. APEC

Overview

Since it was founded in 1989, the Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in promoting regional and global trade and investment. It has provided a forum for APEC Leaders to meet annually since 1993, beginning at Blake Island in the United States. The United States will host APEC again in 2011.

In 2008, the 21 APEC member economies collectively accounted for 44 percent of world trade and 54 percent of global GDP. In 2009, U.S.-APEC total trade in goods was $1.6 trillion. The significant growth in U.S. trade in the Asia-Pacific region underscores the importance of the region as a market for U.S. exports and the significant role APEC continues to play in promoting trade and investment liberalization and facilitation in the region.

The United States worked closely with other APEC economies, in particular with Singapore and Japan, the APEC host economies in 2009 and 2010 respectively, in pursuing an ambitious agenda to strengthen economic integration and facilitate trade in goods and services in the Asia-Pacific region.

2009 Activities

Supporting the Multilateral Trading System and Resisting Protectionism: APEC Leaders and Ministers in 2009 provided strong statements of support for an ambitious and balanced conclusion to the WTO Doha Round negotiations. They also stressed the importance of greater substantive engagement at all levels utilizing all possible avenues, including direct engagement between WTO Members to evaluate and close the remaining gaps. Ministers also reaffirmed their commitment to keep markets open and avoid all forms of protectionism, as well as their commitment to refrain from raising new barriers to trade and investment to the end of 2010 and beyond if necessary.

Regional Economic Integration: Strengthening economic integration in the Asia-Pacific region remains the top U.S. trade priority in APEC. The U.S. approach to the regional economic integration (REI) agenda in APEC has been to emphasize addressing pressing and cutting-edge barriers to trade and investment in the region. To that end, in 2009, the United States, in partnership with Australia, gained endorsement of the APEC Principles on Cross-Border Trade in Services and a future action plan on services, which taken together will provide a strong basis for our efforts to facilitate and promote services trade in the Asia-Pacific region. In addition, APEC agreed to an ambitious work program to promote

trade and investment in environmental goods and services, with an emphasis on addressing non-tariff barriers and enhancing market drivers of environmental goods, and improving understanding and market access for environmental services. APEC also launched the U.S.-initiated Environmental Goods and Services Information Exchange website to promote collaboration on trade and investment in cutting-edge environmental technologies in the Asia-Pacific region. APEC Leaders also agreed to accelerate work to strengthen REI in 2010, including by intensifying efforts to narrow gaps in APEC economic policies in key areas of APEC's trade and investment agenda, including services, the digital economy, investment, trade facilitation, rules of origin, and standards/technical barriers to trade.

Making It Cheaper, Easier, and Faster to Trade in the Region: The United States, working with Singapore as host and other APEC economies, undertook a number of initiatives in 2009 to make it cheaper, easier, and faster to trade in the Asia-Pacific region. Like-minded APEC economies, including Australia, Canada, Japan, Korea, New Zealand, Singapore, and the United States, agreed to adopt a self-certification of origin model for free trade agreements based on common and general operating guidelines. This will make it easier for companies to take advantage of preferential trade deals in the region. APEC Leaders also endorsed the multi-year Supply-Chain Connectivity Framework to reduce the time, cost, and uncertainty of moving goods and supplying services throughout the region by improving logistics and transportation networks. Additionally, APEC Leaders committed to take concrete steps to reduce trademark counterfeiting and copyright piracy, including on the Internet, improve patent cooperation, and increase information sharing between intellectual property authorities and stakeholders. In addition, the United States, in conjunction with Japan, gained agreement among APEC economies to make customs information, including on tariffs and rules of origin, more transparent and accessible to stakeholders in the region. The United States continued to promote in APEC the use of international standards, transparency in the development of standards and regulations, and the avoidance of protectionist technical barriers that can impede trade and investment in the region. These initiatives will in particular benefit small and medium-sized enterprises (SMEs) by reducing the time and costs associated with trading in the region.

Industry Dialogues: APEC interacts directly with the business community in its three industry dialogues: the Automotive Dialogue, the Chemical Dialogue and the Life Sciences Innovation Forum. The APEC Automotive Dialogue this year focused on challenges to the auto industry in the midst of a global downturn that significantly affected the region's autos and auto parts producers. The Chemical Dialogue, co-chaired by the United States and Malaysia, continued its discussions on regulatory and trade-related developments, and expanded its work into new areas, including sustainable development and climate change, outreach to SMEs, the strategic role of chemicals, and capacity building to implement best practices for chemical regulation. The Life Sciences Innovation Forum, for which the United States chairs the Planning Group, focused on improving returns to trade and investment for innovative life sciences products, optimizing the use of emerging technologies, promoting regulatory harmonization and capacity building to combat the counterfeiting of medical products.

4. China, Hong Kong and Taiwan

a. China

See 2009 USTR Report to Congress on China's WTO Compliance.

b. U.S.-Hong Kong Trade Relations

The United States continued efforts to expand trade with Hong Kong, a Special Administrative Region of the People's Republic of China, in particular by working to open its market to U.S. beef and beef

products, which have been restricted since December 2003. Hong Kong's market is currently open to deboned beef from animals less than thirty months of age. Hong Kong authorities conducted a verification visit to beef processing facilities in the United States in October 2009. Pending Hong Kong's submission of its findings, the United States will engage Hong Kong to establish science-based access for U.S. beef and beef products in 2010. In 2009, Hong Kong became the fourth largest market for exports of U.S. food and beverage products, exceeding $1.5 billion.

c. U.S.-Taiwan Trade Relations

During 2009, the United States worked to expand opportunities for U.S. exports to Taiwan. Working-level officials engaged Taiwan throughout the year on the range of issues impacting bilateral trade and investment ties under the U.S.-Taiwan Bilateral Trade and Investment Framework Agreement (TIFA) process.

The United States continued to press Taiwan to provide market access for the full range of U.S. beef and beef products in a manner consistent with World Organization for Animal Health (OIE) guidelines for Bovine Spongiform Encephalopathy (BSE), as well as with Taiwan's own risk assessment which found that U.S. beef is safe. As a result of these efforts, the United States and Taiwan concluded a new science-based and OIE-consistent bilateral protocol providing for expanded market access for U.S. beef and beef products on October 22, 2009. After the protocol entered into force on November 2, however, Taiwan's Legislative Yuan (LY) approved an amendment to Taiwan's Food Sanitation Act that had the effect of banning the import of ground beef and certain offals from the United States. Such a ban is inconsistent with Taiwan's obligations under the protocol. Furthermore, Taiwan authorities have taken a range of administrative measures that have disrupted trade and created uncertainty in the market. The United States will continue to press Taiwan to act consistently with its obligations under the bilateral protocol and to refrain from taking measures that overly burden trade in beef and beef products.

In the area of sanitary and phytosanitary matters, other issues that the United States continued to discuss in detail with Taiwan included the establishment of permanent pesticide maximum residue levels for U.S horticultural products and grains, avian influenza restrictions on imports of poultry meat and related products that do not comply with international guidelines, and Taiwan's ban on the use of ractopamine, a lean muscle promotant, in pork and pork products.

The United States continued to engage Taiwan on issues relating to fulfilling its WTO Country Specific Quota (CSQ) for importation of U.S. rice, while expressing concerns that the ceiling price mechanism was non-transparent and causing unnecessary trade disruptions. In 2007 and 2008 public sector rice tenders for U.S. rice repeatedly failed due to Taiwan's ceiling price mechanism. Since 2008, Taiwan has implemented destination testing requirements for shipments of U.S. long grain rice, thereby causing an additional tender to fail. Throughout 2009, the United States worked with Taiwan to seek improvements to the rice import system and to address the shortfalls in Taiwan's procurement of U.S. rice in 2007 and 2008. As a result, it appears that Taiwan will fulfill its obligations to contract for the procurement of U.S. rice in 2009.

IPR protection and enforcement also continues to be an important issue in the United States-Taiwan trade relationship. The United States recognizes Taiwan's continuing efforts to improve enforcement of IPR, and on January 16, 2009, the Office of the U.S. Trade Representative announced that Taiwan had been removed from the Special 301 Watch List. In April 2009, the LY amended the Taiwan Copyright Law to require Internet service providers (ISPs) to undertake specific and effective notice-and-takedown actions against online infringers to avoid ISP liability for the infringing activities of users on their networks.

Taiwan acceded to the WTO Agreement on Government Procurement (GPA) in July 2009. Taiwan estimates that procurement covered by the GPA has a total value of approximately $6 billion. The United States will work closely with Taiwan as Taiwan implements its obligations under the GPA.

The United States has also continued to engage Taiwan on concerns raised by the pharmaceutical and medical device industries that Taiwan's procedures for medical product pricing and reimbursement fail to adequately recognize the value of innovative medical products for patients in Taiwan. The United States encourages Taiwan to continue to engage in collaborative consultations with relevant stakeholders to consider improving such policies in order to better facilitate the development of innovative products and improve patients' access to such products.

5. Southeast Asia and the Pacific

a. Free Trade Agreements

The United States continued to implement, monitor and enforce its free trade agreements with Singapore and Australia, both of which have led to significant increases in U.S. exports to these countries. *(For additional information, see Chapter III.A.)*

b. Trans-Pacific Partnership

In December 2009, the United States announced its intention to enter into negotiations on a regional Asia-Pacific trade agreement called the Trans-Pacific Partnership (TPP), with the objective of shaping a high-standard, broad-based regional agreement. The decision to proceed followed detailed consultations with Congress and stakeholders. This agreement will create a potential platform for economic integration across the Asia-Pacific region, a means to advance U.S. economic interests with the fastest-growing economies in the world, and a tool to expand U.S. exports, which are critical to U.S. economic recovery and the creation and retention of high-paying, high-quality jobs in the United States.

Successful conclusion of the TPP negotiations will require a high-standard, 21st century agreement with a membership and coverage that provides economically significant new market access opportunities for U.S. workers, manufacturers, farmers, ranchers, service providers, and small businesses. Through this regional agreement, the United States will seek to promote new technologies and emerging economic sectors, create new opportunities for U.S. small and medium-sized businesses to increase exports to the region, and help U.S. firms participate in production and supply chains in order to encourage investment and production in the United States. The United States will also seek to enhance the focus of the agreement on environmental protection and conservation, transparency, workers rights and protections and development.

Currently, the TPP negotiating partners are Australia, Brunei Darussalam, Chile, New Zealand, Peru, Singapore, and Vietnam. These countries form an initial group of "like-minded" countries that share a commitment to concluding a high-standard regional trade agreement. U.S. participation in the TPP agreement is predicated on the shared objective of expanding this initial group to include additional countries throughout the Asia-Pacific region. Several additional countries already have expressed initial interest in participating in the agreement.

In developing U.S. negotiating objectives for the TPP, the Obama Administration is committed to establishing a new partnership with Congress. It intends to hold regular and rigorous consultations on all elements of the agreement in order to develop negotiating positions consistent with both Administration

and Congressional priorities and objectives. At the same time, the Administration is committed to broad-based, detailed, and open discussions with stakeholders throughout the process.

c. Managing U.S.-Southeast Asia and Pacific Trade Relations

During 2009, the United States worked to further enhance its already strong trade and investment relations with countries in Southeast Asia and the Pacific. The U.S. Government actively engaged bilaterally and regionally, including under Trade and Investment Framework Agreements (TIFAs) and other bilateral dialogues, ASEAN-U.S. Trade and Investment Framework Arrangement, TPP, APEC, WTO and other trade and investment fora.

During 2009, the United States held numerous TIFA meetings and other trade dialogues with Brunei Darussalam, Cambodia, Indonesia, Malaysia, Philippines, Thailand, and Vietnam. These discussions were aimed at resolving long-standing trade issues in such areas as customs, intellectual property protection, market access for industrial and agricultural products, regulatory and other non-tariff barriers facing U.S. manufacturers and service suppliers, and other trade-related issues, including worker rights and protections. The United States also used these consultations to work with our trading partners in the region to monitor implementation of their WTO and bilateral commitments and to coordinate economic assistance projects to support their implementation and reform efforts.

At the same time, the United States worked with its trading partners in the region to develop or advance new initiatives of common interest. The United States and Vietnam continued discussions throughout 2009 aimed at negotiating a Bilateral Investment Treaty (BIT), which will further improve upon the protections for U.S. investors in Vietnam. The U.S. Government also continued to explore BIT negotiations with Indonesia, as well as the prospects for a Comprehensive Partnership between the United States and Indonesia to deepen bilateral economic relations. In addition, the United States worked closely with the Lao government to monitor progress and support the implementation of the U.S.-Lao Bilateral Trade Agreement and to support Lao's ongoing negotiations to join the WTO.

d. The U.S.-ASEAN Trade and Investment Framework Arrangement

The ten member countries of the Association of South East Asian Nations (ASEAN) collectively rank as the United States' fifth largest trading partner and fourth largest export market. Although trade declined by 20 percent in 2009 to $142 billion, it had grown steadily in previous years. With robust economies and a total population of about 550 million people, the ASEAN market provides significant potential opportunities for U.S. companies.

The United States and ASEAN members concluded a TIFA in August 2006 and since then have been working to build upon already strong trade and investment ties to further enhance their economic relationship as well as promote ASEAN regional economic integration. In 2009, the United States intensified its work under the TIFA, developing new proposals for joint work. The United States and ASEAN agreed to proceed with work on bilateral agreements on trade facilitation, dialogues on trade and environment and trade finance, and a government-business dialogue. Work in these areas is already underway. These new initiatives join the existing set of TIFA work plan items that include cooperation on standards and support for the ASEAN Single Window customs project.

e. Other Priority Activities

The United States and Indonesia convened the first Asia-Pacific Regional Dialogue to Promote Trade in Legally Harvested Forest Products in September 2009. The Regional Dialogue brought together trade

and forestry officials from nine countries – Australia, Brunei, Indonesia, Malaysia, Papua New Guinea, Singapore, the Solomon Islands, the United States, and Vietnam – to discuss best practices and new ways to promote trade in legally harvested forest products and government-to-government cooperation in combating illegal logging. To advance this work, participants agreed to hold a second meeting of the Regional Dialogue in the first half of 2010.

6. Sub-Saharan Africa

a. Trade and Investment Relations

In 2009, the Administration and USTR continued to work closely with a wide variety of government, private sector and civil society stakeholders to strengthen U.S.-African trade and investment relations. The Administration seeks both to expand markets for U.S. goods and services in sub-Saharan Africa and to facilitate African efforts to bolster African economic development through increased global, regional, and bilateral trade. For the last several years, the African Growth and Opportunity Act (AGOA), enacted in 2000, has been at the center of U.S.-African engagement on trade and investment. By providing duty-free entry into the United States for almost all African products, AGOA has helped expand and diversify African exports to the United States, while at the same time fostering an improved business environment in many African countries. Forty sub-Saharan African countries were eligible for AGOA in 2009. *(For additional information, see Chapter V.B.8.c.)*

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum, informally known as "the AGOA Forum," is an annual ministerial-level forum with AGOA-eligible countries. The eighth meeting of the AGOA Forum was held in August 2009 in Nairobi, Kenya. Ambassador Ron Kirk and Deputy U.S. Trade Representative Demetrios Marantis participated in the 2009 Forum, along with senior officials from more than a dozen U.S. Government agencies. They met with numerous African trade ministers, leaders of African regional economic organizations, and representatives of the African and American private sectors and civil society to discuss issues and strategies for advancing trade, investment, and economic development in Africa as well as ways to increase two-way U.S.-African trade.

Ambassador Ron Kirk also advanced the U.S.-African dialogue on trade and investment issues during visits in 2009 to South Africa, Ethiopia, and Senegal.

b. Trade and Investment Framework Agreements

In May 2009, the U.S. Government and the government of Angola signed a Trade and Investment Framework Agreement (TIFA), marking the eleventh such agreement between the United States and sub-Saharan African partners. The United States also has TIFAs with Ghana, Liberia, Mauritius, Mozambique, Nigeria, Rwanda, South Africa, the Common Market for Eastern and Southern Africa (COMESA)[26], the East African Community (EAC)[27], and the West African Economic and Monetary Union (also known by its French acronym, UEMOA)[28]. Each TIFA has a detailed work plan. USTR leads interagency engagement with TIFA partners on a wide range of issues. In addition to high-level

[26] COMESA members are Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Mad agascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.
[27] EAC members are Burundi, Kenya, Rwanda, Tanzania, and Uganda.
[28] UEMOA members are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

TIFA Council meetings, which are held every one to two years, there is an ongoing dialogue with most TIFA partners that may include periodic working-level meetings and digital video conferences.

In 2009, USTR led U.S. participation in six TIFA Council meetings – with the COMESA, Liberia, Mozambique, Mauritius, Nigeria, and Rwanda. The agenda at these meetings typically included bilateral trade and investment disputes, implementation of AGOA, cooperation in the WTO, trade capacity building assistance, export diversification, trade and investment promotion, and the business environment. At the March 2009 TIFA Council meeting with Nigeria, U.S. and Nigerian officials reached agreement on an IPR Action Plan that establishes a framework for bilateral cooperation on improving IPR protection and enforcement efforts in Nigeria.

In addition to the TIFAs, the United States has a Trade, Investment and Development Cooperative Agreement (TIDCA) with the five countries of the Southern African Customs Union (SACU), Botswana, Lesotho, Namibia, South Africa, and Swaziland. In 2009, USTR led U.S. participation in working-level discussions with SACU countries on key issues covered under the 2008 TIDCA, including customs and trade facilitation, technical barriers to trade, sanitary and phytosanitary measures, and trade and investment promotion.

c. Other Activities

- In August 2009, the United States and Mauritius launched negotiations toward a bilateral investment treaty that would strengthen investor protections and encourage the continuation of market-oriented economic reforms in Mauritius.

- Ambassador Ron Kirk held two meetings in 2009 with the Trade Advisory Committee on Africa, comprised of representatives from the U.S. private sector and civil society, to discuss trade policy priorities for Africa and issues critical to enhancing the U.S.-African trade and investment relationship. *(For additional information, see Chapter VI.B.)*

7. South and Central Asia

a. Reinvigorating the United States-India Trade Relationship

The United States and India reaffirmed the importance of the bilateral relationship by announcing the creation of a Strategic Dialogue in July 2009. The United States–India Trade Policy Forum (TPF), created in 2005, serves as a core element of the Economics, Trade and Agriculture pillar of the Strategic Dialogue and remains the principal bilateral forum for discussing trade and investment. U.S. and Indian chairs of the TPF's five Focus Groups – Agriculture, Innovation and Creativity, Investment, Services, and Tariff and Non-Tariff Barriers – met regularly throughout 2009 to discuss the range of issues on the bilateral agenda, including intellectual property rights, market access in the services sector, tariff and non-tariff measures, agricultural and industrial standards issues, and investment policy concerns. The two governments also agreed to reconstitute the Private Sector Advisory Group (PSAG) which will continue to provide strategic recommendations to the government-to-government deliberations under the TPF. The two governments agreed to convene a PSAG meeting in early 2010.

Key features of the United States-India trade policy engagement during 2009 included:

- The two countries agreed to conclude a Framework for Cooperation on Trade and Investment in early 2010 that will outline a number of shared objectives for increasing two-way trade and investment and a work plan to guide the TPF in the pursuit of those objectives.

- The United States and India agreed to explore collaborative initiatives in the Information Communications Technology (ICT) and energy and environmental services sectors. USTR and the Indian Commerce Ministry also agreed to promote greater involvement by U.S. and Indian small and medium enterprises (SMEs) in bilateral trade and in the world economy.

- Ambassador Ron Kirk and Indian Minister of Commerce and Industry Anand Sharma met a number of times throughout 2009. They discussed ideas for pursuing an enhanced bilateral relationship. They also met in the context of the Doha Round negotiations to find common ground towards concluding a balanced and ambitious outcome.

b. Contributing to Regional Stability

In support of top national security objectives in Afghanistan, Pakistan, and Iraq, in 2009 USTR strengthened engagement with all three countries as part of a broader effort to boost trade, employment, and sustainable development. Ambassador Ron Kirk met with the Afghan and Pakistani Commerce and Finance Ministers, and USTR hosted Trade and Investment Framework Agreement (TIFA) meetings with Pakistan in April and with Afghanistan in October. Working with the U.S. Departments of State, Commerce, and Agriculture, USTR participated in trilateral and other high-level meetings in Washington, DC, Islamabad, Kabul, and Baghdad. Key highlights from 2009 included:

- USTR and the Department of State continued to seek passage of Reconstruction Opportunity Zone (ROZ) legislation to provide duty-free benefits for certain products exported to the United States from Afghanistan and critical border areas of Pakistan. USTR also led discussions on how Afghanistan, Pakistan, and Iraq could increase use of existing trade benefits under the U.S. Generalized System of Preferences (GSP).

- USTR supported negotiations between Afghanistan and Pakistan on a modern transit trade agreement that would boost regional trade and help create economic opportunities in both countries.

- Pakistan and the United States agreed to intensify engagement on trade and investment issues by launching the U.S.-Pakistan Joint Trade Study Group. USTR-led engagement with the government of Pakistan also helped resolve a major long-standing bilateral investment dispute in 2009.

- The United States agreed to continue its technical and advisory support for accession of Afghanistan and Iraq into the WTO.

c. Promoting National Reconciliation and Lasting Peace in Sri Lanka

The United States and the government of Sri Lanka (GOSL) held the 7th TIFA Council Meeting in Colombo, Sri Lanka, in October 2009. It was their first meeting since Sri Lanka's civil war ended in May 2009. The United States and Sri Lanka discussed market access and investment climate concerns and initiated capacity building initiatives on intellectual property rights and the U.S. GSP program. On the margins of the TIFA, the GOSL organized a private-public conference, "Fostering National Reconciliation through Economic Development and Jobs." Forty U.S. companies participated in the conference. U.S. companies also visited Sri Lanka's Eastern Province and had individual meetings with Sri Lankan government officials and local companies to identify investment opportunities in Sri Lanka.

d. Advancing U.S. Engagement with Central Asia

In 2009, USTR supported the Administration's strategy towards Central Asia by hosting the U.S.-Central Asia TIFA Council meeting in Washington, DC in October in order to bolster cooperation with the Central Asian countries Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan in support of U.S. operations in Afghanistan (TIFA observer) and to strengthen and diversify U.S.-Central Asia trade relations more broadly. The United States launched bilateral dialogues with each Central Asia TIFA partner to focus on country-specific issues, and the TIFA members agreed to establish a new mid-year meeting of a TIFA working group.

For Kazakhstan, the United States convened a bilateral meeting with Kazakhstani authorities to discuss Kazakhstan's impending Customs Union with Russia and Belarus and prospects for Kazakhstan's WTO accession. USTR discussed U.S. concerns about higher duties under the common external tariff, which entered into force on January 1, 2010, and the future of Kazakhstan's WTO market access commitments.

e. Other Regional Priorities

In October 2009, USTR and the government of Maldives signed a TIFA to provide a forum for the two governments to examine ways to enhance bilateral trade and investment. In 2009, Maldives rejoined the International Labor Organization (ILO) and updated its labor laws to be in line with ILO conventions. As a result, USTR reviewed Maldives' application for reentry into the GSP program, and in December 2009, the President signed a proclamation reestablishing Maldives' GSP beneficiary status.

USTR continued to pursue TIFAs with the governments of Bangladesh, Iraq, and Nepal.

IV. OTHER TRADE ACTIVITIES

A. Trade and the Environment

The Administration has enhanced work on environment and trade matters across multiple fronts, including through multilateral, regional, and bilateral trade initiatives. On the multilateral front, the United States has continued to be a global leader in seeking to discipline harmful fisheries subsidies and eliminate barriers to trade in environmental technologies and services, including clean energy technologies, through the WTO as part of the Doha Development Agenda (DDA) negotiations. During the course of 2009, the Administration increased focus on implementation efforts for the free trade agreements currently in force. Additionally, the Administration has broken new ground in actively engaging our trading partners to address illegal logging and associated trade and to identify the potential for a positive agenda in areas where international trade policy and efforts to address global climate change overlap. In keeping with the increased integration of environmental considerations across multiple multilateral, regional, and bilateral fronts, this report includes a detailed assessment of recent developments on trade and environment in specific sections devoted to these various fora.

1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States is active on all aspects of the DDA trade and environment agenda. In particular, the United States has worked closely with other countries to explore approaches for taking early action to liberalize trade in climate-friendly technologies in order to build momentum for broader DDA negotiations on environmental goods and services and to facilitate concrete action on the trade and climate change front. In the Rules Negotiating Group, the United States continues to lead in pressing for stronger disciplines on fisheries subsidies that contribute significantly to global overcapacity and overfishing. The Administration also has sought to orient activities in the OECD Joint Working Party on Trade and Environment to focus on value-added contributions to ongoing WTO work, as well as strong analytical research on the interface between trade and climate change policies.

USTR continues to participate in formulating and carrying out U.S. policy regarding the implementation of various multilateral environmental agreements to help ensure compatibility between those activities and U.S. environment-related trade policy. Examples include implementation in respect of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the International Commission for the Conservation of Atlantic Tuna (ICCAT), the International Maritime Organization (IMO), the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. USTR also participates in formulating and carrying out U.S. policy regarding activities conducted under the auspices of the United Nations Environment Program and the United Nations Framework Convention on Climate Change (UNFCCC). At the UNFCCC Conference of the Parties in Copenhagen, Denmark, USTR, together with other U.S. agencies, worked closely with other countries to ensure that any agreement on long term cooperative actions to combat climate change is consistent with existing international commitments on trade, including the protection of intellectual property rights.

USTR has been particularly active in two international commodity agreements to identify and pursue opportunities to facilitate increased international trade and sustainable development. In the International Tropical Timber Organization (ITTO), USTR has led Administration efforts to promote increased market

transparency and provide support for capacity building projects to facilitate tropical timber trade in the context of sustainable management of tropical forests. In the International Coffee Organization (ICO), USTR has led Administration efforts to revitalize this organization, particularly to strengthen the ICO's role in developing and implementing capacity building projects and in promoting the development and dissemination of innovations and best practices, such as in the area of finance.

2. Bilateral and Regional Activities

The environment chapters of the trade agreements with Peru, Colombia, Panama, and Korea include obligations to implement and enforce provisions in a number of multilateral environmental agreements, such as those covering trade in endangered species, conservation of marine resources, and wetlands protection. In addition, the environment chapter in the Peru Trade Promotion Agreement includes an annex on forest sector governance that will lead to substantial improvements in Peru's management of its biodiversity-rich tropical forest resources. The individual FTA sections of this report provide detailed descriptions of the specific activities under each environment chapter during the last year with particular emphasis on enhanced bilateral and regional engagement to monitor implementation of FTA environmental provisions.

The Administration was very active in 2009 in building on initiatives to address illegal logging and associated trade. USTR, joined by the State Department, led a broadly representative interagency delegation to the second meeting of the Bilateral Forum under a 2007 Memorandum of Understanding (MOU) between the United States and China on combating illegal logging and associated trade. This MOU establishes a framework for bilateral cooperation on combating illegal logging and associated trade, particularly with respect to goods traded by either country. As a result of this meeting, the United States and China agreed to undertake regular exchanges of trade data for forest products and to explore opportunities for public-private cooperation in promoting transparency and trade in legally-harvested forest products.

USTR also chairs a Working Group on Combating Illegal Logging and Associated Trade under the United States-Indonesia Trade and Investment Agreement. The Working Group was created by a first of its kind MOU with Indonesia that was concluded in 2006. In 2009, the Working Group met in May in Washington, DC and in September in Jakarta, Indonesia. During the course of the meeting in Jakarta, the United States and Indonesia considered a joint public report of the Working Group, the exchange of information on bilateral timber trade, and CITES implementation related to forest products. Additionally, USTR led a multi-agency workshop on amendments to the Lacey Act with participation by the Indonesian government, private sector, and civil society groups.

The Administration has taken important steps to build on the bilateral agreements with China and Indonesia in initiating a new Asia-Pacific Regional Dialogue to Promote Trade in Legally-Harvested Forest Products. A first meeting of the Regional Dialogue, co-chaired by the United States and Indonesia, took place in September in Jakarta and included participation by trade and forestry officials from Australia, Brunei, Malaysia, Papua New Guinea, Singapore, the Solomon Islands, and Vietnam. The Regional Dialogue illustrates the Administration's commitment to finding effective and creative solutions to trade-related environmental challenges. Future meetings of the Regional Dialogue will include additional countries in the region and will explore opportunities to exchange information and develop a common understanding of relevant issues, including collaborative, regional approaches to address them.

3. The North American Free Trade Agreement (NAFTA)

The Administration continues to work closely with Canada and Mexico to ensure that trade and environment policies in each of the three countries are implemented in a manner that is mutually

supportive. In 2009, USTR led efforts to improve cooperation between the NAFTA Free Trade Commission (FTC) and the Commission for Environmental Cooperation (CEC) on these issues. These efforts included a letter from the FTC ministers to their CEC counterparts inviting enhanced cooperation between the bodies on trade and environment issues, and the FTC's creation of an *ad hoc* working group of senior officials, among other things, to explore ways to improve collaboration between the FTC and the CEC. USTR continues to work actively with EPA and other agencies in representing the United States in addressing North American trade and environmental issues, including under the NAFTA environmental side agreement—the North American Agreement on Environmental Cooperation (NAAEC)—and the border environmental infrastructure agreements. These agreements were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement.

At its 2009 annual meeting, the CEC Council discussed the implementation of the NAAEC. The Council agreed on a new policy direction for the CEC that is focused on the key environmental priorities of North America, in the context of increasingly liberalized trade and more integrated economies, and is positioned to deliver clear results. This new direction will focus on three priorities for the work of the CEC during the period 2010-2015: healthy communities and ecosystems; climate change and a low carbon economy; and greening the economy in North America. The Council also met with and obtained input from the public on various aspects of the CEC's program including its trade and environment component.

B. Trade and Labor

The Administration's trade policy agenda includes a strong commitment to ensuring that workers and their families in America and around the world benefit from trade. The Administration has enhanced engagement with trade partners on addressing respect for labor rights and has increased monitoring and enforcement of free trade agreement (FTA) labor provisions. The Administration also has increased monitoring of adherence to the worker rights provisions in U.S. trade preference programs and dialogue on labor rights with key trading partners.

To assist workers who have been adversely affected by imports and jobs being moved overseas, President Obama signed into law the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), as part of the American Recovery and Reinvestment Act of 2009. The TGAAA reauthorized Trade Adjustment Assistance (TAA) programs; expanded TAA coverage to more workers and firms, including workers and firms in the service sectors; made benefits available to workers whose jobs have been sent "off-shore" to another country (as opposed to covering a more limited set of shifts in production); improved workers' training options; and increased the affordability of health insurance coverage. *(For additional information, see Chapter V.B.7.)*

1. Multilateral and Regional Fora

In the Ministerial Declaration adopted during the WTO Ministerial Conference in Singapore (1996), and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), the WTO Members renewed their commitment to the observance of internationally recognized core labor standards and took note of collaboration between the WTO and ILO Secretariats. In 2009, the WTO and the ILO continued their collaboration on issues of common interest with the release in September of a joint study on *Globalization and Informal Jobs in Developing Countries*. The study is intended to promote a better understanding of the linkages between trade and employment in developing countries (http://www.ilo.org/public/english/bureau/inst/download/globalinform.pdf).

In the Asia Pacific Economic Cooperation (APEC) forum, the Administration has continued to promote the discussion of labor rights as one of the topics relevant to the efforts to strengthen regional economic

integration. In APEC, the United States continues to support model measures on labor that could be included in FTAs in the Asia-Pacific region and discussion of labor rights in studies of member economies' FTAs as part of overall efforts to promote the negotiation of high quality trade agreements by APEC member economies. *(For additional information, see Chapter III.B.3.)*

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere's labor ministers, held approximately every two years under the auspices of the Organization of American States to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by heads of state in the Summit of the Americas process. For additional information on the IACML, visit http://www.sedi.oas.org/ddse/english/cpo_trab.asp.

In October 2009, at the Sixteenth IACML, held in Buenos Aires, Argentina, the labor ministers unanimously adopted a Declaration that reaffirmed their obligations as members of the ILO and commitments to promote, respect, and realize the principles with respect to the fundamental labor rights contained in the ILO *Declaration on Fundamental Principles and Rights at Work*. The labor ministers recognized the positive contribution of trade to the promotion of growth, employment, and development and committed to continue to analyze the labor dimension of free trade agreements. The ministers also endorsed a Plan of Action that, among other things, establishes a working group chaired by the United States on "decent work to face the global economic crisis with social justice for a fair globalization." The working group's responsibilities include addressing the social dimension of globalization, regional integration processes, and FTAs.

2. Bilateral Agreements and Preference Programs

a. FTAs

U.S. FTAs contain obligations concerning the consistency of each party's labor laws with international standards (with recent FTAs obligating each party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*), not to fail to effectively enforce its labor laws, and not to waive or derogate from those laws in a manner affecting trade or investment. Additionally, the labor provisions obligate each party to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter and create labor cooperation and capacity building mechanisms through which the parties will work together to enhance opportunities to improve labor standards. USTR and DOL engage our FTA partners on labor issues as part of our ongoing dialogue on monitoring implementation of our agreements. *(For additional information, see Chapter III.A.)*

In consultation with USTR, the Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor serves as the contact point for purposes of administering responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation (NAALC), including the labor cooperation mechanisms. For additional information on OTLA and its procedures, visit:

http://www.dol.gov/ILAB/programs/otla/index.htm
http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm

In 2009, the Administration worked closely with the governments of Colombia and Panama to address outstanding labor concerns relating to those two countries. With respect to Colombia, the Administration worked to secure progress and a path forward on labor-related concerns. This consisted of engaging the government of Colombia on efforts to ensure that Colombia's labor law meets international standards and to address violence against trade unionists, including initiatives to bring the perpetrators to justice. With

respect to Panama, the Administration worked with that government to develop a strong package of labor reforms intended to clarify the application of labor law in Panama and the means for workers to assert their rights under the law. The Administration continues to work with Panama to implement these reforms.

b. Other Bilateral Agreements and Preference Programs

President Obama certified to Congress that Haiti met the necessary requirements to continue duty-free treatment for certain Haitian-made apparel and other articles under the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II). Pursuant to the requirements of the HOPE II, Haiti established an independent labor ombudsman's office, a Better Work program operated by the ILO to assess compliance with core labor rights, and a mechanism to ensure that producers that wish to be eligible for duty-free treatment participate in the Better Work program.

U.S. trade preference programs, including the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act (CBTPA), and the Generalized System of Preferences (GSP), require the application of workers rights statutory eligibility criteria. Four workers rights-related petitions remained under review as part of the 2009 GSP Annual Review process, three of which were filed in 2007 (Bangladesh, the Philippines, and Uzbekistan) and one of which was filed in 2006 (Niger). USTR and other U.S. Government officials engaged with these governments through U.S. embassies in those countries, their embassies in Washington, DC, and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions. Review of whether these countries are meeting the GSP workers rights criteria will continue in 2010. An ATPA petition concerning workers rights in Ecuador was filed in 2005 and review of practices in that country continued in 2009. Additionally, the Administration continues to consider whether to accept for review GSP worker rights-related petitions filed in 2008 concerning Iraq and Sri Lanka. As part of that process, USTR and other U.S. Government agencies have engaged with the governments of Sri Lanka and Iraq to address the allegations.

In December 2009, the President approved reinstatement of GSP benefits for the Republic of the Maldives because of steps its government has taken to improve the legal framework to afford workers in the Maldives internationally recognized workers rights. The Maldives was removed from GSP eligibility in 1995 because of workers rights concerns. The Administration will continue to work closely with the Maldives through TIFA and other mechanisms to help ensure that the country's progress on the legal framework and its implementation continue.

A commitment by China for a dialogue on labor issues was included among the outcomes of the United States-China Strategic and Economic Dialogue. This provides an avenue for engagement with China on labor rights issues in connection with our trade and economic relationships.

In April 2009, the United States and Vietnam held a TIFA meeting and labor rights in Vietnam was one of the issues discussed. In particular, USTR sought progress by the government of Vietnam on providing freedom of association and collective bargaining rights in conformity with the workers rights requirements of the GSP.[29] In conjunction with this meeting, Vietnamese officials – including two directors-general from Vietnam's Ministry of Labor, Invalids and Social Affairs (MOLISA) – met with U.S. Department of Labor ILAB officials to discuss Vietnam's labor reform efforts and to plan for the next bilateral Labor Dialogue that will take place in 2010.

[29] Vietnam is seeking designation as a GSP beneficiary country.

Also in 2009, the United States engaged with several other countries on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. Most notably, the United States discussed worker rights issues with Pakistan during a TIFA meeting in April, and with Afghanistan and Sri Lanka during TIFA meetings in October. The United States also raised labor issues with Ecuador during a meeting of the Trade and Investment Council in November.

In addition, the United States signed TIFAs with Angola and the Maldives, and a Trade and Investment Cooperation Forum agreement with Iceland in 2009, all of which contain commitments to promote respect for labor rights and to engage in discussions on trade and labor issues as part of ongoing dialogue under the agreements.

C. Small and Medium Sized Business Initiative

On October 5, 2009, Ambassador Ron Kirk announced a new USTR initiative aimed at increasing exports by small and medium-sized enterprises (SMEs) located in the United States. USTR launched this initiative as part of the President's strategy to transform the U.S. economy by rebalancing the path to economic growth.

A new focus on SMEs is seen as a critical component of stimulating job growth in the United States. Research shows that businesses engaged in trade increase employment faster, and pay better wages, than businesses purely serving domestic markets. There are more than 27 million SMEs in the United States, but currently only one percent of these companies export goods or services, and most of them only export to one country. If the United States can increase the number of SMEs that export, as well as the number of markets to which they export, it will support more employment growth.

USTR has taken several significant actions to support its SME objectives.

1. New AUSTR Designated for Small Business, Market Access, and Industrial Competitiveness

On January 21, 2010, Ambassador Ron Kirk designated James Sanford as Assistant United States Trade Representative for Small Business, Market Access, and Industrial Competitiveness. This new responsibility for small business issues enhances his existing responsibilities related to market access and industrial competitiveness issues, helps us coordinate our SME activities across the agency, and provides a USTR contact point for small businesses.

2. International Trade Commission Studies on SMEs

On October 5, 2009, Ambassador Ron Kirk requested the U.S. International Trade Commission to prepare a series of reports on U.S. SMEs in international trade in order to better understand SME performance and to help guide U.S. trade policy and trade promotion activities. These reports will provide:

- Review of the available data about SME exporting in regard to both goods and services, which was released on January 12, 2010. The full report can be found at http://www.usitc.gov/publications/332/pub4125.pdf;

- Comparison of U.S. SMEs with SMEs in other OECD countries, including the European Union, to benchmark our performance (due June 2010); and

- In-depth analysis of SME issues where available data are limited, especially in regard to service industries and to indirect exporting, i.e., SME inputs to exports of larger firms (due in late 2010).

3. SME Conference Hosted by Ambassador Ron Kirk

On January 21, 2010, Ambassador Ron Kirk hosted a conference titled "Jobs on Main Street, Customers Around the World: A Positive Trade Agenda for U.S. Small- and Medium-Sized Enterprises" at the Peterson Institute for International Economics in Washington, DC. Attended by over 200 participants, speakers at the conference included Administrator Karen G. Mills of the U.S. Small Business Administration, Deputy Secretary of Commerce Dennis Hightower, and Deputy U.S. Trade Representative Miriam Sapiro. The event featured three roundtable discussions with leaders of small businesses from around the country focused on trade opportunities and challenges confronting SMEs, including key constraints as well as possible Administration policy and trade promotion activities that could support increased export activity by SMEs. A video presentation of the conference's speeches and discussions are available at http://www.ustr.gov.

4. Office Reviews of SME-Related Activities

Under the SME initiative, each office in USTR has been developing ideas and proposals on ways to enhance activities that could benefit SMEs, including a review of outreach strategies to ensure that USTR is receiving advice from a range of SMEs. Several key aspects of USTR's trade policy agenda in particular have potential to help SMEs boost exports. These include enhancing trade facilitation work, strengthening and enforcing intellectual property rights, simplifying government procurement rules, and targeting services barriers that are especially difficult for SMEs, such as requirements for staffing an office in each country to which companies wish to export.

The ability to address SME concerns through the fact-finding and consultation mechanisms built into our bilateral and regional trade agreements and dialogues is an important asset for USTR. For example:

- As we move forward with negotiations to expand U.S. trade in the Asia-Pacific through the Trans-Pacific Partnership, we will have a point person for SME issues, and we will consistently emphasize the needs of smaller businesses.

- As an APEC agenda priority, we are seeking to make it cheaper and easier for companies, and particularly small and medium-sized businesses, to trade in the region. We will be looking to increase activities in APEC that will help SMEs by seeking to rationalize complex and divergent trade rules, and reduce transaction costs.

- We are seeking to establish, where appropriate, free trade agreement (FTA) working groups on small and medium-sized enterprises to facilitate expanded SME trade opportunities under our FTAs.

D. Anti-Counterfeiting Trade Agreement

The United States is working to strengthen cooperation with its trading partners in the fight against counterfeiting and piracy. In October 2007, USTR announced an initiative, in partnership with several key trading partners, to fight counterfeiting and piracy by seeking to negotiate an Anti-Counterfeiting Trade Agreement (ACTA). The ACTA effort brings together a number of countries that are prepared to embrace strong intellectual property rights (IPR) enforcement in a leadership group to seek a new agreement calling for cooperation, strong enforcement practices, and a strong legal framework for IPR

enforcement. Participants so far have included Australia, Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and Switzerland. In 2008, these participants engaged in four rounds of negotiations.

Following a review in early 2009, Ambassador Ron Kirk announced on June 12, 2009 that USTR would continue to participate in the negotiations. Two negotiating rounds in Rabat, Morocco and Seoul, Korea were held in 2009.

Additionally, during the review, USTR identified additional opportunities for ensuring meaningful input and keeping the public informed about the ACTA negotiations. Accordingly, in 2009, USTR took the following steps:

- established for the first time a dedicated ACTA web page on the USTR website;
- issued and updated the first public summary of issues under negotiation;
- took the new step of releasing agendas to the public on the ACTA web page before each meeting;
- broadened the group of experts from which USTR sought advice, including representatives of intellectual property rights holders, Internet intermediaries, NGOs, and others, about prospective U.S. positions on enforcement of intellectual property rights in the digital environment;
- consulted and shared relevant text with USTR Committees of Jurisdiction and the Judiciary Committees in both houses of the U.S. Congress concerning prospective positions; and
- strengthened educational efforts online with links on the ACTA web page to valuable and relevant portions of past agreements, for review by anyone who is interested in understanding the U.S. approach to possible legal framework provisions of the ACTA.

USTR also won an endorsement by ACTA partners at the Seoul Round in November 2009 of the need to provide the opportunity for the public to provide meaningful and timely input into the negotiations. This lays the groundwork for cooperative transparency efforts in 2010.

E. Import Safety

On March 14, 2009, President Obama announced the creation of the Food Safety Working Group to advise him on how to strengthen the U.S. food safety system. The Working Group, chaired by the Secretaries of the Department of Health and Human Services and the Department of Agriculture, brings together cabinet secretaries and senior officials to foster coordination throughout the federal government on a new, public health focused approach to food safety based on three core principles: (1) prioritizing prevention; (2) strengthening surveillance and enforcement; and (3) improving response and recovery. USTR has been an active member of the Food Safety Working Group providing guidance on various recommendations and initiatives while ensuring compliance with international trade obligations.

Since its creation, the Food Safety Working Group has served as a mechanism to address cross-cutting issues, such as new food safety legislation, pathogen reduction treatments, and facility inspection activities. The Food Safety Working Group is currently working on a series of initiatives to make the U.S. food supply even safer by further reducing *Salmonella* in eggs and poultry products and establishing a national traceback and response system to quickly identify sources of illness to protect consumers and help industry recover faster.

A predecessor to the Food Safety Working Group was a working group on Import Safety established by the Bush Administration. That working group, which included representatives from USTR and focused on food as well as other product safety concerns, conducted a comprehensive review of current practices. Based on that review and input from stakeholders and relevant federal agencies, the working group issued a Strategic Framework followed by an Action Plan that outlined 14 recommendations and 50 action steps to improve import safety. The Action Plan, the Strategic Framework, and a subsequent progress report can be accessed at http://www.importsafety.gov.

In addition to active participation in the Food Safety Working Group's activities and the earlier Import Safety Working Group, USTR has continued to address the safety of imported products through its work on sanitary and phytosanitary (SPS) issues. An integral part of U.S. free trade agreements (FTAs) are chapters concerning SPS measures. Each SPS chapter has among its stated objectives the protection of human and animal health. These chapters, among other things, establish standing committees of the parties to the FTA to enhance cooperation and consultation on SPS matters and improve the parties' understanding of each other's SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance in countries such as Peru.

Work with U.S. trading partners continues outside of FTAs as well. Prior to the December 2007 meeting of the Strategic Economic Dialogue (SED) with China, USTR also contributed to the U.S. Department of Health and Human Services' efforts to conclude two memoranda of agreement (MOA) with China aimed at improving the safety of Chinese products exported to the United States. The MOAs adopted an innovative approach to improving the safety of products imported from China, including the use of foreign certification. High-level engagement by the United States in the food safety activities of the APEC Subcommittee on Standards and Conformance (SCSC) produced agreement on capacity building priorities to be addressed in the work of the APEC Food Safety Cooperation Forum Partnership (FSCF) Training Institute Network (PTIN). The FSCF PTIN is composed of leaders from government, the private sector and academia and serves as a network of food safety trainers in the APEC region. In 2010, the PTIN plans to develop food safety training modules and delivery mechanisms, hold several food safety workshops, and launch a website containing food safety training resources. The APEC SCSC also hosted a U.S.-led initiative to promote trade in safe toys in a regulator-to-regulator dialogue in August 2009 in Singapore and a conference of stakeholders and regulators at the Hong Kong International Toy Fair in January 2010.

The WTO Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) Committees provide an important forum for the United States to exchange information with its trading partners on countries' respective health and safety requirements and address concerns about their implementation. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that SPS and product safety requirements are based on the best available scientific and technical information and in accordance with their health and safety objectives.

Strong intellectual property rights (IPR) enforcement also plays an essential role in the protection of public health and safety. In this area, USTR, with the help of other federal agencies, works with U.S. trading partners to address product counterfeiting by promoting stronger IPR laws and law enforcement around the world, for example through efforts to negotiate an ACTA. *(For additional information, see Chapter IV.D.)*

F. Organization for Economic Cooperation and Development

Thirty-one democracies in Europe, North America, South America, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. The OECD member countries account for 72 percent of world gross national income, 60 percent of world trade, 95 percent of world official development assistance, over half of the world's energy consumption, and 18 percent of the world's population. The OECD is not just a grouping of economically significant nations, but also a policy forum covering a broad spectrum of economic, social, and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries, both OECD members and non-members, reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, though some OECD instruments are legally binding, such as the Anti-Bribery Convention. Most OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the WTO.

The OECD conducts wide-ranging outreach activities to non-member countries and to business and civil society, in particular through its series of workshops and "Global Forum" events held around the world each year. Non-members may participate as observers of committees when members believe that participation will be mutually beneficial. The OECD carries out a number of regional and bilateral cooperation programs, such as the Middle East and North Africa (MENA) initiative.

The OECD is mainly funded by the member countries. National contributions to the annual budget are based on a formula related to the size of each member's economy. The United States pays just under 25 percent of the OECD's costs, but a historic deal was reached in 2008 on OECD finance reform, whereby the U.S. agreed to allow two percent annual growth in the OECD budget over the next decade in return for the smaller members significantly increasing their share of the OECD's assessments. This finance reform will decrease the U.S. share of contributions from 24.975 percent to around 20 percent over a ten-year period. The overall budget for 2009 was projected to total 303 million euros (approximately $443 million).

1. Trade Committee Work Program

In 2009, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. Members asked the Secretariat to focus its analytical resources on four work streams: trade liberalization, trade in services, trade and domestic policies, and export credits. The Trade Homepage on the OECD website (http://www.oecd.org/trade) contains up-to-date information on published analytical work and other trade-related activities.

Several major OECD analytical pieces related to trade were developed or completed in 2009. These include:

- OECD Economic Outlook No. 86, November 2009;
- OECD Statistics on International Trade in Services 2009, Volume I, detailed tables by service category;
- Aid for Trade at a Glance: Maintaining Momentum 2009;
- Assessing Barriers to Trade in Services in the MENA Region;
- Binding Constraints to Trade Expansion: Aid for Trade Objectives and Diagnostic Tools;

- Clarifying Trade Costs: Maritime Transport and its Effect on Agricultural Trade;
- Economic Impacts of the Phase-Out in 2005 of Quantitative Restrictions Under The Agreement on Textiles and Clothing;
- Globalization and Emerging Economies: Brazil, Russia, India, Indonesia, China and South Africa;
- India's Trade Integration, Realizing the Potential;
- Informal Cross-Border Trade and Trade Facilitation Reform in Sub-Saharan Africa**;**
- International Trade: Free, Fair and Open?;
- Overcoming Border Bottlenecks: The Costs and Benefits of Trade Facilitation;
- Price and Volume Elasticities of Brazilian Foreign Trade: A Profit Function Approach;
- Quantifying Regulatory Barriers to Services Trade;
- Role, Usage and Motivation for Contracting in Agriculture;
- South Africa's Trade and Growth;
- Trading Out of Poverty - How Aid for Trade Can Help;
- Trade Impacts of Selected Regional Trade Agreements in Agriculture; and
- Vertical Trade, Trade Costs and FDI.

The Trade Committee continued its work developing the first Services Trade Restrictiveness Index, a tool to measure the restrictiveness of regulations and other barriers affecting trade in services. During the year, the OECD collected data and examined barriers to trade in four sectors: computer services, professional services, telecommunications, and construction services.

A Global Forum on Trade and Climate Change in June 2009 in Paris provided an opportunity to present the results of analytical work prepared in the Joint Working Party on Trade and the Environment, as well as studies by the World Bank on trade and climate change. Its overall goal was to provide an opportunity for experts and policymakers to examine how trade policy and climate change policy can be mutually supportive, in concrete terms.

The Trade Committee, through its working party, and the OECD's Development Assistance Committee (DAC) are jointly helping to respond to the challenge of helping poorer developing countries benefit from the opportunities of the multilateral trading system. As part of the WTO Aid for Trade initiative, the OECD has been asked to track trade-related aid flows and assist in the effort to evaluate the effectiveness of these programs, both areas in which the DAC has particular expertise. The aim of the OECD's Aid for Trade work is to make aid for trade more effective by strengthening the integration of trade in development programs, developing impartial and reliable tools to assess aid-for-trade programs, and fostering dialogue and knowledge-sharing between stakeholders. Joint Trade Committee-DAC work contributed significantly to the WTO's Second Global Review of Aid for Trade (discussed in the WTO section of this report.)

In addition, the Trade Committee continued its dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including members of the OECD's Business and Industry Advisory Council and Trade Union Advisory Council.

2. Dialogue with Non-OECD Members

The OECD continued its contacts with non-member countries to encourage the integration into the multilateral trade regime of developing and transition economies. Since 2007, the OECD has focused outreach on broadening membership to include five additional countries: Chile, Estonia, Israel, Russia, and Slovenia; and to enhance engagement with five important emerging economies: Brazil, China, India, Indonesia, and South Africa.

Chile completed its accession process in 2009 and became the 31st member of the OECD in January 2010. It is the first South American country to accede to the Organization. Estonia, Israel, and Slovenia are expected to complete the processes for their accessions sometime in 2010. Russia is in the early stages of accession. Enhanced Engagement is a commitment by the OECD to work closely with these important non-members in areas of mutual benefit. Enhanced Engagement may include elements of the following: committee participation, economic surveys, adherence to instruments, integration into the statistical reporting and information systems, sector-specific peer reviews, and other actions.

In 2009, the Trade Committee and its Working Party continued outreach to accession candidates and enhanced engagement partners and other interested non-members, encouraging non-member economies to be observers on an *ad hoc* basis when their participation could both benefit from, and contribute to, the Trade Committee's work.

3. Other OECD Work Related to Trade

Representatives of the OECD member countries meet in specialized committees to advance ideas and review progress in specific policy areas, such as economics, trade, science, employment, education, or financial markets. There are about 200 committees, working groups, and expert groups. Additional information on OECD activities and publications related to trade can be found on the following OECD websites:

- Trade: http://www.oecd.org/trade
- Trade and development: http://www.oecd.org/trade/dev
- Trade and environment: http://www.oecd.org/trade/env
- Trade facilitation: http://www.oecd.org/trade/facilitation
- Agricultural trade: http://www.oecd.org/agriculture/trade
- Services trade: http://www.oecd.org/trade/services
- Anti-Bribery Convention: http://www.oecd.org/corruption
- Export credits: http://www.oecd.org/trade/xcred
- Employment, Labor and Social Affairs: http://www.oecd.org/els
- Fisheries: http://www.oecd.org/fisheries
- Regulatory Reform: http://www.oecd.org/regreform
- Steel: http://www.oecd.org/sti/steel

V. TRADE ENFORCEMENT ACTIVITIES

A. Enforcing U.S. Trade Agreements

1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements to which the United States is a party and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous investigation efforts by relevant agencies, including the Departments of Agriculture, Commerce, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. We seek to achieve this goal through a variety of means, including:

- Asserting U.S. rights through the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO bodies and committees charged with monitoring implementation and with surveillance of agreements and disciplines;

- Vigorously monitoring and enforcing bilateral agreements;

- Invoking U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance;

- Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements such as the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and

- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and use or threat of use of dispute settlement mechanisms, including with respect to labor and environment.

Through the vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits for U.S. firms, farmers, and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO in 1994, the United States has filed 82 complaints at the WTO, thus far successfully concluding 55 of them by settling 27 cases favorably and prevailing in 28 others through litigation before WTO panels and the Appellate Body. The United States has obtained favorable settlements and favorable rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements – involving rules on trade in goods, trade in services, and intellectual property protection – and affect a wide range of sectors of the U.S. economy.

a. Satisfactory settlements

The goal in filing cases is to secure benefits for U.S. stakeholders rather than to engage in prolonged litigation. Therefore, whenever possible the United States has sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

The United States has been able to achieve this preferred result in 28 cases concluded so far, involving: Argentina's protection and enforcement of patents; Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's automotive investment measures; Brazil's patent law; Canada's antidumping and countervailing duty investigation on corn; China's value added tax; China's prohibited subsidies; China's treatment of foreign financial information suppliers; China's government support tied to promotion of Chinese brand names abroad; Denmark's civil procedures for intellectual property enforcement; Egypt's apparel tariffs; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Mexico's restrictions on hog imports; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' auto regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box office taxes on motion pictures.

b. Litigation successes

When U.S. trading partners have not been willing to negotiate settlements, the United States has pursued its cases to conclusion, prevailing in 27 cases to date, involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; China's charges on imported automobile parts; China's measures restricting trading rights and distribution services for certain publications and audiovisual entertainment products; China's enforcement and protection of intellectual property rights, the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; the EU's moratorium on biotechnology products; the EU's non-uniform classification of LCD monitors; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's discriminatory measures on imports of U.S. automobiles; India's additional and extra-additional duties on alcoholic beverages and other products; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's restrictions on beef imports; Mexico's antidumping duties on high fructose corn syrup; Mexico's telecommunications barriers; Mexico's antidumping duties on rice; Mexico's discriminatory soft drink tax; and Turkey's measures affecting the importation of rice.

USTR also works in consultation with other government agencies to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and U.S. free trade agreements. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights protection and enforcement, and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems. The application of these trade law tools is described further below.

2. WTO Dispute Settlement

U.S. enforcement successes in 2009 include rulings against China's measures affecting trading rights and distribution services for certain publications and audiovisual entertainment products and against China's measures affecting the enforcement and protection of intellectual property rights.

The United States also favorably resolved disputes after completing, initiating, or threatening to initiate WTO dispute settlement procedures. For example, the United States had previously initiated a dispute concerning China's government support tied to China's industrial policy to promote the sale of Chinese brand names and other products abroad. In December 2009, the United States and China concluded a settlement agreement in which China confirmed that it had eliminated all of the export-contingent benefits in the challenged measures. Similarly, the United States had previously obtained WTO rulings concerning certain Chinese discriminatory internal charges and administrative procedures on imported automobile parts. The United States and China subsequently agreed that the reasonable period of time for China to implement the WTO rulings would expire on September 1, 2009. Shortly before the expiration of the reasonable period of time, China informed the United States that it had withdrawn the measures in dispute.

Ongoing enforcement actions include disputes involving the EU's aircraft subsidies, the EU's tariff treatment for certain information technology products, the EU's ban on the importation and marketing of U.S. poultry, and China's export quotas and export tariffs on various raw materials.

The cases described in Chapter II of this report further demonstrate the importance of the WTO dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website: http://www.ustr.gov/trade-topics/enforcement/overview-dispute-settlement-matters.

3. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies that have adverse effects not only in the importing country's market, but also in the subsidizing government's market and in third-country markets. Prior to the Subsidies Agreement coming into effect in 1995, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce's Import Administration (IA) is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the

Subsidies Agreement. The IA's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether there is reason to believe they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit it to be reliably evaluated, USTR and Commerce confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During this past year USTR and IA staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by IA officers stationed overseas (*e.g.*, in China), who help gather, clarify, and check the accuracy of information concerning foreign subsidy practices. State Department officials at posts where IA staff are not present have also handled such inquiries.

The SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint. The website (http://ia.ita.doc.gov/esel/eselframes.html) includes foreign governments' subsidies notifications made to the WTO, an overview of the SEO, information on U.S. Antidumping and Countervailing Duty (AD/CVD) proceedings as well as AD/CVD actions with respect to U.S. exports, helpful links, and an easily navigable tool that provides information about each subsidy program investigated by Commerce in CVD cases since 1980. This database is frequently updated, making information on subsidy programs quickly available to the public. During 2009, IA invested in new software for the Electronic Subsidies Enforcement Library (ESEL), significantly improving the user interface and search functions, in particular for subsidy programs investigated by Commerce in its CVD proceedings.

b. Monitoring Foreign Antidumping, Countervailing Duty and Safeguard Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member to another. The United States actively participates in ongoing AD and CVD cases conducted by foreign countries in order to safeguard the interests of U.S. industry and to ensure that Members abide by their WTO obligations in conducting such proceedings. The United States also closely monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with WTO rules.

To this end, the United States works closely with U.S. companies affected by foreign countries' AD and CVD investigations in an effort to help them better understand Members' AD and CVD systems. The United States also advocates on their behalf in connection with ongoing investigations, with the goal of obtaining fair and objective treatment for them consistent with the WTO Agreements. In addition, with regard to CVD cases, the United States provides extensive information in response to questions from foreign governments regarding the subsidy allegations at issue in a particular case.

Further, IA tracks foreign antidumping and countervailing duty actions, as well as safeguard actions involving U.S. exporters, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of such actions involving U.S. companies. Information about foreign trade remedy actions affecting U.S. exports is accessible to the public via IA's website at http://ia.ita.doc.gov/trcs/index.html. The stationing of IA officers to certain overseas locations and close contacts with U.S. government officers stationed in embassies worldwide has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports.

During the past year, several trade remedy proceedings involving exports from the United States were closely monitored, such as: Brazil's investigation of butyl acrylate; Canada's investigations of copper pipe fittings and polyiso insulation board; China's investigations of automobiles, chicken products, grain-oriented electrical steel, adipic acid and polyamides; the European Union's investigation of biodiesel; India's investigations of coated paper, cold rolled stainless steel, hot rolled coil, oxo alcohols and polypropylene; Mexico's reinvestigation of apples; Pakistan's investigations of hot rolled coil and tinplate; South Africa's investigations of frozen chicken and polyvinyl chloride; and Ukraine's investigation of chicken products . IA personnel have also participated in technical exchanges with the administering authorities of the European Union, Indonesia, Thailand, and Ukraine to obtain a better understanding of these countries' administration of trade remedy laws and compliance with WTO obligations.

Members must notify on an ongoing basis and without delay their preliminary and final determinations to the WTO. Twice a year, WTO Members must also notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and IA website links to the WTO's website.

4. Initiatives to Address Foreign Standards and SPS Barriers

In July 2009, Ambassador Ron Kirk announced on behalf of the Obama Administration its intention to make enforcement of trade agreements a centerpiece of U.S. trade policy. Specifically, the Administration will deploy resources more effectively to identify and confront unnecessary or unjustified barriers stemming from sanitary and phytosanitary (SPS) measures as well as technical regulations, standards, and conformity assessment procedures (standards-related measures) that restrict U.S. exports of safe, high quality products. SPS measures, technical regulations and standards serve a vital role in safeguarding countries and their people, including protecting health, safety, and the environment. Conformity assessment procedures are normal, legitimate day-to-day activities that contribute, *inter alia,* to increasing confidence between trading partners by ensuring that products traded internationally comply with underlying standards and technical requirements. However, it is important that SPS and standards-related measures not act as disguised or unwarranted restrictions on market access or discriminate against U.S. exports. For this reason, U.S. trade agreements provide that, although countries may adopt SPS and standards-related measures to meet legitimate objectives such as the protection of health and safety as well as the environment, the measures they adopt in pursuit of such objectives must not act as unnecessary obstacles to trade. Stepped up monitoring of trading partners' practices and increased engagement with them can help ensure that U.S. trading partners are complying with their obligations and can help facilitate trade in safe, high quality U.S. products.

As part of this intensified effort to identify such barriers, in October 2009 USTR published a *Federal Register* Notice requesting producers, growers, industry, and other members of the public to submit views on SPS and standards-related measures that act as significant barriers to U.S. exports. The Notice explained that such views would assist the U.S. Government in preparing two new reports focusing on SPS measures and standards-related measures that act as significant barriers to U.S. exports. Early in 2010, USTR will publish these reports, which will serve as tools to bring greater attention and focus to addressing SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports. These new reports will be based on assessments from other government agencies, including from commercial, agricultural, and foreign service officers stationed abroad, and will be based as well on submissions from industry and other interested stakeholders.

These reports will also document the actions that the United States has taken to resolve the specific trade concerns identified through these efforts, as well as ongoing processes for monitoring SPS and standards-related actions that affect trade. USTR's activities in the WTO Committee on Sanitary and Phytosanitary Measures and the WTO Committee on Technical Barriers to Trade (TBT) are at the forefront of these efforts. *(For additional information, see Chapter II.F.3 and Chapter II.F.8.)* USTR also engages on these issues through, *inter alia*, mechanisms established by free trade agreements, such as NAFTA, and through other regional and multilateral organizations, such as APEC and the OECD.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is designed to address foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

a. Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government act, policy, or practice that may be burdening or restricting U.S. commerce and take appropriate action. The USTR also may self-initiate an investigation.

In each investigation, the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement. Section 304 of the Trade Act requires the USTR to determine whether the acts, policies, or practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the acts, policies, or practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If they are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take.

Actions that the USTR may take under Section 301 include to: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.
After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

b. Developments during 2009

During 2009, USTR received one petition requesting the initiation of an investigation, and USTR self-initiated one investigation, which is described in part c. below. In addition, there were developments relating to the Section 301 investigation described in part d. below.

In May 2009, a petition was filed alleging, among other things, that acts, policies and practices of the government of Israel were inconsistent with the obligations of Israel under the Agreement on Trade-Related Aspects of Intellectual Property Rights. The USTR decided not to initiate an investigation in response to the petition on several grounds, including that the issues raised in the petition would be addressed more effectively through the established Special 301 process.

c. Canada – Compliance with Softwood Lumber Agreement

Under the 2006 Softwood Lumber Agreement (SLA), Canada agreed to impose export measures on Canadian exports of softwood lumber products to the United States. At the request of the United States, an arbitral tribunal established under the SLA found that Canada had not complied with certain SLA obligations, and in February 2009 the tribunal issued an award concerning the remedy to be applied.

In April 2009, the USTR: (1) initiated a Section 301 investigation of Canada's compliance with the SLA; (2) determined in the investigation that Canada is denying U.S. rights under the SLA; (3) found that expeditious action was required to enforce U.S. rights under the SLA; and (4) determined that appropriate action under Section 301 was to impose 10 percent *ad valorem* duties on imports of softwood lumber products from the provinces of Ontario, Quebec, Manitoba, and Saskatchewan. Under the determination, the duties are to remain in place until such time as the United States has collected $54.8 million, which is the amount determined by the arbitral tribunal.

d. European Commission - Measures Concerning Meat and Meat Products (Hormones)

A European Commission (EC) directive prohibits the import into the European Union of animals and meat from animals to which certain hormones have been administered (the "hormone ban"). This measure has the effect of banning nearly all imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but failed to do so. Accordingly, in May 1999 the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT. The EC did not contest that it had failed to comply with its WTO obligations, but objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the EC and its Member States of tariff concessions and related obligations under the GATT covering trade up to $116.8 million per year. In a *Federal Register Notice* published in July 1999, the USTR announced that the United States was exercising this authorization by using authority under Section 301 to impose 100 percent *ad valorem* duties on a list of certain products (the "retaliation list") of certain EC Member States.

In February 2005, a WTO panel was established to consider the EC's claims that it had brought its hormone ban into compliance with the EC's WTO obligations and that the increased duties imposed by the United States were no longer covered by the DSB authorization. The WTO panel concluded its work in 2008, and the panel report was appealed to the WTO Appellate Body. In October 2008, the Appellate Body confirmed that the July 1999 DSB authorization to the United States to suspend the application of tariff concessions and related obligations remains in effect.

Section 307(c) of the Trade Act provides for USTR to conduct a review of a section 301 action four years after the action was taken. During 2008, the U.S. Court of International Trade held that USTR must also conduct a section 307(c) review eight years after the action was taken. Accordingly, USTR proceeded to conduct such a review.

In January 2009, USTR announced the results of the Section 307(c) review. The USTR decided to modify the action taken in July 1999 by: (1) removing some products from the list of products subject to 100 percent *ad valorem* duties since July 1999; (2) imposing 100 percent *ad valorem* duties on some new products from certain EC member States; (3) modifying the coverage with respect to particular EC member States; and (4) raising the level of duties on one of the products that was being maintained on the product list. The trade value of the products subject to the modified action continued not to exceed the $116.8 million per year level authorized by the WTO in July 1999. The effective date of the modifications was to be March 23, 2009.

In March 2009, the USTR decided to delay the effective date of the additional duties (items 2 through 4 above) imposed under the January 2009 modifications in order to allow additional time for reaching an agreement with the EC that would provide benefits to the U.S. beef industry. The effective date of the removal of duties under the January modifications remained March 23, 2009. Accordingly, subsequent to March 23, 2009, the additional duties put in place in July 1999 remained in place on a reduced list of products.

In May 2009, the United States and the EC announced the signing of a Memorandum of Understanding (MOU) in the EC-Beef Hormones dispute. Under the first phase of the MOU, the EC is obligated to open a new beef tariff-rate quota (TRQ) for beef not produced with certain growth-promoting hormones in the amount of 20,000 metric tons at zero rate of duty. The United States in turn is obligated not to increase additional duties above those in effect as of March 23, 2009.

In August 2009, the EC opened the new beef TRQ, and USTR published a notice seeking comments on the actions necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. The notice in particular sought comments on the continued imposition of 100 percent *ad valorem* duties throughout the remainder of the first phase of the MOU on the reduced list of products subject to such duties since March 23, 2009.

In September 2009, after consideration of the comments received in response to the August notice, the USTR took action under Section 301 necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. In particular, the

USTR terminated the additional duties that were announced in January 2009, but which had been delayed up to that time and had never entered into force. The USTR's action left in place the additional duties that have been in effect since March 23, 2009 on a reduced list of products.

The first phase of the MOU concludes on August 3, 2012. Under a possible second phase of the MOU, the EC would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all of the additional duties imposed in connection with the EC-Beef Hormones dispute.

2. Special 301

Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for intellectual property rights (IPR) or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as "Priority Foreign Countries" unless those countries are entering into good faith negotiations, or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974, unless USTR determines that the investigation would be detrimental to U.S. economic interests.

In addition, USTR has created a Special 301 "Priority Watch List" and "Watch List." Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List receive increased attention in bilateral discussions with the United States concerning problem areas.

Additionally, under Section 306 of the Trade Act of 1974, USTR monitors whether U.S. trading partners are in compliance with bilateral intellectual property agreements with the United States that are the basis for resolving investigations under Section 301. USTR may apply sanctions if a country fails to satisfactorily implement such an agreement.

The Special 301 list not only indicates those trading partners whose intellectual property protection and enforcement regimes most concern the United States, but also alerts firms considering trade or investment relationships with such countries that their intellectual property rights may not be adequately protected.

a. 2009 Special 301 Review Announcements

On April 30, 2009, the United States announced the results of the 2009 Special 301 annual review, which examined in detail the adequacy and effectiveness of intellectual property protection in 77 countries. USTR placed 46 countries on the Priority Watch List, Watch List, or the Section 306 monitoring list.

China remained a top IPR enforcement priority in 2009 and was placed again on the Priority Watch List. USTR continued to press China to improve IPR enforcement, noting that levels of copyright piracy and trademark counterfeiting in China remained unacceptable. Russia's IPR protection and enforcement regime also continued to raise serious concerns, and likewise, Russia remained on the Priority Watch List. In particular, the Special 301 report noted that Russia still needed to make further progress towards implementing the November 2006 United States-Russia Bilateral Market Access Agreement on

Intellectual Property Rights (the IPR Bilateral Agreement) by addressing IPR protection and enforcement concerns.

In addition to China and Russia, ten countries were placed on the Priority Watch List in 2009: Algeria, Argentina, Canada, Chile, India, Indonesia, Israel, Pakistan, Thailand, and Venezuela.
Thirty-two trading partners were placed on the lower level Watch List. The Watch List countries were: Belarus, Bolivia, Brazil, Brunei, Colombia, Costa Rica, the Czech Republic, the Dominican Republic, Ecuador, Egypt, Greece, Guatemala, Hungary, Italy, Jamaica, Kuwait, Lebanon, Malaysia, Mexico, Norway, Peru, the Philippines, Poland, Romania, Saudi Arabia, Spain, Tajikistan, Turkey, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. Paraguay remains under Section 306 monitoring.

Due to progress on intellectual property rights protection, Korea was removed from the Watch List in 2009. Canada, Algeria, and Indonesia were elevated from the Watch List to the Priority Watch List in 2009.

The 2009 Special 301 report also announced Out-of-Cycle Reviews for Fiji, Israel, the Philippines, Poland, and Saudi Arabia. Out-of-Cycle Reviews are conducted for countries that warrant further review before the next Special 301 report and may result in changes to a country's status on the list.

b. Reorganization of the Special 301 Report

USTR reorganized the 2009 Special 301 Report, which now has three main sections and two Annexes, in order to provide increased clarity and cohesion.

- **Section I: Developments in Intellectual Property Rights Protection and Enforcement** discusses broad global trends and issues in IPR protection and enforcement that USTR works to address on a daily basis.
- **Section II: Country Reports** includes narrative descriptions of issues of concern in particular countries.
- **Section III: Notorious Markets** listed in the Special 301 report are examples of marketplaces, including those on the Internet, that have been the subject of IPR enforcement actions, or may merit further investigation by the relevant authorities for possible IPR infringement, or both. We identify these notorious markets based upon information reviewed during the Special 301 process. Global piracy and counterfeiting continue to thrive due in part to marketplaces like these that are "notorious" for dealing in infringing goods.
- **Annex I** provides the statutory background for the Special 301 Report.
- **Annex II** provides a list of contracting parties to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT) (*i.e.*, the WIPO Internet Treaties).

3. Section 1377 Review of Telecommunications Agreements

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review by March 31 of each year the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the review is to determine whether any act, policy, or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, to telecommunications products and services of U.S. firms, mutually advantageous market opportunities in that country.

The 2009 Section 1377 Review focused on a range of concerns, including: (1) access to incumbents' network in Australia, Colombia, Germany, India, Mexico, Singapore and Sweden; (2) high rates or surcharges for calls into El Salvador, Jamaica, Japan, Peru and Tonga; (3) lack of regulatory transparency in China, Egypt, Germany, India, Israel, Mexico and South Africa; and (4) impediments to trade in telecommunications equipment in Brazil, China, India, Israel, Mexico, South Korea, and Thailand.
The review also marked progress with Oman, where negotiations prior to entry into force of the United States-Oman Free Trade Agreement secured the elimination of unreasonably high licensing fees, a key barrier to access to the Omani market

4. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at "less than fair value") and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the l979, 1984, and 1988 trade acts as well as by the 1994 Uruguay Round Agreements Act.

An antidumping investigation usually starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging, with respect to certain imports, the dumping and injury elements described above. If the petition meets the applicable requirements, Commerce initiates an antidumping investigation. In special circumstances, Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the allegedly dumped imports. If this preliminary injury determination by the USITC is negative, the investigation is terminated and no duties are imposed; if it is affirmative, Commerce will make preliminary and final determinations concerning the allegedly dumped sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond or cash deposit equal to the estimated weighted-average dumping margin.

If Commerce's final determination regarding dumping is negative, the investigation is terminated and no duties are imposed. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the dumped imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the cash deposits are refunded or the bonds posted are released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO Antidumping Agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a binational panel established under the NAFTA.

The United States initiated 20 antidumping investigations in 2009 and imposed 15 antidumping orders.

5. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930, as amended by subsequent legislation, including the Uruguay Round Agreements Act. As with the antidumping law, the USITC and Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies that benefit imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as are antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a U.S. industry or an entity filing on its behalf. The USITC is responsible for investigating material injury issues. The USITC makes a preliminary finding as to whether there is a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination. If the USITC's final determination is affirmative, Commerce will issue a CVD order.

The United States initiated 14 CVD investigations and imposed 6 CVD orders in 2009

6. Other Import Practices

a. Section 337

Section 337 of the Tariff Act of 1930, as amended, makes it unlawful to engage in unfair acts or unfair methods of competition in the importation of goods or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, such as U.S. patents and trademarks.

The United States International Trade Commission (USITC or Commission) conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the Commission. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. A limited exclusion order covers only certain imports from particular named sources, namely parties who are respondents in the proceeding. A general exclusion order, on the other hand, covers certain products from all sources. Cease and desist orders are generally directed to entities maintaining inventories of infringing goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations

include an order's effect on public health and welfare, on U.S. consumers, and on the production of similar U.S. products. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, President Bush assigned these policy review functions, which are set out in Section 337(j)(1)(B), Section 337(j)(2), and Section 337(j)(4) of the Tariff Act of 1930, to the USTR. The USTR conducts these reviews in consultation with other agencies. Importation of the subject goods may continue during this review process if the importer pays a bond set by the USITC. If the President (or the USTR, exercising the functions assigned by the President) does not disapprove the USITC's action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit, with possible appeal to the U.S. Supreme Court.

The USITC is also authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe there has been a violation of Section 337.

In 2009, the USITC instituted thirty-one new Section 337 investigations, and three new enforcement proceedings. During the year, the USITC issued two general exclusion orders, nine limited exclusion orders, and twenty six cease and desist orders, covering imports from foreign firms, as follows: *Certain Hydraulic Excavators and Components Thereof*, No. 337-TA-582, (a general exclusion order and two cease and desist orders); *Certain Digital GPS Devices and Products Containing Same,* No. 337-TA-602, (a limited exclusion order and three cease and desist orders); *Certain Sucralose, Sweeteners Containing Sucralose, and Related Intermediate Compounds Thereof,* No. 337-TA-604 (a limited exclusion order); *Certain Semiconductor Chips with Minimized Chip Package Size and Products Containing Same*, No. 337-TA-605, (a limited exclusion order and five cease and desist orders); *Certain Ground Fault Circuit Interrupters and Products Containing the Same*, No. 337-TA-615, (a limited exclusion order and five cease and desist orders); *Certain Digital Televisions and Certain Products Containing Same and Methods of Using Same*, No. 337-TA-617, (a limited exclusion order and five cease and desist orders); *Certain Self-Cleaning Litter Boxes and Components Thereof,* No. 337-TA-625 (a limited exclusion order and two cease and desist orders); *Certain Silicon Microphone Packages and Products Containing The Same,* No. 337-TA-629 (a limited exclusion order); *Certain Liquid Crystal Display Devices and Products Containing the Same*, No. 337-TA-631 (a limited exclusion order and two cease and desist orders); *Certain Liquid Crystal Display Modules, Products Containing Same, and Methods for Using the Same,* No. 337-TA-634 (a limited exclusion order and two cease and desist orders); and *Certain Hair Irons and Packaging Thereof*, No. 337-TA-637 (a general exclusion order).

b. Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief if increased imports are a substantial cause of serious injury or the threat of serious injury. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry; it may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate.

The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994—the so-called "escape clause"—and the WTO Agreement on Safeguards.
As of January 1, 2010, the United States had no measures in place under section 201. The United States did not impose any section 201 measures during 2009, and did not commence any safeguard investigations.

c. Section 421

The terms of China's accession to the WTO include a unique, China-specific safeguard mechanism. The mechanism allows a WTO member to limit increasing imports from China that disrupt or threaten to disrupt its market if China does not agree to take action to remedy or prevent the disruption or threatened disruption. The mechanism applies to all industrial and agricultural goods and will be available until December 11, 2013.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implements this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the USITC must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that, if the USITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China's terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into the first Member's market. The trade diversion provision is implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

Through 2005, six petitions had been filed and adjudicated under Section 421, with no remedy imposed with respect to any petition. No petitions were filed between 2006 and 2008. In April 2009, the United Steel Workers Union filed a petition with respect to certain passenger vehicle and light truck tires. On September 11, 2009, the President issued a determination imposing additional duties on such tires for a period of three years. The additional duties went into effect on September 26, 2009. The additional duty is set at 35 percent *ad valorem* for the first year, 30 percent *ad valorem* for the second year, and 25 percent *ad valorem* for the third year. On September 14, 2009, China requested consultations with the United States in the WTO with respect to the imposition of the additional duties

7. Trade Adjustment Assistance

a. Overview and Assistance for Workers

The Trade Adjustment Assistance for Workers (TAA), Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) programs are authorized under Title II, Chapter 2, the Trade Act of 1974, as amended. These programs, collectively referred to as Trade Adjustment Assistance (TAA), provide assistance to workers who have been adversely affected by foreign trade (adversely affected workers).

On February 17, 2009, President Obama signed into law the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), as part of the American Recovery and Reinvestment Act of 2009. The TGAAA reauthorized TAA, expanded TAA coverage to more workers and firms, including workers and

firms in the service sector; expanded benefits to workers whose jobs have been outsourced to foreign countries; improved workers' training options; and increased the affordability of health insurance coverage. The reauthorization also expanded the scope of the TAA to better assist adversely affected workers in finding new employment. It authorized funding for employment and case management services, and encouraged the type of long-term training necessary for jobs in the 21st century economy through an extension of income support, an increase in the cap for training funding, and access to training for adversely affected incumbent workers.

The TAA program currently offers the following services to eligible individuals: training, weekly income support, out-of-area job search and relocation allowances, case management and employment services, assistance with payments for health insurance coverage through the utilization of the Health Coverage Tax Credit (HCTC), and wage insurance for some older workers through RTAA or ATAA. RTAA is the wage insurance option available to reemployed older workers authorized by the TGAAA. RTAA replaces ATAA, which provided wage insurance to reemployed older workers as a pilot project under the TAA Reform Act of 2002 for adversely affected workers covered by certifications of petitions for eligibility filed before May 18, 2009.

For a worker to be eligible to apply for TAA, the worker must be part of a group of workers that are the subject of a petition filed with the U.S. Department of Labor (DOL). Three workers of a company, a company official, a union or other duly authorized representative, or a One-Stop Career Center operator or One-Stop partner may file that petition with the DOL. In response to the filing, the DOL institutes an investigation to determine whether foreign trade was an important cause of the workers' job loss or threat of job loss. If the DOL determines that the workers meet the statutory criteria for group certification of eligibility for the workers in the group to apply for TAA, the DOL grants the petition and issues a certification.

The DOL administers the TAA program through the Employment and Training Administration (ETA), with states acting as agents of the United States in administering TAA benefits for members of TAA-certified worker groups. Once covered by a certification, individual workers apply for benefits and services through the One-Stop delivery system. Local One-Stop Career Centers can be found on the Internet at http://www.servicelocator.org or by calling 1-877-US2-JOBS. Most benefits and services have specific individual eligibility criteria that must be met, such as previous work history, unemployment insurance eligibility, and individual skill levels.

b. Trade Adjustment Assistance for Farmers

On February 17, 2009, the American Recovery and Reinvestment Act (Stimulus Bill) reauthorized and modified the Trade Adjustment Assistance (TAA) for Farmers program. The program provides technical and financial assistance to producers of raw agricultural commodities and fishermen who suffered lower production or lower prices due to import competition. Annual appropriations for the TAA for Farmers program total $90 million for each of FY2009 and FY2010, and $22.5 million for the first three months of FY2011. A proposed rule was announced by the U.S. Department of Agriculture on August 24, 2009 seeking public comment and an interim rule which will immediately implement the program is currently undergoing review.

In FY2009, outlays under the program totaled $25.0 million, although no technical assistance or cash payments were made to farmers or fishermen. All FY2009 outlays were administrative costs associated with running the program, particularly the establishment of the training component for the program ($17 million) and the establishment of the software used for administering the petition, application, and payment phases of the program ($5 million).

The previous TAA for Farmers program authorized under the Trade Act of 2002 provided approximately $11.5 million in cash benefits to farmers and fishermen in FY 2004. In FY2005, cash benefits to farmers and fishermen totaled $13.9 million and, in FY2006, these payments totaled approximately $0.82 million. No petitions qualified for certification or re-certification in FY2007. The program was appropriated an additional $9.0 million and extended through the first quarter of FY2008. No petitions qualified for certification during this extension period.

c. Assistance for Firms and Industries

The Trade Adjustment Assistance for Firms Program (the "TAAF Program") is authorized by Title II, Chapter three of the Trade Act of 1974, as amended (19 U.S.C. 2341 et seq.) (the "Trade Act"). The TAAF Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the TAAF program, a firm must show that an increase in imports of like or directly competitive articles contributed to an important part of its decline in sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of Commerce is responsible for administering the TAAF Program and has delegated the statutory authority and responsibility under the Trade Act to the Department of Commerce's Economic Development Administration (EDA). EDA regulations implementing the TAAF Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at: http://www.eda.gov/InvestmentsGrants/Lawsreg.xml.

In Fiscal Year (FY) 2009, EDA awarded a total of $13,904,051 in TAAF Program funds to its national network of 11 Trade Adjustment Assistance Centers, each of which is assigned a different geographic service area. During FY2009, EDA certified 212 petitions for eligibility and approved 172 adjustment proposals.

Additional information on the TAAF Program (including eligibility criteria and the application process) is available at http://www.eda.gov/AboutEDA/Programs.xml.

8. United States Preference Programs

a. Overview

The United States has a number of programs designed to encourage economic development in lower income countries by offering preferential duty-free U.S market access to imports from countries covered by these programs. Individual countries may be covered by more than one preferential access program with the opportunity for exporters to choose among programs when seeking preferential access to the U.S. market. The extent to which developing countries take advantage of the preferential access provided under U.S. trade law is measured by the total value of imports (for consumption) receiving preferential access under any one of the individual programs. Such U.S. imports totaled an estimated $54 billion in 2009, down 51 percent from 2008 ($110 billion). The 51 percent decline in imports under these five programs compares to the overall 30 percent decline for U.S. total goods imports (for consumption) from the world over the same period. These declines reflect the global recession as well as lower petroleum prices.

As a share of total U.S. goods imports for consumption, these preferential imports declined from 5.3 percent in 2008 to 3.8 percent in 2009. The programs, with each one's share of total imports from the group, are as follows: African Growth Opportunity Act (AGOA, excluding GSP), 45 percent; GSP, 35 percent; Andean Trade Preference Act (ATPA), 16 percent; Caribbean Basin Initiative (CBI) 2 percent; and Caribbean Basin Trade and Partnership Act (CBTPA), 2 percent. The programs with the lowest

decline in usage between 2008 and 2009 were CBTPA (down 37 percent) and GSP (down 39 percent). Usage under ATPA was down 49 percent, AGOA (excluding GSP) was down 58 percent, and CBI was down 67 percent.

b. Generalized System of Preferences

History and Purposes

The U.S. Generalized System of Preferences (GSP) program was initially authorized under the Trade Act of 1974 (19 U.S.C. §§ 2461 et seq.) for a ten-year period, beginning on January 1, 1976. Congress has extended the program 11 times, most recently, in December 2009. The program is currently set to expire on December 31, 2010.

The GSP program is designed to promote economic growth in the developing world by providing preferential duty-free entry for 4,881 products from 131 designated beneficiary countries and territories. Duty-free treatment under the GSP program is not available for products that the President determines to be import sensitive or that the statute excludes from the program. An underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and a key means of sustaining momentum for their economic reform and liberalization. The GSP program also ensures that U.S. companies have access to inputs from beneficiary countries on generally the same terms that are available to competitors in other developed countries that grant similar trade preferences.

Beneficiaries

There are currently two types of GSP beneficiaries: those that are eligible to export approximately 3,447 products duty-free into the United States and those for which, in 1996, Congress authorized additional GSP benefits because they are "least-developed" beneficiary developing countries[30]. Subsequently, these countries were given the opportunity to export an additional 1,434 products to the United States duty-free.

In December 2009, changes to the list of beneficiary countries were announced. The Maldives was redesignated as a beneficiary of the GSP program. Cape Verde was removed as a Least-Developed Beneficiary Developing Country, but remained eligible for GSP benefits as a Beneficiary Developing Country. Croatia and Equatorial Guinea were notified that, as of January 1, 2010, their gross national incomes per capita exceeded statutory thresholds. They will be removed from GSP eligibility as of January 1, 2011, after a transition period. Trinidad and Tobago was removed from GSP eligibility as of January 1, 2010, after a two-year transition period. Vietnam's request to become a GSP beneficiary continues to be under review.

Through various mechanisms, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) afford workers internationally recognized worker rights; and (3) provide adequate and effective intellectual property rights protection and enforcement. U.S. industry has noted that a country's participation in the GSP program nurtures conditions that benefit U.S. investors as well as the beneficiary countries. The Administration also evaluates the extent to which GSP beneficiaries have assured the United States that they will provide equitable and reasonable access to their markets.

[30] In practice, those GSP beneficiaries that are on the United Nations list of least-developed countries.

Eligible Products

The list of GSP-eligible products from all beneficiaries includes most non-sensitive dutiable manufactures and semi-manufactures and selected agricultural, fishery, and primary industrial products not otherwise duty-free. The statute precludes certain import-sensitive articles from receiving GSP treatment, including most non-silk textiles and apparel, watches, footwear, handbags, luggage, flat goods, work gloves, and other leather apparel. The products that receive preferential access just from least-developed beneficiaries include petroleum, certain chemicals and plastics, animal and plant products, and prepared food, beverages, spirits, and tobacco products.

Although GSP benefits for textiles and apparel are limited, certain handmade folkloric products are eligible for GSP treatment. The United States has entered into agreements providing for certification and GSP eligibility of certain handmade, folkloric products with 15 beneficiary countries: Afghanistan, Argentina, Botswana, Cambodia, Colombia, Egypt, Jordan, Mongolia, Nepal, Pakistan, Paraguay, Thailand, Tunisia, Turkey, and Uruguay. Such agreements provide the basis for extending duty-free treatment to exports produced by women and the poorest, often rural, residents of beneficiary countries.

Program Results

Value of Trade Entering the United States under the GSP program: The value of U.S. imports entering under the GSP program in 2009 was approximately $19.6 billion, a 38.2 percent decrease compared to 2008. Total U.S. imports from GSP beneficiary countries decreased by 39 percent over the same period, reflecting the global and U.S. economic downturns. It is important to note that between the second and third quarters, U.S. imports under GSP have increased by nearly 17 percent.

Top U.S. imports[31] under the GSP program in 2009 (through November), by trade value, were crude petroleum oils and oils from bituminous minerals, which are eligible for duty-free import only from Least-Developed Beneficiary Developing Countries (LDBDCs), silver jewelry valued at over $18 per dozen pieces or parts, vehicle car radial tires, gold necklaces and neck chains, precious metal (other than silver) articles of jewelry, aluminum alloy, plates or sheets clad, not canned or frozen miscellaneous food preparations, cane sugar, and polyethylene terephtlalate (PET) resin seamless gloves of vulcanized rubber (not surgical or medical).

In 2009 (through November), based on trade value, the top five GSP non-oil-exporting beneficiary developing country (BDC) suppliers were: (1) India; (2) Thailand; (3) Brazil; (4) Indonesia; and (5) the Philippines. Of the 30 GSP beneficiaries (not including LDBDC oil-exporting beneficiaries) whose trade under the GSP program was the largest, the World Bank classified more than half (18 of 30) as either low income or lower

Where Exports entering under GSP Comprise a Large Percentage of a Country's Total Exports

In February 2008, the United States recognized the government of Kosovo and a year later, Kosovo became a GSP beneficiary. No exports from Kosovo to the United States were recorded in 2008 and, of its total exports to the United States YTD 2009 (November), 83 percent entered duty-free under the GSP program. For 12 other beneficiaries not exporting petroleum under the GSP program, their GSP exports accounted for between 22 and 98 percent of their overall goods trade to the United States. This demonstrates the significant impact the GSP program has on new and developing economies, and the geographic diversity of the countries benefiting from such benefits. These beneficiaries and the share of each country's exports to the United States under the GSP program in 2009 (through November), were: Mauritania (98 percent), Armenia (86 percent), Paraguay (64 percent), Lebanon (57 percent), West Bank (63 percent), Tunisia (50 percent), Malawi (37 percent), Fiji (35 percent), Samoa (28 percent), Bolivia (26 percent), Croatia (22 percent), and Montenegro (22 percent).

[31] Based on tariff line (eight-digit) classification in the HTSUS.

middle income countries[32]. For the first time, in 2009 two LDBDCs – Malawi and Bangladesh – ranked in the top thirty non-oil-exporting suppliers of exports entering the United States under the GSP program.

In addition, exports from many low income and lower middle income beneficiaries[33] entering the United States under the GSP program either occurred for the first time in 2009 or increased as compared to the same period in 2008, in contrast to overall export/import trends. Low income suppliers[34] whose exports under the GSP program increased included: Benin, Bangladesh, Cambodia, Ghana, Malawi, Mauritania, Mozambique, Nigeria, and Sierra Leone. Lower-middle income suppliers which recorded increases included: Albania, Armenia, Azerbaijan, Belize, Bolivia, Cape Verde, Cote d'Ivoire, Swaziland, Tanzania, Tunisia, Vanuatu, and the West Bank[35].

The top three LDBDC users of GSP benefits, because of large volumes of petroleum exports under the GSP program, were: (1) Angola; (2) Equatorial Guinea; and (3) Chad. Other top LDBDC users, in order of exports under the GSP program in 2009, included: (4) Democratic Republic of Congo; (5) Mauritania; (6) Malawi; and (7) Bangladesh.

The GSP Program's Contribution to Economic Development in Developing Nations: The GSP program helps countries diversify and expand their exports, an important developmental goal. The 2009 (through November) data on exports to the United States indicates that many beneficiaries have made progress in diversifying and expanding their exports to the United States under the GSP program, despite challenging economic conditions. For example, Sri Lanka's exports under the GSP program have grown to 253 different types of products. Exports under the GSP program from Bangladesh, Belize, Ethiopia, Samoa, Sierra Leone, and Tunisia have also diversified and expanded.

Efforts to promote wider distribution of the use of GSP benefits among beneficiaries: As directed by Congress, the Administration has sought to broaden the use of the GSP program's benefits among its beneficiary countries. As indicated above, two least-developed GSP beneficiaries, Malawi and Bangladesh, are among the top 30 GSP suppliers overall. In addition, 22 low income countries and LDBCDs experienced increases in exports entering the United States under the GSP program against a trend of overall decreases in all exports to the United States.

The GSP program in 2009 focused its educational outreach on beneficiary countries in or previously affected by conflict (Afghanistan, Georgia, Kosovo, Iraq, Pakistan, and Sri Lanka) and countries in North Africa, South Asia, and Latin America with high percentages of young populations (Bangladesh, Egypt, Paraguay, and Tunisia). For additional details and multiple-language GSP guides and country-specific analyses, go to "GSP-in-Use: Country-Specific Information" at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preferences-gsp/gsp-use-%E2%80%93-coun

There are many country-specific success stories. For example, Afghanistan's agricultural and artisanal exports to the United States have increased substantially since the United States strengthened outreach on the duty-free export opportunities available to the country's producers. In 2007, only dried apricots and a small amount of dried berries were exported to the United States under the GSP program. In the first nine

[32]Based on World Bank determinations of gross national incomes per capita (Atlas method – 2008 – latest available).
[33]Based on World Bank determinations of gross national incomes per capita (Atlas method – 2008 – latest available).
[34] Not including those eligible to export petroleum to the United States under the GSP program.
[35] The World Bank classifies the West Bank and Gaza, together, as a lower-middle income economy. The export figure is only for the West Bank (USITC data).

months of 2009, however, gold jewelry and six additional types of agricultural products, including dried plums, prunes, figs, dried peas, and dried fruit mixtures, have begun to enter under the GSP program.

In September 2008, USTR traveled to Georgia with the Departments of State and Commerce to provide GSP information and analyses to Georgian producers and exporters. In the intervening year, exports from Georgia's agricultural and processed food sectors – which were emphasized because of their benefit to rural Georgians – have increased substantially, even as the country's overall exports to the United States under GSP have decreased. For example, there were first-time exports of sparkling wine, fruit jellies, jams, prepared vegetables, spices and certain nuts and seeds. Exports of nonalcoholic beverages, vegetable mixtures, and certain sauces and sauce preparations have each increased significantly.

Similarly, in October 2008, USTR worked with the Department of State to give a series of GSP educational seminars to industry and government in three Tunisian cities. Several exports under the GSP program that were highlighted during the seminars increased or appeared for the first time, notwithstanding that total exports from Tunisia decreased significantly in 2009. These products include sauces and condiments, dates, certain virgin olive oil, and gold necklaces.

The GSP program provides duty-free access for many items produced by small and medium-sized businesses, including in rural areas, such as wooden jewelry boxes, rattan basketwork, string instruments, and certain national flags. Exports of these flags by least-developed countries Cambodia and Haiti in 2009 (through October) grew substantially in 2009.

Impact of Policy Changes: Based on statutory thresholds added by Congress in December 2006, "super-competitive" exports from certain countries have been removed from GSP eligibility, providing an opening for other beneficiary countries to supply the U.S. market. This has occurred, for example, regarding U.S. imports of gold jewelry.

In June 2007, the President removed GSP eligibility of gold jewelry (except for necklaces and neck chains) from India and Thailand. A year later, the President removed GSP eligibility of the same products from Turkey and gold necklaces (other than of rope or mixed link) from India. In 2009 (through November), despite an overall decrease of nearly 30 percent in all exports into the United States of gold jewelry (not including necklaces and neck chains), exports under GSP from a number of beneficiaries increased substantially, including from least-developed beneficiaries Nepal, Mauritius, and first-time exporters Afghanistan and Zambia. Other beneficiaries experiencing substantial export increases under GSP included Lebanon, Pakistan, and Indonesia. Despite a drop of more than 37 percent in all exports into the United States of gold necklaces (not including rope or mixed link necklaces), LDBCs Afghanistan, Mauritius, Tanzania, and Yemen exported the same product under the GSP program for the first time, and necklace exports increased substantially from Nepal and Cambodia, both LDBCs. Other beneficiaries exporting increased amounts of this type of necklaces in 2009 were Lebanon, Pakistan, Indonesia, Tunisia, Colombia, Uruguay, and the Philippines.

Benefits to the U.S. Economy: The GSP program helps not only beneficiary developing countries, but also U.S. businesses and families. The program is a major source of imports and products for U.S. businesses, including small and medium-sized companies, and includes important partnership opportunities between U.S. workers and businesses, and workers and businesses in beneficiary developing countries. The GSP program also provides a major contribution toward reducing costs for U.S. manufacturers that utilize inputs that are not produced or available domestically. This facet of the GSP program helps to improve the competitiveness of U.S. manufacturing and avoids U.S. manufacturers paying higher duties which are then passed on to customers.

Annual Reviews

An important attribute of the GSP program is its ability to adapt, product by product, to shifting market conditions; to the changing needs of producers, workers, exporters, importers, and consumers; and to concerns about individual beneficiaries' conformity with the statutory criteria for eligibility. Detailed information on elements of each Annual Review is available on the GSP Program Information Page on the USTR website (http://www.ustr.gov/webfm_send/1578).

Conclusion of the 2008 GSP Annual Review

Presidential Proclamation 8394, signed on June 29, 2009, announced the results of the 2008 GSP Annual Review of product petitions. Those results are available at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-reviews.
The GSP 2008 Annual Review also involved an analysis of petitions to withdraw or limit a country's GSP benefits for not meeting certain GSP eligibility criteria. Several beneficiaries remained under active scrutiny, including: Lebanon, Russia and Uzbekistan regarding IPR protection, and Bangladesh, Niger, the Philippines and Uzbekistan regarding workers' rights. The petitions on workers' rights in Iraq and Sri Lanka received during the 2008 review remain under consideration.

2009 GSP Annual Review

On June 28, 2009, a notice was published in the *Federal Register* announcing that USTR would receive petitions to modify the list of products eligible for duty-free treatment under the GSP program and to modify the GSP status of certain beneficiary developing countries because of country practices. This notice initiated the 2009 Annual Review. Information on the petitions accepted for review that seek to add or remove items from the list of GSP-eligible products or that seek the grant of waivers to statutory competitive need limitations can be found at http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-1.

c. The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA) provides incentives to promote economic reform and trade expansion in eligible sub-Saharan African countries, including duty-free access to the U.S. market for over 1800 products beyond those eligible under the Generalized System of Preferences (GSP) program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. Forty sub-Saharan African countries were eligible for AGOA in 2009. Over 95 percent of U.S. imports from these countries entered the United States duty-free in 2009. Thanks in part to AGOA, the United States is sub-Saharan Africa's largest single-country market.

AGOA requires the President to monitor, review, and report to Congress annually on the progress of sub-Saharan African countries in meeting the AGOA eligibility criteria set out in the legislation – including continual progress in establishing a market-based economy, rule of law, and protection of internationally-recognized workers rights. The U.S. Trade Representative makes recommendations to the President based on an annual country eligibility review that takes into account information drawn from U.S. Government agencies, the private sector, non-governmental organizations, and prospective beneficiary governments. Following the 2009 review, on December 23, 2009 President Obama added Mauritania to the list of AGOA-eligible countries for 2010 and terminated the AGOA eligibility of three other countries, Guinea, Madagascar, and Niger, effective January 1, 2010.

AGOA and related GSP imports from AGOA-eligible countries were valued at $29.8 billion for the first 11 months of 2009, down 53 percent from the corresponding period in 2008, largely due to the downturn in the global economy.[36] Petroleum products continued to account for the largest portion of AGOA imports, with a 90 percent share of overall AGOA/GSP imports. In the first 11 months of 2009, AGOA/GSP non-oil imports from AGOA beneficiary countries fell 35 percent to $3.0 billion. Leading non-oil imports in 2009 included apparel, vehicles and parts, ferroalloys, citrus, chemicals, wine, nuts, and fruit juices.

d. Andean Trade Preference Act

The Andean Trade Preference Act (ATPA) was enacted in 1991 to promote broad-based economic development, diversify exports, and combat drug trafficking by providing sustainable economic alternatives to drug-crop production in Bolivia, Colombia, Ecuador, and Peru. In 2002, the Andean Trade Promotion and Drug Eradication Act (ATPDEA) amended the ATPA to provide duty-free treatment for a number of products previously excluded under the original ATPA program. The most significant expansion of benefits was in the apparel sector.

On April 30, 2009, pursuant to section 203(f) of the ATPA, as amended, USTR transmitted its Fourth Report to Congress on the Operation of the Andean Trade Preference Act as Amended. The report described the main features of the program, analyzed trade trends and outlined the countries' performance related to the program's eligibility criteria.

On June 30, 2009, the Obama Administration submitted to the U.S. Congress the Determinations and Report of the President Concerning the Review of Ecuador and Bolivia Under the Andean Trade Preference Act, As Amended. The report identified some concerns regarding Ecuador's performance under the criteria that the President indicated the Administration would monitor. Under the statute, products of Bolivia were to remain in the program only if the President determined that Bolivia had satisfied ATPA/ATPDEA eligibility requirements. In his June 30, 2009 report to Congress, the President did not find that Bolivia was meeting the eligibility criteria. The President directed the Administration to work with the government of Bolivia to improve cooperation with respect to our common objective of combating the production, of and trafficking in, illicit narcotics, and if cooperation improves, to work with Congress to restore benefits to Bolivia under the ATPA program. In December 2009 Congress extended the program through 2010 for Colombia, Ecuador, and Peru.

e. Caribbean Basin Initiative

During 2009, the Caribbean Basin Economic Recovery Act (CBERA) and the United States-Caribbean Basin Trade Partnership Act (CBTPA) trade programs, collectively known as the CBI, remained a vital element in U.S. economic relations with its neighbors in Central America and the Caribbean. The CBI provides beneficiary countries and territories with duty-free access to the U.S. market. Current beneficiary countries are: Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. When the CAFTA-DR entered into force for each of these countries, the country ceased to be designated as a CBERA and CBTPA

[36] On an imports for consumption basis.

beneficiary. The CAFTA-DR entered into force for Costa Rica on January 1, 2009 and is now in force for all 7 countries.

Since its inception, the CBI has helped beneficiaries diversify their exports. In conjunction with economic reform and trade liberalization by beneficiary countries, the trade benefits of CBI have contributed to their economic growth. In December 2009, USTR submitted its biannual report to Congress on the operation of the CBERA. The report can be found on the USTR website, *www.ustr.gov*.

f. HOPE II Act

On October 16, 2009, the White House announced that Haiti will continue to be eligible for the benefits of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), which allows duty-free access to the U.S. market for certain Haitian-made apparel and other articles, with the goals of fostering stability and economic development in Haiti. The President has certified to Congress that Haiti has met the necessary requirements to continue the duty-free treatment provided under HOPE II. Under the 2008 legislation, to receive the benefits Haiti was required to establish an independent labor ombudsman's office and a program operated by the International Labor Organization (ILO) to assess compliance with core labor rights and Haiti's labor laws in the country's apparel factories. Haiti also had to agree to require Haitian producers that wish to be eligible for duty-free treatment under HOPE II to participate in the ILO program and to develop a system to ensure such participation.

The HOPE II Act was enacted in 2008 as a continuation and expansion of the original HOPE Act of 2006. These programs acted as extensions of the benefits provided by the Caribbean Basin Initiative trade programs. HOPE II provides for duty-free access for up to 70 million square meter equivalents (SME) of knit apparel (with some t-shirt and sweatshirt exclusions) and 70 million SMEs of woven apparel without regard to the country of origin of the fabric or components, as long as the apparel is wholly assembled or knit-to-shape in Haiti. HOPE II provides for duty-free treatment of knit or woven apparel under a "three for one" earned import allowance program: for every three SMEs of qualifying fabric (sourced from the United States or certain trade partner countries) shipped to Haiti for production of apparel, qualifying apparel producers may export duty-free from Haiti or the Dominican Republic to the United States one SME of apparel wholly-formed or knit-to-shape in Haiti regardless of the source of the fabric. HOPE II also provides for duty-free treatment for certain brassieres, luggage, headgear, and certain sleepwear. HOPE II allows these Haitian goods to enter the United States duty-free if shipped either directly from Haiti or through the Dominican Republic.

On January 12, 2010, Haiti experienced a devastating earthquake. Generating jobs through exports will be one of the keys to Haiti's recovery. Textiles and apparel have represented approximately 90 percent of Haiti's exports to the United States; thus, recovery in this sector will be critical to Haiti's long term economic prospects. On February 16, 2010, Ambassador Ron Kirk announced a new initiative called the Plus One for Haiti program, in which U.S. brands and retailers work toward sourcing one percent of their total apparel production from Haiti. In addition, USTR looks forward to working with the Senate Finance and House Ways and Means Committees in Congress as they seek to pass legislation regarding Haiti and trade.

VI. TRADE POLICY DEVELOPMENT

A. Trade Capacity Building (TCB) ("Aid for Trade")

The Obama Administration is building a global development policy to guide the efforts of the U.S. Government to ensure that U.S. development policies support and reinforce other U.S. foreign policy and international economic policy goals. The Administration believes a deliberate development policy with effective implementation will increase results on the ground in developing countries, thereby improving lives and livelihoods around the globe. In addition, improving the ability of the United States to work effectively with capable and responsible states furthers U.S. national interests and the pursuit of the objective of economic growth both at home and abroad. Many of today's emerging market economies were low income developing countries only a generation ago. It is in the national interest to replicate that experience with current low income developing countries where possible and to alleviate poverty and improve opportunities. Doing so will require the engagement of several U.S. government agencies and departments in development activities, as trade policy and development assistance need to work together to achieve these objectives.

Trade policy and development assistance are key tools in the U.S. arsenal, working together to alleviate poverty and improve opportunities. These programs, also known as aid for trade, are about giving countries, particularly the least trade active, the training and technical assistance needed to make: decisions about the benefits of trade arrangements and reforms; implement their obligations to bring certainty to their trade regimes; and enhance such countries' ability to take advantage of the opportunities of the multilateral trading system and to compete in a global economy. Accordingly, U.S. assistance addresses a broad range of issues so that rural areas and small businesses, including female entrepreneurs, benefit from ambitious reforms in trade rules that are being negotiated in the World Trade Organization (WTO) and in other trade agreements.

An important element of this work involves coordination of technical assistance activities among international institutions in order to identify and take advantage of donor complementarities in programming and to avoid duplication. Such institutions include the WTO, the World Bank, the International Monetary Fund (IMF), the regional development banks, and other donors. The United States works in partnership with these institutions and with other donors to ensure that international financial institutions offer trade-related assistance as an integral component of development programs tailored to the circumstances within each developing country.

The United States' efforts build on its long-standing commitment to help partner countries benefit from the opportunities provided by the global trading system, both through bilateral U.S. assistance and through U.S. support for multilateral institutions. U.S. bilateral assistance includes programs such as targeted assistance for developing countries participating in U.S. preference programs (*e.g.*, the $200 million African Global Competitiveness Initiative helping sub-Saharan African countries benefit from AGOA); coordination of assistance through Trade and Investment Framework Agreements (TIFAs); TCB working groups that are integral elements of negotiations to conclude Free Trade Agreements (FTAs); and Committees on TCB created to aid in the implementation of a number of FTAs, including the FTAs with the Dominican Republic and Central America, and Peru. Bilateral assistance also helps developing countries to work with the private sector and non-governmental organizations to transition to a more open economy, to prepare for WTO negotiations, and to implement their trade obligations. Multilaterally, the United States has supported and will continue to support trade-specific assistance mechanisms like the

Enhanced Integrated Framework for Trade-Related Assistance to Least-developed Countries (EIF) and the WTO's Global Trust Fund for Trade-Related Technical Assistance.

1. Millennium Challenge Corporation

The Millennium Challenge Corporation (MCC) is a U.S. government foreign assistance agency and one of the largest sources of bilateral TCB assistance for eligible countries. Established in 2004, MCC works with developing countries committed to good governance, economic freedom, and investments in their citizens. MCC provides these well-performing countries with large scale grants to fund country-led solutions for reducing poverty through sustainable economic growth. By giving eligible countries the opportunity to identify their own priorities and develop their own proposals for reducing poverty and spurring economic growth, the MCC enables countries to address long-term development obstacles, including in the area of trade. The U.S. Trade Representative is a member of the MCC's Board of Directors.

The primary vehicle for delivering MCC assistance is through a "compact", a multi-year agreement between the MCC and an eligible country to fund specific programs targeted at reducing poverty and stimulating economic growth. To provide further incentive for reform and help additional countries qualify for compacts, the MCC provides "threshold" assistance to countries that fall just short of compact eligibility to help them address specific areas of policy weakness. The MCC is engaged with a total of 38 countries and has entered into 20 compacts and 20 threshold agreements totaling more than $7.5 billion in assistance of which more than $4.2 billion is trade-related. An additional six compacts are under development. In December 2009, the MCC Board of Directors invited Cape Verde be the first country to begin the process of developing a second compact.

2. The Enhanced Integrated Framework

The Enhanced Integrated Framework (EIF) is a multi-organization multi-donor program that operates as a coordination mechanism for trade-related assistance to least developed countries (LDCs) with the overall objective of integrating trade into national development plans. Participating organizations include the WTO, World Bank, IMF, UNCTAD, UNDP, UNIDO and the International Trade Centre. The mechanism incorporates a country-specific diagnostic assessment and action plan formulated by one of the international organizations in cooperation with the participating LDC. The action plan, consisting of needs identified by the diagnostic assessment, is offered to multilateral and bilateral donors. Project design and implementation can be accomplished through the resources of the EIF Trust Fund or through multilateral or bilateral donor programs in the field (as the United States does through its development assistance programs). The EIF is exclusively for LDCs, with the goal of getting the least trade-active more involved. Of the 49 LDCs, 47 have joined the EIF.

Institutionally, the EIF is overseen by a Board of Directors, composed of donor countries, least-developed countries and participating international organizations. The EIF Secretariat, led by an executive director, is responsible for programmatic implementation, while the EIF Trust Fund Manager is responsible for financial aspects of the program.

The United States supports the EIF primarily through complementary bilateral assistance to EIF participating countries. The United States Agency for International Development's (USAID) bilateral assistance to LDC participants supports initiatives both to integrate trade into national economic and development strategies and to address high priority capacity building needs designed to accelerate integration into the global trading system.

3. World Trade Organization-Related U.S. Trade-Related Assistance

International trade can play a major role in the promotion of economic growth and the alleviation of poverty. The WTO's Doha Development Agenda (DDA) recognizes that TCB can facilitate more effective integration of developing countries into the international trading system and enable them to benefit further from global trade. The United States provides leadership in promoting trade and economic growth in developing countries through comprehensive TCB programs. The United States also directly supports the WTO's trade-related technical assistance.

a. Global Trust Fund

The United States supports the trade-related assistance activities of the WTO Secretariat through contributions to the Doha Development Agenda Global Trust Fund. With an additional contribution of nearly $1 million in 2009, total U.S. contributions to the WTO have amounted to almost $9 million since the launch of DDA negotiations.

b. Aid for Trade

The WTO's 2005 Hong Kong Declaration created a new WTO framework in which to discuss and prioritize aid for trade. In 2006, this framework created an Aid for Trade Task Force to operationalize aid for trade efforts and offer recommendations as to how to improve the efficacy and efficiency of these efforts among WTO Members and other international organizations. The United States continues to be an active partner in the aid for trade discussion.

During 2009, Members actively worked on implementing many of the Task Force's recommendations. This activity was capped by the Second Global Review of Aid for Trade in July 2009. This meeting saw a greater focus—and significant results—in developing countries' efforts to better integrate trade needs into their national development plans. A monitoring framework was further developed, based largely on work undertaken by the OECD's Development Cooperation and Trade directorates, working closely with the WTO Secretariat, the World Bank, and donor and recipient countries. For additional information on Aid for Trade and its components, visit the USTR'S Aid for Trade webpage at http://www.ustr.gov/trade-topics/trade-development/trade-capacity-building/aid-trade.

c. WTO and Trade Facilitation

The United States has provided substantial assistance over the years in the areas of customs and trade facilitation. More recently, U.S. support for work in trade and development corridors in Africa, including through the Global Hunger and Food Security Initiative, is increasing. Through this assistance, the United States has supported the WTO Doha discussions by providing assistance to developing countries that seek help in responding to the regulatory proposals made by members in the Negotiating Group on Trade Facilitation.

d. WTO Accession

The United States provides technical support to countries that are in the process of acceding to the WTO. In 2009, WTO accession support was provided to Afghanistan, Azerbaijan, Bosnia and Herzegovina, Ethiopia, Iraq, Kazakhstan, Laos, Lebanon, Liberia, Montenegro, Serbia, Tajikistan, and Yemen.

4. TCB Initiatives for Africa

The United States has aggressively funded programs and developed several new initiatives at multilateral and bilateral levels to address the specific needs of sub-Saharan African countries with respect to reducing poverty and spurring economic growth. The United States has invested more than $3.3 billion in trade-related projects in sub-Saharan Africa since 2001.

a. African Global Competitiveness Initiative

The centerpiece of U.S. support for building trade capacity in Africa for the last five years has been the $200 million African Global Competitiveness Initiative (AGCI). The primary focus of AGCI is helping to expand African trade and investment with the United States, with other international trading partners, and regionally within Africa through improving the competitiveness of sub-Saharan African enterprises. AGCI's objectives are to: (1) improve the business climate for private sector-led trade and investment; (2) strengthen the knowledge and skills of sub-Saharan African private sector enterprises to take advantage of market opportunities; (3) increase access to financial services for trade and investment; and (4) facilitate investments in infrastructure.

One major focus of AGCI programs is to help African countries make the most of the trade opportunities available under the AGOA preference program. *(For additional information, see Chapter V.B.8.c.)* AGCI supports AGOA through programs carried out by four USAID-funded Regional Hubs for Global Competitiveness – in Botswana, Kenya, Ghana, and Senegal – as well as through programs carried out by USAID bilateral missions.

In 2009, the Hubs facilitated over $71 million in transactions in the textile and apparel, specialty food, cut flowers, and other product categories, mostly through new trade deals under AGOA. These results reflect a strategic emphasis by the U.S. Government on providing marketing assistance to African exporters at major international trade shows. Under an agreement with USAID, USDA addresses sanitary and phytosanitary issues under AGCI, specifically in the areas of food safety and plant and animal health. Additionally, the U.S. Department of Commerce's Commercial Law Development Program is working to improve protection of intellectual property rights.

b. Assistance to West African Cotton Producers

Since 2005, the United States has mobilized its development agencies to help West African countries—Benin, Burkina Faso, Chad, Mali, and Senegal—address obstacles they face in the cotton sector. The MCC, USAID, USDA, and the United States Trade and Development Agency continued to work with these nations as they sought to develop a coherent long-term development strategy to improve prospects in the cotton sector. Elements of such a strategy include improved productivity, domestic reforms, and other key issues. The United States will continue to coordinate with the WTO, World Bank, the African Development Bank, and others as part of the multilateral effort to address the development aspects of cotton. This includes active participation in the WTO Secretariat's periodic meetings with donors and recipient countries to discuss the development and reform aspects of cotton.

The centerpiece of U.S. assistance to the cotton sector in West Africa is USAID's West Africa Cotton Improvement Program (WACIP). The program is aimed at helping to improve the production and marketing of cotton in five countries: Benin, Burkina Faso, Chad, Mali, and Senegal. The WACIP is designed to help achieve the following objectives: (1) reduce soil degradation and expand the use of good agricultural practices; (2) strengthen private agricultural organizations; (3) establish a West African regional training program for ginners; (4) improve the quality of West African cotton through better

classification of seed cotton and lint; (5) improve linkages between U.S. and West African research organizations involved with cotton; (6) improve the enabling environment for agricultural biotechnology; and (7) assist with policy/institutional reform.

A key element of the WACIP program is the identification of specific policy priorities through National Advisory Committees. Composed of stakeholders in each country, these committees undertook work to identify the specific projects that would yield the assistance and results sought by participants and these projects have been the basis of WACIP's work.

The U.S. Government also provides complementary support to the cotton sector through other programs. MCC is implementing compacts with Benin ($307 million), Burkina Faso ($481 million), and Mali ($460 million). In September 2009, the MCC signed a $540 million compact with Senegal. The program will promote economic growth in the rural agriculture sector.

5. Free Trade Agreement (FTA) Negotiations

Although the WTO programs and the EIF are high priorities, they are only part of the U.S. TCB effort. In order to help U.S. FTA partners participate in negotiations, implement commitments, and benefit over the long-term, USTR has created TCB working groups in free trade negotiations with developing countries and Committees on TCB to prioritize and coordinate TCB activities during the transition and implementation periods once an FTA enters into force. USAID and USDA, their field missions, and a number of other U.S. Government assistance providers actively participate in these working groups and committees so that the TCB needs identified can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The Committees on TCB also invite non-government organizations, representatives from the private sector, and international institutions to join in building the trade capacity of the countries in each region. Trade capacity building is a fundamental feature of bilateral cooperation in support of the CAFTA-DR and the United States-Peru Trade Promotion Agreement, as well as the FTAs signed with Colombia and Panama. USTR also works closely with the U.S. Department of State and other agencies to track and guide the delivery of TCB assistance to Jordan, Morocco, Bahrain, and Oman.

a. Dominican Republic-Central America-United States Free Trade Agreement

The CAFTA-DR established a Committee on TCB. The CAFTA-DR was signed in 2004 and went into force for all countries except Costa Rica during 2006 and 2007, and for Costa Rica in 2009. The Committee on TCB has convened formally three times: in Guatemala City, Guatemala in February 2007; in Washington, DC in November 2007; and in Santa Domingo of the Dominican Republic in November 2008. These meetings were attended by representatives of each of the member countries and by the Inter-American Development Bank (IDB), the World Bank, the Organization of American States (OAS), and the Economic Commission for Latin America and the Caribbean (ECLAC), providing the opportunity for the Committee to review updates of recipient members' trade capacity building strategies and priorities as well as U.S. donor agencies' and the international institutions' trade capacity building activities. They additionally provided the opportunity for in-depth discussions of particular assistance areas, such as rural development and sanitary and phytosanitary assistance. Although the political crisis in Honduras prevented a formal meeting of the Committee in 2009, bilateral TCB efforts and programs continued throughout 2009.

Efforts in 2009 included a range of activities to streamline customs procedures for importers and exporters, many of which directly support implementation of the FTA. These included the identification

of corrective actions to comply with customs clearance deadlines established by the Agreement. U.S. sanitary and phytosanitary TCB helped to enable farmers and small and medium-sized rural enterprises to benefit from the agreement. As a result, meat exports to the United States increased by 78 percent between 2006 and 2008 and pepper exports increased from $126,000 in 2005 to over $11 million in 2008 and 2009.

b. United States-Peru Trade Promotion Agreement

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009. Like the CAFTA-DR, the PTPA includes a provision that creates a Committee on TCB to build on work done during the negotiations by the TCB working group. The purpose of the Committee is to assist Peru in refining and implementing its national TCB strategy as well as to foster assistance to promote economic growth, reduce poverty, and adjust to liberalized trade. The Committee met in March 2009 in Peru. At that time, Peru presented a preliminary national trade capacity building strategy to address these objectives, highlighting areas such as telecommunications, intellectual property and agricultural standards. The Committee is currently working to address these objectives.

c. United States-Colombia and United States-Panama Trade Promotion Agreements

In November 2006, the United States and Colombia signed an FTA—The United States-Colombia Trade Promotion Agreement. On June 28, 2007, the United States-Panama Trade Promotion Agreement was signed. As with the United States-Peru Trade Promotion Agreement, these two agreements include the creation of Committees on TCB to build upon the progress made by the preceding TCB working groups on economic assistance and poverty alleviation.

B. Public Input and Transparency

Broadening opportunities for public input and increasing the transparency of trade policy is a key priority of USTR's Office of Intergovernmental Affairs and Public Engagement (IAPE) under the Obama Administration. IAPE works with USTR's Office of Public and Media Affairs and with regional and functional offices across the agency to ensure that timely trade information is available to the public and disseminated widely. This is accomplished in part via USTR's new interactive website; a weekly e-newsletter that is available through our homepage at http://www.ustr.gov; online posting of *Federal Register* Notices soliciting public comment and input and publicizing Trade Policy Staff Committee (TPSC) public hearings; increased transparency regarding specific policy initiatives; managing the agency's increased outreach and engagement with small and medium-sized businesses; meetings with a broad array of domestic stakeholders including but not limited to agriculture groups, industry groups, labor groups, small businesses, NGOs, universities, think tanks, and state and local governments; and speeches to associations and conferences around the country regarding trade. In addition to public outreach, IAPE is responsible for administering USTR's statutory advisory committee system created by Congress under the Trade Act of 1974 as amended, as well as facilitating formal consultations with state and local governments regarding trade issues which may impact them. Each of these elements is discussed in turn below.

1. Public Outreach

a. New Interactive Website and Weekly E-Newsletter

Launched in June 2009, the new USTR website at http://www.ustr.gov was USTR's first step to broaden the trade dialogue in 2009 through technology, and it daily helps to fulfill President Obama's commitment to create a government that is transparent, participatory, and collaborative**.**

Through the new USTR blog and through site pages on geographical areas, trade agreements, and key trade issues, the new http://www.ustr.gov shares updated information about USTR's efforts to support job creation by opening markets and enforcing America's rights in the rules-based global trading system.

Interactive tools on the site allow the public to participate more fully in USTR's day-to-day operation. People can share their questions through the Ask the Ambassador feature, and see answers on the blog. A new Share Your Stories feature serves as a venue for sharing how trade impacts and benefits daily life. The Interactive Map details Ambassador Ron Kirk's travel as he works with trading partners to gain market access for U.S. farmers, ranchers, manufacturers, workers, and service providers.

The public is invited to sign up on USTR's homepage to receive USTR's e-mail weekly newsletter, which highlights USTR's efforts to open markets and enforce trade agreements around the world. This is a useful tool for small businesses and stakeholders outside Washington, DC to stay informed about trade policy developments and new market opportunities.

b. *Federal Register* Notices Seeking Public Input/Comments Now Available Online for Inspection

Throughout 2009, USTR has issued *Federal Register* Notices online to solicit public comment, and also held public hearings in Washington, DC regarding a wide array of trade policy initiatives. For the first time, public comments received in response to *Federal Register* Notices are now available for inspection online at http://www.regulations.gov. Some examples of trade policy initiatives for which USTR has sought public comment this year include the following:

- *Pending Free Trade Agreements*: USTR received more than five hundred responses to requests for public comment on free trade agreements that have been negotiated with Colombia and the Republic of Korea. In its ongoing effort to identify and resolve outstanding issues related to the pending FTAs, USTR sought comments on stakeholders' views on the FTAs. The *Federal Register* Notices, published on July 27 for the South Korea FTA and July 29 for the Colombia FTA, provided an opportunity for the Administration to hear from the public.

- *TransPacific Partnership (TPP) Trade Agreement*: The United States intends to enter into negotiations on a TPP trade agreement with the objective of shaping a high-standard, broad-based regional agreement. USTR is seeking public comments on all elements of the agreement in order to develop U.S. negotiating positions.

- *New Trade Enforcement Efforts*: As part of the Obama Administration's trade enforcement efforts, USTR unveiled new enforcement tools to address standards-related measures that impede U.S. producers' ability to access foreign markets, and sanitary and phytosanitary (SPS) measures restricting U.S. agricultural exports. USTR sought public comments to identify the most significant barriers faced by U.S. manufacturers and agricultural producers.

- *Small and Medium-Sized Enterprises (SME) Initiative*: The U.S. International Trade Commission is soliciting public input and will hold public hearings as part of an SME Initiative aimed at increasing exports by small and medium-sized firms in the United States.

c. Policy Initiatives to Increase Transparency

USTR is also taking concrete steps in specific issue areas to increase transparency and augment opportunities for public input. For example:

- *Greater Transparency in Anti-Counterfeiting Trade Agreement (ACTA) Negotiations*: USTR released a detailed summary of the state of the ACTA negotiations in April and again in November. These summaries set out the specific topics of discussion in the negotiations as the United States and its trading partners work toward an agreement to combat counterfeiting and piracy.

- *Inviting Public Participation in the Model Bilateral Investment Treaty Review*: In July, USTR and the Department of State hosted a public hearing regarding the Administration's review of the model Bilateral Investment Treaty (BIT), which was last updated in 2004. In addition to the hearing, USTR also welcomed comments from stakeholders and the public through a *Federal Register* Notice. USTR is taking these steps to ensure that the model BIT serves the public interest and U.S. economic policy.

d. Open Door Policy

USTR officials meet frequently with a broad array of stakeholder groups representing business, labor, environment, consumers, state and local governments, NGOs, think tanks, universities and high schools to discuss specific trade policy issues, subject to availability and scheduling. These meetings are coordinated by IAPE and, where likely to be of broader interest, are noted in the weekly e-newsletter.

2. The Trade Advisory Committee System

The trade advisory committee system, established by the U.S. Congress in 1974, operates under the auspices of IAPE. The trade advisory committee system was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The trade advisory committee system consists of 28 advisory committees, with a total membership of approximately 700 advisors. It includes committees representing sectors of industry, agriculture, labor, environment, state, and local interests. IAPE manages the system, in cooperation with other agencies, including the Departments of Agriculture, Commerce, Labor, and the Environmental Protection Agency.

The trade advisory committees provide information and advice on U.S. negotiating objectives, the operation of trade agreements, and other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); five policy advisory committees dealing with environment, labor, agriculture, Africa, and state and local issues; and 22 technical advisory committees in the areas of industry and agriculture. In 2004, the committees were streamlined and consolidated to better reflect the composition of the U.S. economy, in response to recommendations from the U.S. Government Accountability Office (GAO). Additional information on the advisory committees can be found on the USTR website at http://www.ustr.gov/Who_We_Are/Mission_of_the_USTR.html.

In 2007, the GAO recommended further steps USTR could take to provide greater transparency and accountability in the composition of the trade advisory committees, including reporting annually on how the committees meet the representation requirements of the relevant legislation, and clarifying which interests the members represent. Pursuant to these recommendations, a further description of committee representation is provided below, and the membership rosters of the committees with the organizations and interests represented are available online at http://www.ustr.gov under the heading "Who We Are."

In 2009, under the Obama Administration, USTR has made a further commitment to the reform of the advisory committee system and broadened the participation on committees to include more diversity of stakeholders, new voices, and fresh perspectives. Additionally, beginning in 2010 as the committees are rechartered, USTR is implementing White House guidelines prohibiting registered lobbyists from serving on committees. We believe the committees will benefit from an influx of new members who can bring new ideas to the table, particularly small businesses which could benefit from further access to international markets.

Recommendations for candidates for committee membership are collected from a number of sources, including members of Congress, associations and organizations, publications, other federal agencies, responses to *Federal Register* Notices, and self-nominated individuals who have demonstrated an interest in, and knowledge of, U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee to maintain a balance of the perspectives represented. Committee members are required to have a security clearance in order to serve and have access to confidential trade documents on a secure encrypted website. Committees meet regularly in Washington, DC to provide input and advice to USTR and other agencies. Members pay for their own travel and other related expenses.

a. President's Advisory Committee on Trade Policy and Negotiations (ACTPN)

The ACTPN consists of not more than 45 members who are broadly representative of the key economic sectors affected by trade. The President appoints ACTPN members for four-year terms not to exceed the duration of the charter. The ACTPN is the highest level committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

Members of ACTPN are appointed to represent a variety of interests including non-federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. A current roster of members and the interests they represent is available on the USTR website.

b. Policy Advisory Committees

Members of the five policy advisory committees are appointed by USTR or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee (IGPAC) and the Trade Advisory Committee for Africa (TACA) are appointed and managed solely by USTR. Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC), and the Trade and Environment Policy Advisory Committee (TEPAC). Each committee provides advice based upon the perspective of its specific area. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website.

APAC:

The Secretary of Agriculture and the U.S. Trade Representative appoint members jointly. APAC members are appointed to represent a broad spectrum of agricultural interests including the interests of farmers, processors, renderers, and retailers from diverse sectors of agriculture, including fruits and vegetables, livestock, dairy, and wine. Members serve at the discretion of the Secretary of Agriculture and the U.S. Trade Representative. The Committee consists of approximately 35 members.

IGPAC:

The IGPAC consists of approximately 35 members appointed from, and representative of, the various states and other non-federal governmental entities within the jurisdiction of the United States. These entities include, but are not limited to, the executive and legislative branches of state, county, and municipal governments. Members may hold elective or appointive office. Members are appointed by and serve at the discretion of the U.S. Trade Representative.

LAC:

The LAC consists of not more than 30 members from the U.S. labor community, appointed by the U.S. Trade Representative and the Secretary of Labor, acting jointly. Members represent unions from all sectors of the economy. Members are appointed by, and serve at the discretion of, the Secretary of Labor and the U.S. Trade Representative.

TACA:

TACA consists of not more than 30 members, including, but not limited to, representatives from industry, labor, investment, agriculture, services, non-profit development organizations, and other interests. The members of the Committee are appointed to be broadly representative of key sectors and groups with an interest in trade and development in sub-Saharan Africa, including non-profit organizations, producers, and retailers. Members of the committee are appointed by and serve at the discretion of the U.S. Trade Representative.

TEPAC:

TEPAC consists of not more than 35 members, including, but not limited to, representatives from environmental interest groups, industry (including the environmental technology and environmental services industries), agriculture, services, non-federal governments, and other interests. The Committee shall be broadly representative of key sectors and groups of the economy with an interest in trade and environmental policy issues. Members of the Committee are appointed by and serve at the discretion of the U.S. Trade Representative.

c. Technical and Sectoral Committees

The 22 technical and sectoral advisory committees are organized into two areas: agriculture and industry. Representatives are appointed jointly by the USTR and the Secretaries of Agriculture and Commerce, respectively. Each sectoral or technical committee represents a specific sector or commodity group and provides specific technical advice concerning the effect that trade policy decisions may have on its sector or issue.

Agricultural Technical Advisory Committees (ATACs):

There are six ATACs that focus on the following products: Animals and Animal Products; Fruits and Vegetables; Grains, Feed and Oilseeds; Processed Foods; Sweeteners and Sweetener Products; and Tobacco, Cotton, Peanuts, and Planting Seeds. Members of each Committee are appointed by and serve at the pleasure of the Secretary of Agriculture and the U.S. Trade Representative. Members must represent a U.S. entity with an interest in agricultural trade and should have expertise and knowledge of agricultural trade as it relates to policy and commodity-specific products. In appointing members to the committees, balance is achieved and maintained by assuring the members appointed represent industries and other entities across the range of interests which will be directly affected by the trade policies of concern to the committee (for example, farm producers, farm and commodity organizations, processors, traders, and consumers). Geographical balance on each committee will also be sought. A list of all the members of the committees and the diverse interests they represent is available on the USTR website.

Industry Trade Advisory Committees (ITACs):

There are sixteen industry trade advisory committees (ITACs). These committees are: Aerospace Equipment (ITAC 1); Automotive Equipment and Capital Goods (ITAC 2); Chemicals, Pharmaceuticals, Health Science Products and Services (ITAC 3); Consumer Goods (ITAC 4); Distribution Services (ITAC 5); Energy and Energy Services (ITAC 6); Forest Products (ITAC 7); Information and Communication Technology Services and Electronic Commerce (ITAC 8); Non-Ferrous Metals and Building Products (ITAC 9); Services and Finance Industries (ITAC 10); Small and Minority Business (ITAC 11); Steel (ITAC 12); Textiles and Clothing (ITAC 13); Customs Matters and Trade Facilitation (ITAC 14); Intellectual Property Rights (ITAC 15); Standards and Technical Trade Barriers (ITAC 16).

The ITAC Committee of Chairs was established to coordinate the work of the 16 ITAC committees and advise the Secretary of Commerce and the U.S. Trade Representative concerning the trade matters of common interest to the sixteen ITACs. Members of this committee are the elected chairs from each of the sixteen ITACs.

Members of the ITACs are appointed jointly by the Secretary of Commerce and the U.S. Trade Representative and serve at their discretion. Committee members should have knowledge and experience in their industry and represent a U.S. entity that has an interest in trade matters related to the sectors or subject matters of concern to the individual committees. In appointing members to the Committees, balance is achieved and maintained by assuring the members appointed represent industries and other U.S. entities across the range of interests which will be directly affected by the trade policies of concern to the Committee. A list of all the members of the Committees and the diverse interests they represent is available on the USTR website (for example committees include exporters, importers, producers, and both small and large businesses).

3. State and Local Government Relations

USTR maintains consultative procedures between federal trade officials and state and local governments. USTR's Office of IAPE is designated as the "coordinator for state matters." IAPE carries out the functions of informing the states, on an ongoing basis, of trade-related matters that directly relate to, or that may have a direct effect on, them. U.S. territories may also participate in this process. IAPE also serves as a liaison point in the Executive Branch for state and local government and federal agencies to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms.

a. State Point of Contact System and IGPAC

For day-to-day communications, pursuant to the NAFTA and Uruguay Round implementing legislation and Statements of Administrative Action, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each state designates a single contact point to disseminate information received from USTR to relevant state and local offices and assist in relaying specific information and advice from the states to USTR on trade-related matters.

The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which may affect them. SPOCs regularly receive USTR press releases, *Federal Register* Notices, and other pertinent information. USTR convenes a regular monthly conference call for SPOCs and members of the Intergovernmental Policy Advisory Committee (see description below) to keep state and local governments apprised of timely trade developments of interest.

IGPAC makes recommendations to USTR and the Administration on trade policy matters from the perspective of state and local governments. In 2009, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including: the WTO Doha Development Agenda with respect to the General Agreement on Trade in Services (GATS) and other matters; USTR's Small and Medium Sized Enterprises initiative; enforcement issues; the Buy America provisions of the American Recovery and Reinvestment Act of 2009; government procurement issues with Canada; the model Bilateral Investment Treaty (BIT) review; and other matters. IGPAC members were also invited to participate in monthly teleconference call briefings along with State Points of Contact. Specific issues of interest to IGPAC and SPOCs include new enforcement mechanisms for Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary (SPS) measures, the review of the model BITs, and foreign government challenges to state subsidies.

b. Meetings of State and Local Associations and Local Chambers of Commerce

USTR officials participate frequently in meetings of state and local government associations and local chambers to apprise them of relevant trade policy issues and solicit their views. For example, Ambassador Ron Kirk addressed a plenary meeting of the National Conference of State Legislatures in San Diego, California in fall 2009, and taped a video address to state legislators. The Ambassador has met with individual governors, mayors, and state legislators to discuss trade issues of interest to states and localities, as well as hosting the Intergovernmental Policy Advisory Committee at USTR. Ambassador Ron Kirk has also met with major local chambers of commerce to hear firsthand from local community officials and small businesses. USTR staff has met with the National Governors' Association, regional governors' associations, councils of state governments/state international development organizations, National Conference of State Legislatures, and other state organizations. USTR officials have addressed gatherings of state and local officials and port authorities as well as chambers of commerce around the country, such as the National Association of Foreign Trade Zones, and the Madison, Wisconsin International Trade Association.

c. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and other U.S. trade agreements and frequently responds to requests for information from state and local governments. Topics of interest included the application of the WTO Government Procurement Agreement (GPA) and Buy America provisions under the Recovery Act, General Agreement on Trade in Services issues, the review of the model Bilateral Investment Treaty (BIT), enforcement of trade

agreements, NAFTA trucking issues, and consultations with individual states regarding specific anti-dumping and countervailing duty investigations.

C. Policy Coordination and Freedom of Information Act

The U.S. Trade Representative has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of U.S. trade policy, including on commodity matters (for example coffee and rubber) and, to the extent they are related to trade, direct investment matters. Under the Trade Expansion Act of 1962, Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through *Federal Register* notices and public hearings. In 2009, the TPSC held public hearings on China's Compliance with WTO Commitments (October 2, 2009) and the Trans-Pacific Partnership Free Trade Area (March 3, 2009). The transcripts of these hearings are available in USTR's Reading Room.

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred to the TPRG (Deputy USTR/Under Secretary level) or to the Deputies Committee of the National Security Council/National Economic Council. Issues of the greatest importance move the Principals Committee of the NSC/NEC for resolution by the Cabinet, with or without the President.

Member agencies of the TPSC and the TPRG consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The U.S. International Trade Commission is a nonvoting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

Separate from the policy coordination function, the Office of the U.S. Trade Representative is subject to the Freedom of Information Act (FOIA). Details of the program are available on the USTR website at http://www.ustr.gov/about-us/reading-room/freedom-information-act-foia. USTR receives approximately sixty FOIA requests a year and processes 54. This year the agency has made particular efforts at increased disclosure in light of the new Administration's policies.

ANNEX I

Annex I. U.S. Trade in 2009

I. 2009 Overview

U.S. trade[1] declined by 25 percent in 2009 to a value of $4.4 trillion.[2] This decline reflected severe global recessionary conditions, with world GDP and world trade down 2.3 percent, and 11.9 percent, respectively. For the United States, 2009 marked the first decline of overall trade since 2002, and the largest decline in decades. U.S. trade in goods and services declined by 24 percent in 2009 – U.S. trade of goods alone declined by 28 percent and U.S. trade of services declined by 9 percent. The rate of reduction of U.S. imports of goods, services, and payments on investment (28 percent) was nearly 26 percent greater than the rate of reduction of U.S. exports of goods, services, and earnings on investment (22 percent).

Although trade significantly declined in 2009, on a monthly basis, it appears that trade's low point occurred in the first half of the year. U.S. exports of goods and services have increased, on a month over month basis, for the seven month period from May 2009 to November 2009, while U.S. imports of goods and services have increased each month for the last four months (August 2009 to November 2009). Moreover, exports contributed 1.9 percentage points to the annualized growth rate of 4.0 percent in the second half of 2009.

Even including the fall in U.S. trade in 2009, U.S. trade expansion was more rapid over the past four decades (1970 to 2009) than the growth of the overall U.S. economy, in both nominal and real terms. In nominal terms, trade has grown at an annual average rate of 9.3 percent per year since 1970, compared to a 6.9 percent annual average growth rate of U.S. gross domestic product (GDP) over the same period. In real terms, the average annual growth in trade was nearly double the pace of GDP growth, 5.5 percent versus 2.9 percent. Through 2009, the value of U.S. trade has increased over 3,100 percent since 1970, 132 percent since 1994 (the year before the start of the Uruguay Round implementation), and 32 percent since 2000 *(figure 1)*.[3] As a share of the value of GDP, trade was 31 percent in 2009 *(figure 2),* down from the record 40 percent of GDP in 2008 and below the 33 percent figure in 2000. However, this still represented an increase from 1994 (27 percent) and from 1970 (13 percent).[4]

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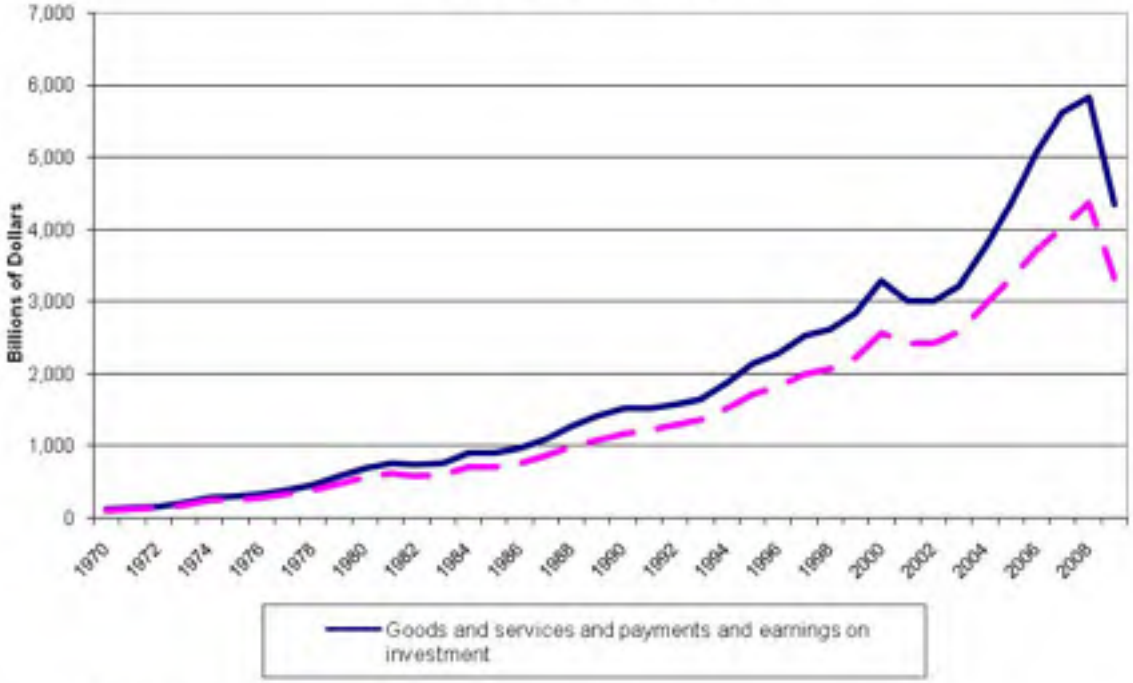
[1] For the purposes of this Annex, "Trade" is defined as exports and imports of goods and services, and the receipt and payment of earnings on foreign investment. Earnings on foreign investment are considered trade because they are conceptually the payment made to foreign residents for the service rendered by the use of foreign capital. Beyond the overview section, however, this chapter deals with goods and services trade, excluding foreign investment earnings. All trade values are nominal unless otherwise indicated.

[2] In this Annex, the full-year trade value for 2009 is an annualized estimate based on partial year data (January 1 to November 30, 2009).

[3] Trade in goods and services alone has increased nearly 2,800 percent since 1970, 117 percent since 1994, and 30 percent since 2000.

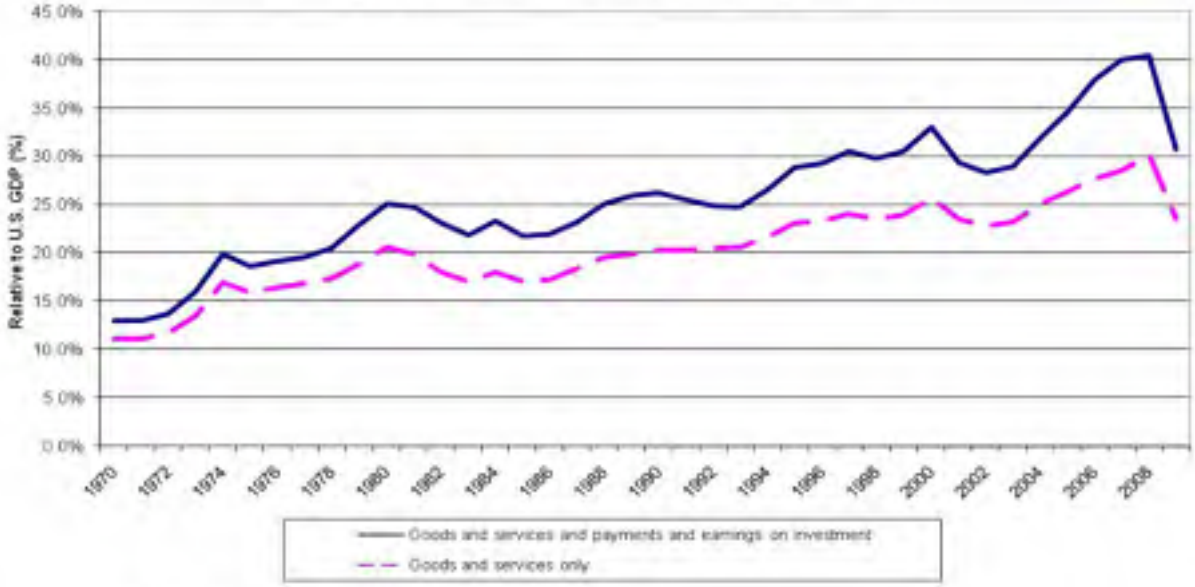
[4] For goods and services, excluding investment earnings and payments, U.S. trade represented 24 percent of the value of GDP in 2009, down from the record 30 percent in 2008, and down from 26 percent in 2000, but was up from 22 percent in 1994, and 11 percent in 1970.

Figure 1:
U.S. Trade Growth 1970-2009*



Total exports + imports
* 2009 Annualized based on January-November
Source: U.S. Department of Commerce

Figure 2:
Growing Importance of Trade in the U.S. Economy, 1970-2009*



Total exports + imports as a percentage of the value of U.S. GDP
*2009 Annualized based on January-November 2009 data
Source: U.S. Department of Commerce

The long-term growth in trade has occurred in both U.S. exports and imports, despite the decline in 2009. U.S. exports of goods and services (including investment earnings) in 2009 are 2,700 percent greater than 1970, 127 percent greater than 1994, and 39 percent greater than 2000. U.S. imports of goods and services are 3,600 percent greater than 1970, 137 percent greater than 1994, and 27 percent greater than 2000.

The total deficit in goods and services trade (excluding earnings and payments on foreign investment) declined in 2009 by approximately $335 billion, from $696 billion in 2008 to $361 billion. This was the third consecutive year that the deficit declined. As a share of GDP, the deficit declined from 4.8 percent of GDP in 2008 to approximately 2.5 percent of GDP in 2009.

The U.S. deficit in goods trade alone decreased by $344 billion from $840 billion in 2008 (5.8 percent of GDP) to $496 billion in 2009 (3.5 percent of GDP), while the services trade surplus decreased by $9 billion from $144 billion in 2008 (1.0 percent of GDP) to $135 billion in 2009 (1.0 percent of GDP). The deficit in petroleum decreased by 51 percent in 2009, but still accounted for 53 percent of the total goods and services deficit.

II. Goods Trade

A. Export Growth

As with total trade, goods exports also declined significantly in 2009. U.S. goods exports decreased by 20 percent in 2009, as compared to the 12 percent increase in the preceding year (*table 1 and figure 3*). Manufacturing exports, which accounted for over 80 percent of total goods exports, were down 19 percent in 2009, while agriculture exports, which accounted for 10 percent of total goods exports, decreased 17 percent in 2009. High-technology exports, a subset of manufacturing exports, accounted for 23 percent of total goods exports and were down 11 percent in 2009. U.S. goods exports decreased for every major end-use category in 2009, with the largest declines in the autos and auto parts category, down 36 percent, and in the industrial supplies and materials category, down 27 percent.

Although U.S. goods exports in 2009 were down compared to 2008, 2009 exports were up 32 percent compared to 2000, and up 103 percent since 1994. U.S. agriculture exports grew faster than manufacturing exports and high technology exports in both timeframes; U.S. agriculture exports were up 88 percent since 2000 and up 114 percent since 1994. Of the major end-use categories, exports of foods, feeds, and beverages (up 90 percent) led growth in the 2000 to 2009 timeframe over both the consumer goods category (up 66 percent) and industrial supplies and materials (up 65 percent). From 1994 to 2009, this trend was reversed with exports of consumer goods (up 147 percent) leading industrial supplies and materials (up 135 percent) and foods, feed, and beverages (up 117 percent). Of the $516 billion increase in goods exports since 1994, capital goods accounted for 35 percent, industrial supplies and materials accounted for 32 percent of the increase, and consumer goods accounted for 17 percent.

Table 1

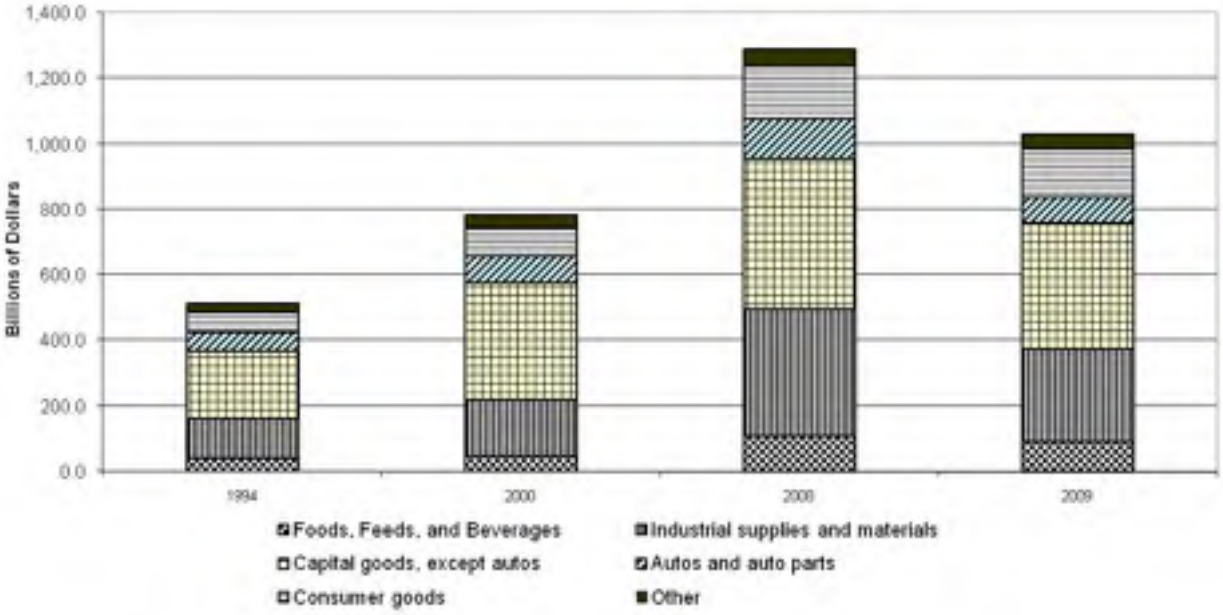
U.S. Goods Exports

Exports:	1994	2000	2008	2009*	08-09*	00-09*	94-09*
	Billions of Dollars				*Percent Changes*		
Total (BOP basis)	502.9	772.0	1,277.0	1,018.7	-20.2%	32.0%	102.6%
Food, feeds, and beverages	42.0	47.9	108.3	91.0	-16.0%	90.1%	116.9%
Industrial supplies and materials	121.4	172.6	388.0	284.8	-26.6%	65.0%	134.6%
Capital goods, except autos	205.0	356.9	457.7	384.6	-16.0%	7.7%	87.6%
Autos and auto parts	57.8	80.4	121.5	77.6	-36.1%	-3.5%	34.2%
Consumer goods	60.0	89.4	161.3	148.4	-8.0%	66.0%	147.3%
Other	26.5	34.8	50.7	44.1	-13.0%	26.8%	66.4%
Addendum: Agriculture	45.9	52.1	118.2	98.1	-17.0%	88.4%	113.6%
Addendum: Manufacturing	431.1	689.5	1,038.6	839.8	-19.1%	21.8%	94.8%
Addendum: High Technology	120.7	227.4	270.1	239.5	-11.3%	5.3%	98.4%

*** Annualized based on January-November 2009 data.**

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

Figure 3:
U.S. Goods Exports



2009 Annualized based on January-November 2009 data
Source: U.S. Department of Commerce

Table 2 U.S. Goods Exports to Selected Countries/Regions							
Exports from:	**1994**	**2000**	**2008**	**2009***	**08-09***	**00-09***	**94-09***
	Billions of Dollars				***Percent Changes***		
European Union (EU27)	110.1	168.5	271.8	217.6	-20.0%	29.1%	97.7%
Canada	114.4	178.9	261.2	199.4	-23.6%	11.4%	74.2%
Asian Pacific Rim, except Japan and China	85.0	121.5	161.1	127.9	-20.6%	5.3%	50.5%
Mexico	50.8	111.3	151.2	125.6	-16.9%	12.8%	147.1%
Latin America, except Mexico	41.7	59.3	136.9	106.7	-22.1%	80.0%	155.8%
China	9.3	16.2	69.7	66.1	-5.3%	308.1%	611.6%
Japan	53.5	64.9	65.1	49.7	-23.7%	-23.5%	-7.1%
Addendum: Industrial Countries**	294.0	435.2	637.5	500.8	-21.4%	15.1%	70.3%
Addendum: Developing Countries**	218.6	346.7	650.0	527.7	-18.8%	52.2%	141.4%

*** Annualized based on January-November 2009 data.**
**** As defined by the International Monetary Fund.**

Source: U.S. Department of Commerce, Census basis.

In 2009, U.S. goods exports declined to all major markets, ranging from a low of a 5.3 percent drop in exports to China to a high of a 23.7 percent drop in exports to Japan (*table 2*). Other markets to which U.S. goods exports declined by over 20 percent include Canada, Latin America (excluding Mexico), the Asian Pacific Rim (excluding Japan and China), and the European Union. U.S. goods exports declined by 21 percent to industrial countries and by 19 percent to developing countries. Since 1994, U.S. goods exports to developing countries grew twice as fast as U.S. goods exports to industrial countries, 141 percent compared to 70 percent. Due to this long-term higher growth difference, the share of U.S. goods exports to developing countries have grown from 43 percent in 1994 to 51 percent in 2009.

B. Import Growth

U.S. goods imports declined by 28 percent in 2009 (*table* 3 *and figure 4*), in contrast to an 8 percent increase from 2007 to 2008. Manufacturing imports, accounting for 77 percent of total goods imports, decreased by 22 percent in 2009. High-technology imports, accounting for 19 percent of total goods imports, decreased by 11 percent, while agriculture imports, accounting for 5 percent of total goods imports, decreased by 12 percent in 2009. Similar to U.S. goods exports, U.S. goods imports decreased for every

Table 3

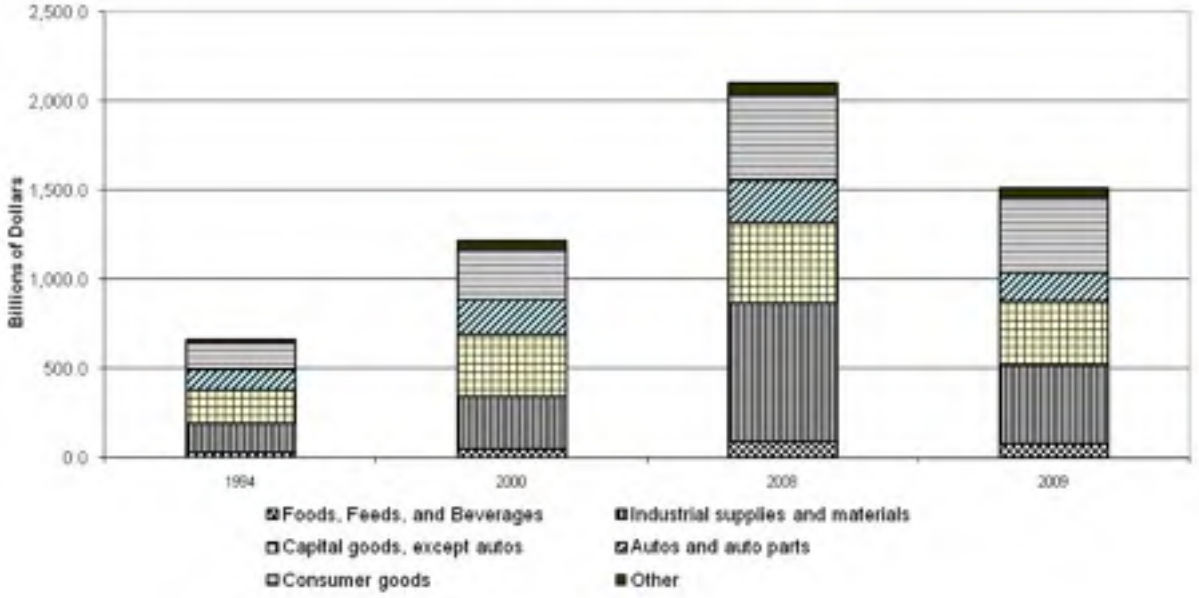
U.S. Goods Imports

Imports:	1994	2000	2008	2009*	08-09*	00-09*	94-09*
	Billions of Dollars				*Percent Changes*		
Total (BOP basis)	668.7	1,226.7	2,117.2	1,514.6	-28.5%	23.5%	126.5%
Food, feeds, and beverages	31.0	46.0	89.0	81.2	-8.7%	76.7%	162.4%
Industrial supplies and materials	162.1	299.0	779.5	438.4	-43.8%	46.6%	170.4%
Capital goods, except autos	184.4	347.0	453.7	361.4	-20.4%	4.1%	96.0%
Autos and auto parts	118.3	195.9	233.8	152.2	-34.9%	-22.3%	28.7%
Consumer goods	146.3	281.8	481.6	423.1	-12.1%	50.1%	189.3%
Other	21.3	48.3	66.0	57.1	-13.5%	18.2%	168.6%
Addendum: Agriculture	26.0	39.2	80.7	71.3	-11.6%	82.1%	174.9%
Addendum: Manufacturing	557.3	1,013.5	1,490.4	1,159.3	-22.2%	14.4%	108.0%
Addendum: High Technology	98.1	222.1	331.2	293.2	-11.5%	32.0%	198.8%

*** Annualized based on January-November 2009 data.**

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

Figure 4:
U.S. Goods Imports



2009 Annualized based on January-November 2009 data
Source: U.S. Department of Commerce

Table 4 U.S. Goods Imports from Selected Countries/Regions							
Imports from:	**1994**	**2000**	**2008**	**2009***	**08-09***	**00-09***	**94-09***
	Billions of Dollars				***Percent Changes***		
European Union (EU27)	121.9	227.6	367.6	275.9	-25.0%	21.2%	126.3%
Canada	128.4	230.8	339.5	216.1	-36.3%	-6.4%	68.3%
China	38.8	100.0	337.8	291.6	-13.7%	191.5%	651.7%
Mexico	49.5	135.9	215.9	170.8	-20.9%	25.7%	245.1%
Asian Pacific Rim, except Japan and China	103.2	171.5	176.9	137.5	-22.3%	-19.8%	33.3%
Latin America, except Mexico	38.5	73.3	160.0	103.9	-35.1%	41.6%	170.0%
Japan	119.2	146.5	139.3	93.0	-33.3%	-36.5%	-22.0%
Addendum: Industrial Countries**	380.7	622.3	872.6	607.4	-30.4%	-2.4%	59.5%
Addendum: Developing Countries**	282.5	595.7	1,231.1	904.1	-26.6%	51.8%	220.0%

***Annualized based on January-November 2009 data.**
****As defined by the International Monetary Fund.**

Source: U.S. Department of Commerce, Census basis.

major end-use category in 2009, with declines ranging between 9 percent and 44 percent. The category with the largest import decline was industrial supplies and materials, down 44 percent, primarily due to the decline in petroleum imports in 2009 (down 7 percent on a volume basis, with oil prices also down 56 percent). In fact, the decrease in petroleum imports accounted for roughly 35 percent of the overall decline in U.S. goods imports in 2009.

Despite the significant decline in U.S. goods imports in 2009, U.S. goods imports have increased 24 percent since 2000, and 127 percent since 1994. U.S. agriculture imports grew nearly seven times faster than manufacturing imports since 2000, but only grew 62 percent faster than manufacturing imports since 1994. For the major end-use categories, U.S. imports of foods, feeds, and beverages led growth since 2000 (up 77 percent), followed by consumer goods (up 50 percent) and industrial supplies and materials (up 44 percent). In contrast, since 1994, U.S. imports of consumer goods were up 189 percent, industrial supplies and materials were up 170 percent, and foods, feeds, and beverages were up 162 percent.

On a major country/region basis, the decrease in U.S. goods imports ranged from 14 percent to 36 percent in 2009 *(table 4)*. The decline in U.S. goods imports from Canada, Latin America (excluding Mexico), and Japan all exceeded 30 percent in 2009. U.S. goods imports from industrial countries declined by 30 percent in 2009, somewhat greater than the 26 percent decline

in goods imports from developing countries. Since 1994, U.S. goods imports from developing countries grew by a rate of more than triple than U.S. goods imports from industrial countries (220 percent compared with 60 percent). Accordingly, the share of U.S. goods imports from developing countries has increased from 43 percent of total goods imports in 1994 to 60 percent in 2009.

III. Services Trade

A. Export Growth

U.S. exports of services declined 8 percent in 2009 to $504 billion. This rate of decline was more than half the rate of decline for goods exports in 2009 (down 20 percent). Despite this decline, U.S. services exports have grown 69 percent since 2000 and 152 percent since 1994 *(table 5 and figure 5)*. U.S. services exports accounted for 33 percent of the level of U.S. goods and services exports in 2009.

Exports in nearly all of the major services categories declined in 2009, led by the categories of other transportation (down 25 percent), passenger fares (down 14 percent), and travel (down 15 percent). Only the military sales transfers and government categories showed increases in 2009, though these exports together accounted for only 5 percent of total U.S. goods exports in 2009.

Since 2000, services export growth has been led by other private services (up 112 percent), and royalties and licensing fees (up 92 percent). Similarly, these two categories exhibited the strongest export growth since 1994 (other private services up 276 percent and royalties and licensing fees up 211 percent). Of the $304 billion increase in U.S. services exports between 1994 and 2009, the other private services category accounted for 55 percent of the increase, while the royalties and licensing fees category accounted for 19 percent.

Detailed sectoral breakdowns for exports in the other private services category as well as exports to countries/regions are available only through 2008.

In 2008, 32 percent of U.S. exports of other private services were to business-related parties (to a foreign parent or affiliate). The largest categories for U.S. exports of other private services to related and unrelated parties in 2008 were: business, professional and technical services ($114 billion); financial services ($60 billion); and education ($18 billion). The business, professional and technical services category was led by management and consulting services ($27 billon), research and development and testing services ($17 billion), computer and information services ($13 billion), and the installation, maintenance, and repair of equipment ($10 billion).

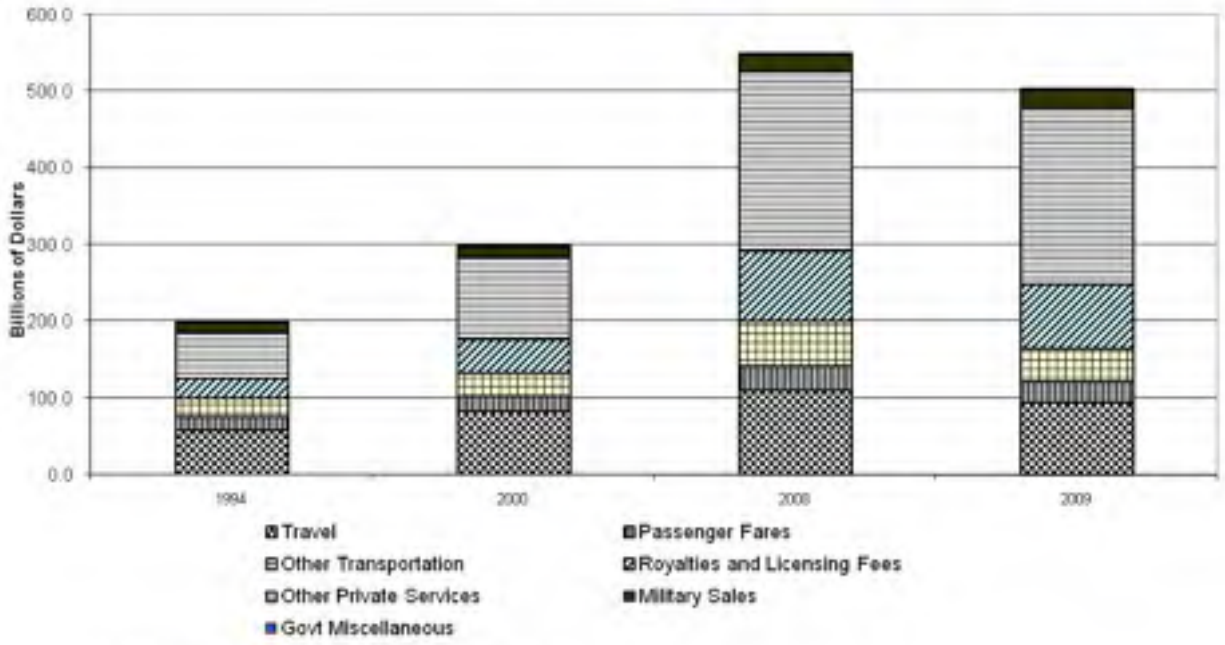
The United Kingdom was the largest purchaser of U.S. private services exports in 2008, accounting for 12 percent ($63 billion) of total U.S. private services exports. The next four-largest purchasers of U.S. private services exports in 2008 were: Canada ($46 billion), Japan ($41 billion), Germany ($28 billion), and Mexico ($24 billion). Regionally, in 2008, the United States exported $196 billion to the EU, $130 billion to the Asia/Pacific Region ($56 billion excluding Japan and China), $70 billion to NAFTA countries, and $40 billion to Latin America (excluding Mexico).

Table 5 U.S. Services Exports							
Exports:	**1994**	**2000**	**2008**	**2009***	**08-09***	**00-09***	**94-09***
	Billions of Dollars				***Percent Changes***		
Total (BOP basis)	200.4	298.6	549.6	504.0	-8.3%	68.8%	151.5%
Travel	58.4	82.4	110.1	93.5	-15.1%	13.5%	60.1%
Passenger Fares	17.0	20.7	31.6	27.3	-13.8%	31.8%	60.4%
Other Transportation	23.8	29.8	58.9	44.0	-25.4%	47.6%	85.1%
Royalties and Licensing Fees	26.7	43.2	91.6	82.9	-9.5%	91.8%	210.5%
Other Private Services	60.8	107.9	233.5	229.1	-1.9%	112.3%	276.5%
Transfers under U.S. Military Sales Contracts	12.8	13.8	22.6	26.0	15.2%	88.5%	103.3%
U.S. Government Miscellaneous Services	0.9	0.8	1.2	1.3	6.9%	69.3%	50.0%

***Annualized based on January-November 2009 data.**

Source: U.S. Department of Commerce, Balance of Payments basis.

Figure 5:
U.S. Services Exports



2009 Annualized based on January-November 2009 data
Source: U.S. Department of Commerce

B. Import Growth

U.S. services imports decreased in 2009 by 9 percent to $369 billon (*table 6, figure 6*). This decline was slightly greater than the 8 percent decline in services exports, but was one-third the rate of decline in goods imports (down 28 percent). The other transportation and passenger fees categories showed the largest declines in 2009, down 26 percent and 22 percent, respectively. U.S. services imports accounted for roughly 20 percent of the level of U.S. goods and services imports in 2009.

Despite the decline in 2009, U.S. services imports have grown both between 2000 and 2009 (up 65 percent) and between 1994 and 2009 (up 177 percent). Since 2000, import growth has been led by direct defense expenditures (up 164 percent) and other private services (up 153 percent). Since 1994, U.S. imports have grown over 300 percent for both the other private services category and the royalties and licensing fees category. Of the $236 billion growth in imports since 1994, the other private services category accounted for 52 percent of the increase and the other transportation category accounted for 12 percent of the increase.

As with exports, detailed sectoral breakdowns for imports of other private services are available only through 2008.

In 2008, 40 percent of U.S. imports of other private services were from business related parties (from a foreign parent or affiliate). The largest categories for U.S. imports of other private services from related and unrelated parties in 2008 were: business professional and technical services ($76 billion); insurance services ($43 billion); and financial services ($19 billion). The business, professional and technical services category were led by management, and consulting services ($22 billion), computer and information services ($16 billion), and research, development, and testing services ($15 billion).

The United Kingdom remained our largest supplier of private services, accounting for 13 percent of total U.S. private services imports in 2008. The top five suppliers of U.S. private services imports in 2008 were: the United Kingdom ($44 billion), Germany ($26 billion), Japan ($24 billion), Canada ($24 billion), and Bermuda ($17 billion).

Regionally, the U.S. imported $139 billion of services from the EU in 2008, $91 billion from the Asia/Pacific region ($39 billion excluding Japan and China), $40 billion from NAFTA, and $21 billion from Latin America (excluding Mexico).

Table 6

U.S. Services Imports

Imports:	1994	2000	2008	2009*	08-09*	00-09*	94-09*
	Billions of Dollars				*Percent Changes*		
Total (BOP basis)	133.1	223.7	405.3	368.8	-9.0%	64.8%	177.2%
Travel	43.8	64.7	79.7	72.4	-9.2%	11.9%	65.4%
Passenger Fares	13.1	24.3	32.6	25.5	-21.8%	5.0%	95.2%
Other Transportation	26.0	41.4	72.1	53.4	-26.0%	28.9%	105.3%
Royalties and Licensing Fees	5.9	16.5	26.6	24.1	-9.3%	46.6%	312.4%
Other Private Services	31.6	60.5	153.3	153.2	0.0%	153.2%	385.5%
Direct Defense Expenditures	10.2	13.5	36.5	35.5	-2.6%	163.5%	247.5%
U.S. Government Miscellaneous Services	2.6	2.9	4.5	4.7	5.6%	63.6%	84.3%

***Annualized based on January-November 2009 data.**

Source: U.S. Department of Commerce, Balance of Payments basis.

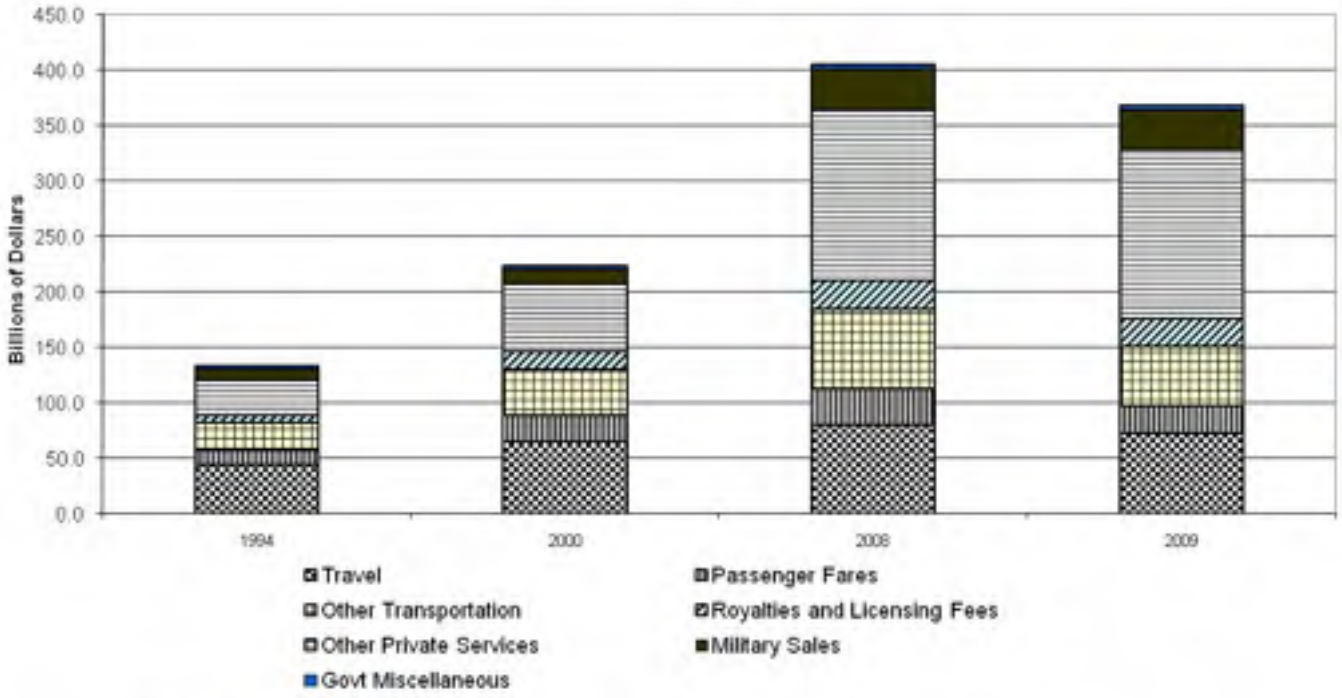
IV. The U.S. Trade Deficit

In 2009, the U.S. goods and services deficit decreased by nearly one-half ($335 billion) to a level of $361 billion (*table 7*), the third consecutive year the deficit declined. This was the lowest goods and services trade deficit since 1999. The U.S. deficit in goods trade alone decreased by $344 billion to $496 billion in 2009, while the U.S. surplus in services trade decreased by $9 billion to $135 billion.

As a share of U.S. GDP, the goods and services trade deficit declined from 4.8 percent of GDP in 2008 to 2.5 percent of GDP in 2009 (*table 8)*. The goods trade deficit declined from 5.8 percent of GDP in 2008 to 3.5 percent of GDP in 2009, while the services trade surplus stayed at 1.0 percent of GDP in both 2008 and 2009.

The regional distribution of the goods trade deficit for 1994, 2000, and 2008 to 2009 is shown in table 9.

Figure 6:
U.S. Services Imports



2009 Annualized based on January-November 2009 data
Source: U.S. Department of Commerce

Table 7
U.S. Trade Balances with the World

Balance:	1994	2000	2008	2009*
	Billions of Dollars			
Goods and Services (BOP Basis)	-98.5	-379.8	-695.9	-360.8
Goods (BOP Basis)	-165.8	-454.7	-840.3	-496.0
Services (BOP Basis)	67.3	74.9	144.3	135.2

*** Annualized based on January-November 2009 data**

Source: U.S. Department of Commerce

Table 8
U.S. Trade Balances as a Share of GDP

Share of GDP:	1994	2000	2008	2009*
	Percents			
Goods and Services (BOP Basis)	-1.4	-3.8	-4.8	-2.5
Goods (BOP Basis)	-2.3	-4.6	-5.8	-3.5
Services (BOP Basis)	1.0	0.8	1.0	1.0

*** Annualized based on January-November 2009 data**

Source: U.S. Department of Commerce

Table 9
U.S. Goods Trade Balances with Selected Countries/Regions

Balance:	1994	2000	2008	2009*
	Billions of Dollars			
Canada	-14.0	-51.9	-78.3	-16.7
European Union (EU27)	-11.8	-59.1	-95.8	-58.3
Japan	-65.7	-81.6	-74.1	-43.3
Mexico	1.4	-24.6	-64.7	-45.2
China	-29.5	-83.8	-268.0	-225.5
Asian Pacific Rim, except Japan and China	-18.2	-50.0	-15.8	-9.6
Latin America, except Mexico	3.2	-14.1	-23.0	2.9
Addendum: Industrial Countries**	-86.7	-187.1	-235.1	-106.6
Addendum: Developing Countries**	-63.9	-249.0	-581.1	-376.4

*** Annualized based on January-November 2009 data**
**** As defined by the International Monetary Fund**

Source: U.S. Department of Commerce

ANNEX II

Background Information on the WTO

Doha Development Agenda

1. Doha Ministerial Declaration
2. Doha Declaration on the TRIPS Agreement and Public Health
3. Doha Declaration on Implementation-Related Issues and Concerns
4. Doha Work Programme
5. Amendment of the TRIPS Agreement
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8. WTO Affinity Groups in the DDA

Institutional Issues

1. Membership of the WTO
2. 2010-11 Budget for the WTO Secretariat
3. 2010 WTO Budget Contributions
4. Waivers Currently in Force
5. WTO Secretariat Personnel Statistics
6. WTO Accession Application and Status
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8. Appellate Body Membership
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WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/1
20 November 2001

(01-5859)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

MINISTERIAL DECLARATION

Adopted on 14 November 2001

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.

2. International trade can play a major role in the promotion of economic development and the alleviation of poverty. We recognize the need for all our peoples to benefit from the increased opportunities and welfare gains that the multilateral trading system generates. The majority of WTO Members are developing countries. We seek to place their needs and interests at the heart of the Work Programme adopted in this Declaration. Recalling the Preamble to the Marrakesh Agreement, we shall continue to make positive efforts designed to ensure that developing countries, and especially the least-developed among them, secure a share in the growth of world trade commensurate with the needs of their economic development. In this context, enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity-building programmes have important roles to play.

3. We recognize the particular vulnerability of the least-developed countries and the special structural difficulties they face in the global economy. We are committed to addressing the marginalization of least-developed countries in international trade and to improving their effective participation in the multilateral trading system. We recall the commitments made by Ministers at our meetings in Marrakesh, Singapore and Geneva, and by the international community at the Third UN Conference on Least-Developed Countries in Brussels, to help least-developed countries secure beneficial and meaningful integration into the multilateral trading system and the global economy. We are determined that the WTO will play its part in building effectively on these commitments under the Work Programme we are establishing.

4. We stress our commitment to the WTO as the unique forum for global trade rule-making and liberalization, while also recognizing that regional trade agreements can play an important role in promoting the liberalization and expansion of trade and in fostering development.

5. We are aware that the challenges Members face in a rapidly changing international environment cannot be addressed through measures taken in the trade field alone. We shall continue to work with the Bretton Woods institutions for greater coherence in global economic policy-making.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements. We welcome the WTO´s continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and developmental organizations, especially in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to regulate, and to introduce new regulations on, the supply of services.

8. We reaffirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labour standards. We take note of work under way in the International Labour Organization (ILO) on the social dimension of globalization.

9. We note with particular satisfaction that this Conference has completed the WTO accession procedures for China and Chinese Taipei. We also welcome the accession as new Members, since our last Session, of Albania, Croatia, Georgia, Jordan, Lithuania, Moldova and Oman, and note the extensive market-access commitments already made by these countries on accession. These accessions will greatly strengthen the multilateral trading system, as will those of the 28 countries now negotiating their accession. We therefore attach great importance to concluding accession proceedings as quickly as possible. In particular, we are committed to accelerating the accession of least-developed countries.

10. Recognizing the challenges posed by an expanding WTO membership, we confirm our collective responsibility to ensure internal transparency and the effective participation of all Members. While emphasizing the intergovernmental character of the organization, we are committed to making the WTO's operations more transparent, including through more effective and prompt dissemination of information, and to improve dialogue with the public. We shall therefore at the national and multilateral levels continue to promote a better public understanding of the WTO and to communicate the benefits of a liberal, rules-based multilateral trading system.

11. In view of these considerations, we hereby agree to undertake the broad and balanced Work Programme set out below. This incorporates both an expanded negotiating agenda and other important decisions and activities necessary to address the challenges facing the multilateral trading system.

WORK PROGRAMME

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

12. We attach the utmost importance to the implementation-related issues and concerns raised by Members and are determined to find appropriate solutions to them. In this connection, and having regard to the General Council Decisions of 3 May and 15 December 2000, we further adopt the Decision on Implementation-Related Issues and Concerns in document WT/MIN(01)/17 to address a number of implementation problems faced by Members. We agree that negotiations on outstanding implementation issues shall be an integral part of the Work Programme we are establishing, and that agreements reached at an early stage in these negotiations shall be treated in accordance with the provisions of paragraph 47 below. In this regard, we shall proceed as follows: (a) where we provide a specific negotiating mandate in this Declaration, the relevant implementation issues shall be addressed under that mandate; (b) the other outstanding implementation issues shall be addressed as a matter of priority by the relevant WTO bodies, which shall report to the Trade Negotiations Committee, established under paragraph 46 below, by the end of 2002 for appropriate action.

AGRICULTURE

13. We recognize the work already undertaken in the negotiations initiated in early 2000 under Article 20 of the Agreement on Agriculture, including the large number of negotiating proposals submitted on behalf of a total of 121 Members. We recall the long-term objective referred to in the Agreement to establish a fair and market-oriented trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets. We reconfirm our commitment to this programme. Building on the work carried out to date and without prejudging the outcome of the negotiations we commit ourselves to comprehensive negotiations aimed at: substantial improvements in market access; reductions of, with a view to phasing out, all forms of export subsidies; and substantial reductions in trade-distorting domestic support. We agree that special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the Schedules of concessions and commitments and as appropriate in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. We take note of the non-trade concerns reflected in the negotiating proposals submitted by Members and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture.

14. Modalities for the further commitments, including provisions for special and differential treatment, shall be established no later than 31 March 2003. Participants shall submit their comprehensive draft Schedules based on these modalities no later than the date of the Fifth Session of the Ministerial Conference. The negotiations, including with respect to rules and disciplines and related legal texts, shall be concluded as part and at the date of conclusion of the negotiating agenda as a whole.

SERVICES

15. The negotiations on trade in services shall be conducted with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries. We recognize the work already undertaken in the negotiations, initiated in January 2000 under Article XIX of the General Agreement on Trade in Services, and the large number of proposals submitted by Members on a wide range of sectors and several horizontal issues, as well as on movement of natural persons. We reaffirm the Guidelines and Procedures for the Negotiations adopted by the Council for Trade in Services on 28 March 2001 as the basis for continuing the negotiations, with a view to achieving the objectives of the General Agreement on Trade in Services, as stipulated in the Preamble, Article IV and Article XIX of that Agreement. Participants shall submit initial requests for specific commitments by 30 June 2002 and initial offers by 31 March 2003.

MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

16. We agree to negotiations which shall aim, by modalities to be agreed, to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage shall be comprehensive and without *a priori* exclusions. The negotiations shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments, in accordance with the relevant provisions of Article XXVIII *bis* of GATT 1994 and the provisions cited in paragraph 50 below. To this end, the modalities to be agreed will include appropriate studies and capacity-building measures to assist least-developed countries to participate effectively in the negotiations.

TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

17. We stress the importance we attach to implementation and interpretation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in a manner supportive of public health, by promoting both access to existing medicines and research and development into new medicines and, in this connection, are adopting a separate Declaration.

18. With a view to completing the work started in the Council for Trade-Related Aspects of Intellectual Property Rights (Council for TRIPS) on the implementation of Article 23.4, we agree to negotiate the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits by the Fifth Session of the Ministerial Conference. We note that issues related to the extension of the protection of geographical indications provided for in Article 23 to products other than wines and spirits will be addressed in the Council for TRIPS pursuant to paragraph 12 of this Declaration.

19. We instruct the Council for TRIPS, in pursuing its work programme including under the review of Article 27.3(b), the review of the implementation of the TRIPS Agreement under Article 71.1 and the work foreseen pursuant to paragraph 12 of this Declaration, to examine, *inter alia*, the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant new developments raised by Members pursuant to Article 71.1. In undertaking this work, the TRIPS Council shall be

guided by the objectives and principles set out in Articles 7 and 8 of the TRIPS Agreement and shall take fully into account the development dimension.

RELATIONSHIP BETWEEN TRADE AND INVESTMENT

20. Recognizing the case for a multilateral framework to secure transparent, stable and predictable conditions for long-term cross-border investment, particularly foreign direct investment, that will contribute to the expansion of trade, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 21, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

21. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

22. In the period until the Fifth Session, further work in the Working Group on the Relationship Between Trade and Investment will focus on the clarification of: scope and definition; transparency; non-discrimination; modalities for pre-establishment commitments based on a GATS-type, positive list approach; development provisions; exceptions and balance-of-payments safeguards; consultation and the settlement of disputes between Members. Any framework should reflect in a balanced manner the interests of home and host countries, and take due account of the development policies and objectives of host governments as well as their right to regulate in the public interest. The special development, trade and financial needs of developing and least-developed countries should be taken into account as an integral part of any framework, which should enable Members to undertake obligations and commitments commensurate with their individual needs and circumstances. Due regard should be paid to other relevant WTO provisions. Account should be taken, as appropriate, of existing bilateral and regional arrangements on investment.

INTERACTION BETWEEN TRADE AND COMPETITION POLICY

23. Recognizing the case for a multilateral framework to enhance the contribution of competition policy to international trade and development, and the need for enhanced technical assistance and capacity-building in this area as referred to in paragraph 24, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations.

24. We recognize the needs of developing and least-developed countries for enhanced support for technical assistance and capacity building in this area, including policy analysis and development so that they may better evaluate the implications of closer multilateral cooperation for their development policies and objectives, and human and institutional development. To this end, we shall work in cooperation with other relevant intergovernmental organisations, including UNCTAD, and through appropriate regional and bilateral channels, to provide strengthened and adequately resourced assistance to respond to these needs.

25. In the period until the Fifth Session, further work in the Working Group on the Interaction between Trade and Competition Policy will focus on the clarification of: core principles, including transparency, non-discrimination and procedural fairness, and provisions on hardcore cartels; modalities for voluntary cooperation; and support for progressive reinforcement of competition institutions in developing countries through capacity building. Full account shall be taken of the needs of developing and least-developed country participants and appropriate flexibility provided to address them.

TRANSPARENCY IN GOVERNMENT PROCUREMENT

26. Recognizing the case for a multilateral agreement on transparency in government procurement and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. These negotiations will build on the progress made in the Working Group on Transparency in Government Procurement by that time and take into account participants' development priorities, especially those of least-developed country participants. Negotiations shall be limited to the transparency aspects and therefore will not restrict the scope for countries to give preferences to domestic supplies and suppliers. We commit ourselves to ensuring adequate technical assistance and support for capacity building both during the negotiations and after their conclusion.

TRADE FACILITATION

27. Recognizing the case for further expediting the movement, release and clearance of goods, including goods in transit, and the need for enhanced technical assistance and capacity building in this area, we agree that negotiations will take place after the Fifth Session of the Ministerial Conference on the basis of a decision to be taken, by explicit consensus, at that Session on modalities of negotiations. In the period until the Fifth Session, the Council for Trade in Goods shall review and as appropriate, clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 and identify the trade facilitation needs and priorities of Members, in particular developing and least-developed countries. We commit ourselves to ensuring adequate technical assistance and support for capacity building in this area.

WTO RULES

28. In the light of experience and of the increasing application of these instruments by Members, we agree to negotiations aimed at clarifying and improving disciplines under the Agreements on Implementation of Article VI of the GATT 1994 and on Subsidies and Countervailing Measures, while preserving the basic concepts, principles and effectiveness of these Agreements and their instruments and objectives, and taking into account the needs of developing and least-developed participants. In the initial phase of the negotiations, participants will indicate the provisions, including disciplines on trade distorting practices, that they seek to clarify and improve in the subsequent phase. In the context of these negotiations, participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries. We note that fisheries subsidies are also referred to in paragraph 31.

29. We also agree to negotiations aimed at clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements. The negotiations shall take into account the developmental aspects of regional trade agreements.

DISPUTE SETTLEMENT UNDERSTANDING

30. We agree to negotiations on improvements and clarifications of the Dispute Settlement Understanding. The negotiations should be based on the work done thus far as well as any additional proposals by Members, and aim to agree on improvements and clarifications not later than May 2003, at which time we will take steps to ensure that the results enter into force as soon as possible thereafter.

TRADE AND ENVIRONMENT

31. With a view to enhancing the mutual supportiveness of trade and environment, we agree to negotiations, without prejudging their outcome, on:

(i) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). The negotiations shall be limited in scope to the applicability of such existing WTO rules as among parties to the MEA in question. The negotiations shall not prejudice the WTO rights of any Member that is not a party to the MEA in question;

(ii) procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and the criteria for the granting of observer status;

(iii) the reduction or, as appropriate, elimination of tariff and non-tariff barriers to environmental goods and services.

We note that fisheries subsidies form part of the negotiations provided for in paragraph 28.

32. We instruct the Committee on Trade and Environment, in pursuing work on all items on its agenda within its current terms of reference, to give particular attention to:

(i) the effect of environmental measures on market access, especially in relation to developing countries, in particular the least-developed among them, and those situations in which the elimination or reduction of trade restrictions and distortions would benefit trade, the environment and development;

(ii) the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights; and

(iii) labelling requirements for environmental purposes.

Work on these issues should include the identification of any need to clarify relevant WTO rules. The Committee shall report to the Fifth Session of the Ministerial Conference, and make recommendations, where appropriate, with respect to future action, including the desirability of negotiations. The outcome of this work as well as the negotiations carried out under paragraph 31. (i) and (ii) shall be compatible with the open and non-discriminatory nature of the

multilateral trading system, shall not add to or diminish the rights and obligations of Members under existing WTO agreements, in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, nor alter the balance of these rights and obligations, and will take into account the needs of developing and least-developed countries.

33. We recognize the importance of technical assistance and capacity building in the field of trade and environment to developing countries, in particular the least-developed among them. We also encourage that expertise and experience be shared with Members wishing to perform environmental reviews at the national level. A report shall be prepared on these activities for the Fifth Session.

ELECTRONIC COMMERCE

34. We take note of the work which has been done in the General Council and other relevant bodies since the Ministerial Declaration of 20 May 1998 and agree to continue the Work Programme on Electronic Commerce. The work to date demonstrates that electronic commerce creates new challenges and opportunities for trade for Members at all stages of development, and we recognize the importance of creating and maintaining an environment which is favourable to the future development of electronic commerce. We instruct the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session of the Ministerial Conference. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

SMALL ECONOMIES

35. We agree to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies. The objective of this work is to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, and not to create a sub-category of WTO Members. The General Council shall review the work programme and make recommendations for action to the Fifth Session of the Ministerial Conference.

TRADE, DEBT AND FINANCE

36. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade, debt and finance, and of any possible recommendations on steps that might be taken within the mandate and competence of the WTO to enhance the capacity of the multilateral trading system to contribute to a durable solution to the problem of external indebtedness of developing and least-developed countries, and to strengthen the coherence of international trade and financial policies, with a view to safeguarding the multilateral trading system from the effects of financial and monetary instability. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TRADE AND TRANSFER OF TECHNOLOGY

37. We agree to an examination, in a Working Group under the auspices of the General Council, of the relationship between trade and transfer of technology, and of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. The General Council shall report to the Fifth Session of the Ministerial Conference on progress in the examination.

TECHNICAL COOPERATION AND CAPACITY BUILDING

38. We confirm that technical cooperation and capacity building are core elements of the development dimension of the multilateral trading system, and we welcome and endorse the New Strategy for WTO Technical Cooperation for Capacity Building, Growth and Integration. We instruct the Secretariat, in coordination with other relevant agencies, to support domestic efforts for mainstreaming trade into national plans for economic development and strategies for poverty reduction. The delivery of WTO technical assistance shall be designed to assist developing and least-developed countries and low-income countries in transition to adjust to WTO rules and disciplines, implement obligations and exercise the rights of membership, including drawing on the benefits of an open, rules-based multilateral trading system. Priority shall also be accorded to small, vulnerable, and transition economies, as well as to Members and Observers without representation in Geneva. We reaffirm our support for the valuable work of the International Trade Centre, which should be enhanced.

39. We underscore the urgent necessity for the effective coordinated delivery of technical assistance with bilateral donors, in the OECD Development Assistance Committee and relevant international and regional intergovernmental institutions, within a coherent policy framework and timetable. In the coordinated delivery of technical assistance, we instruct the Director-General to consult with the relevant agencies, bilateral donors and beneficiaries, to identify ways of enhancing and rationalizing the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme (JITAP).

40. We agree that there is a need for technical assistance to benefit from secure and predictable funding. We therefore instruct the Committee on Budget, Finance and Administration to develop a plan for adoption by the General Council in December 2001 that will ensure long-term funding for WTO technical assistance at an overall level no lower than that of the current year and commensurate with the activities outlined above.

41. We have established firm commitments on technical cooperation and capacity building in various paragraphs in this Ministerial Declaration. We reaffirm these specific commitments contained in paragraphs 16, 21, 24, 26, 27, 33, 38-40, 42 and 43, and also reaffirm the understanding in paragraph 2 on the important role of sustainably financed technical assistance and capacity-building programmes. We instruct the Director-General to report to the Fifth Session of the Ministerial Conference, with an interim report to the General Council in December 2002 on the implementation and adequacy of these commitments in the identified paragraphs.

LEAST-DEVELOPED COUNTRIES

42. We acknowledge the seriousness of the concerns expressed by the least-developed countries (LDCs) in the Zanzibar Declaration adopted by their Ministers in July 2001. We recognize that the integration of the LDCs into the multilateral trading system requires

meaningful market access, support for the diversification of their production and export base, and trade-related technical assistance and capacity building. We agree that the meaningful integration of LDCs into the trading system and the global economy will involve efforts by all WTO Members. We commit ourselves to the objective of duty-free, quota-free market access for products originating from LDCs. In this regard, we welcome the significant market access improvements by WTO Members in advance of the Third UN Conference on LDCs (LDC-III), in Brussels, May 2001. We further commit ourselves to consider additional measures for progressive improvements in market access for LDCs. Accession of LDCs remains a priority for the Membership. We agree to work to facilitate and accelerate negotiations with acceding LDCs. We instruct the Secretariat to reflect the priority we attach to LDCs' accessions in the annual plans for technical assistance. We reaffirm the commitments we undertook at LDC-III, and agree that the WTO should take into account, in designing its work programme for LDCs, the trade-related elements of the Brussels Declaration and Programme of Action, consistent with the WTO's mandate, adopted at LDC-III. We instruct the Sub-Committee for Least-Developed Countries to design such a work programme and to report on the agreed work programme to the General Council at its first meeting in 2002.

43. We endorse the Integrated Framework for Trade-Related Technical Assistance to Least-Developed Countries (IF) as a viable model for LDCs' trade development. We urge development partners to significantly increase contributions to the IF Trust Fund and WTO extra-budgetary trust funds in favour of LDCs. We urge the core agencies, in coordination with development partners, to explore the enhancement of the IF with a view to addressing the supply-side constraints of LDCs and the extension of the model to all LDCs, following the review of the IF and the appraisal of the ongoing Pilot Scheme in selected LDCs. We request the Director-General, following coordination with heads of the other agencies, to provide an interim report to the General Council in December 2002 and a full report to the Fifth Session of the Ministerial Conference on all issues affecting LDCs.

SPECIAL AND DIFFERENTIAL TREATMENT

44. We reaffirm that provisions for special and differential treatment are an integral part of the WTO Agreements. We note the concerns expressed regarding their operation in addressing specific constraints faced by developing countries, particularly least-developed countries. In that connection, we also note that some Members have proposed a Framework Agreement on Special and Differential Treatment (WT/GC/W/442). We therefore agree that all special and differential treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. In this connection, we endorse the work programme on special and differential treatment set out in the Decision on Implementation-Related Issues and Concerns.

ORGANIZATION AND MANAGEMENT OF THE WORK PROGRAMME

45. The negotiations to be pursued under the terms of this Declaration shall be concluded not later than 1 January 2005. The Fifth Session of the Ministerial Conference will take stock of progress in the negotiations, provide any necessary political guidance, and take decisions as necessary. When the results of the negotiations in all areas have been established, a Special Session of the Ministerial Conference will be held to take decisions regarding the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall

hold its first meeting not later than 31 January 2002. It shall establish appropriate negotiating mechanisms as required and supervise the progress of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, the conduct, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking. However, agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreements shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:

(i) all Members of the WTO; and

(ii) States and separate customs territories currently in the process of accession and those that inform Members, at a regular meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance in the outcome of the negotiations.

50. The negotiations and the other aspects of the Work Programme shall take fully into account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Development and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations are also accorded a high priority. They shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.

WORLD TRADE ORGANIZATION

WT/MIN(01)/DEC/2
20 November 2001

(01-5860)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

Adopted on 14 November 2001

1. We recognize the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.

2. We stress the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems.

3. We recognize that intellectual property protection is important for the development of new medicines. We also recognize the concerns about its effects on prices.

4. We agree that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we affirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

In this connection, we reaffirm the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose.

5. Accordingly and in the light of paragraph 4 above, while maintaining our commitments in the TRIPS Agreement, we recognize that these flexibilities include:

(a) In applying the customary rules of interpretation of public international law, each provision of the TRIPS Agreement shall be read in the light of the object and purpose of the Agreement as expressed, in particular, in its objectives and principles.

(b) Each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted.

(c) Each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

(d) The effect of the provisions in the TRIPS Agreement that are relevant to the exhaustion of intellectual property rights is to leave each Member free to establish its own regime for such exhaustion without challenge, subject to the MFN and national treatment provisions of Articles 3 and 4.

6. We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. We instruct the Council for TRIPS to find an expeditious solution to this problem and to report to the General Council before the end of 2002.

7. We reaffirm the commitment of developed-country Members to provide incentives to their enterprises and institutions to promote and encourage technology transfer to least-developed country Members pursuant to Article 66.2. We also agree that the least-developed country Members will not be obliged, with respect to pharmaceutical products, to implement or apply Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections until 1 January 2016, without prejudice to the right of least-developed country Members to seek other extensions of the transition periods as provided for in Article 66.1 of the TRIPS Agreement. We instruct the Council for TRIPS to take the necessary action to give effect to this pursuant to Article 66.1 of the TRIPS Agreement.

WORLD TRADE ORGANIZATION

WT/MIN(01)/17
20 November 2001

(01-5858)

MINISTERIAL CONFERENCE
Fourth Session
Doha, 9 - 14 November 2001

IMPLEMENTATION-RELATED ISSUES AND CONCERNS

Decision of 14 November 2001

The Ministerial Conference,

Having regard to Articles IV.1, IV.5 and IX of the Marrakesh Agreement Establishing the World Trade Organization (WTO);

Mindful of the importance that Members attach to the increased participation of developing countries in the multilateral trading system, and of the need to ensure that the system responds fully to the needs and interests of all participants;

Determined to take concrete action to address issues and concerns that have been raised by many developing-country Members regarding the implementation of some WTO Agreements and Decisions, including the difficulties and resource constraints that have been encountered in the implementation of obligations in various areas;

Recalling the 3 May 2000 Decision of the General Council to meet in special sessions to address outstanding implementation issues, and to assess the existing difficulties, identify ways needed to resolve them, and take decisions for appropriate action not later than the Fourth Session of the Ministerial Conference;

Noting the actions taken by the General Council in pursuance of this mandate at its Special Sessions in October and December 2000 (WT/L/384), as well as the review and further discussion undertaken at the Special Sessions held in April, July and October 2001, including the referral of additional issues to relevant WTO bodies or their chairpersons for further work;

Noting also the reports on the issues referred to the General Council from subsidiary bodies and their chairpersons and from the Director-General, and the discussions as well as the clarifications provided and understandings reached on implementation issues in the intensive informal and formal meetings held under this process since May 2000;

Decides as follows:

1. General Agreement on Tariffs and Trade 1994 (GATT 1994)

1.1 Reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994.

1.2 Noting the issues raised in the report of the Chairperson of the Committee on Market Access (WT/GC/50) concerning the meaning to be given to the phrase "substantial interest" in paragraph 2(d) of Article XIII of the GATT 1994, the Market Access Committee is directed to give further consideration to the issue and make recommendations to the General Council as expeditiously as possible but in any event not later than the end of 2002.

2. Agreement on Agriculture

2.1 Urges Members to exercise restraint in challenging measures notified under the green box by developing countries to promote rural development and adequately address food security concerns.

2.2 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries, and approves the recommendations contained therein regarding (i) food aid; (ii) technical and financial assistance in the context of aid programmes to improve agricultural productivity and infrastructure; (iii) financing normal levels of commercial imports of basic foodstuffs; and (iv) review of follow-up.

2.3 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the implementation of Article 10.2 of the Agreement on Agriculture, and approves the recommendations and reporting requirements contained therein.

2.4 Takes note of the report of the Committee on Agriculture (G/AG/11) regarding the administration of tariff rate quotas and the submission by Members of addenda to their notifications, and endorses the decision by the Committee to keep this matter under review.

3. Agreement on the Application of Sanitary and Phytosanitary Measures

3.1 Where the appropriate level of sanitary and phytosanitary protection allows scope for the phased introduction of new sanitary and phytosanitary measures, the phrase "longer time-frame for compliance" referred to in Article 10.2 of the Agreement on the Application of Sanitary and Phytosanitary Measures, shall be understood to mean normally a period of not less than 6 months. Where the appropriate level of sanitary and phytosanitary protection does not allow scope for the phased introduction of a new measure, but specific problems are identified by a Member, the Member applying the measure shall upon request enter into consultations with the country with a view to finding a mutually

satisfactory solution to the problem while continuing to achieve the importing Member's appropriate level of protection.

3.2 Subject to the conditions specified in paragraph 2 of Annex B to the Agreement on the Application of Sanitary and Phytosanitary Measures, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months. It is understood that timeframes for specific measures have to be considered in the context of the particular circumstances of the measure and actions necessary to implement it. The entry into force of measures which contribute to the liberalization of trade should not be unnecessarily delayed.

3.3 Takes note of the Decision of the Committee on Sanitary and Phytosanitary Measures (G/SPS/19) regarding equivalence, and instructs the Committee to develop expeditiously the specific programme to further the implementation of Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures.

3.4 Pursuant to the provisions of Article 12.7 of the Agreement on the Application of Sanitary and Phytosanitary Measures, the Committee on Sanitary and Phytosanitary Measures is instructed to review the operation and implementation of the Agreement on Sanitary and Phytosanitary Measures at least once every four years.

3.5 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying SPS-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions in this regard, including with a view to according priority to the effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

3.6 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new SPS measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on the Application of Sanitary and Phytosanitary Measures.

4. Agreement on Textiles and Clothing

Reaffirms the commitment to full and faithful implementation of the Agreement on Textiles and Clothing, and agrees:

4.1 that the provisions of the Agreement relating to the early integration of products and the elimination of quota restrictions should be effectively utilised.

4.2 that Members will exercise particular consideration before initiating investigations in the context of antidumping remedies on textile and clothing exports from developing countries previously subject to quantitative restrictions under the Agreement for a period of two years following full integration of this Agreement into the WTO.

4.3 that without prejudice to their rights and obligations, Members shall notify any changes in their rules of origin concerning products falling under the coverage of the Agreement to the Committee on Rules of Origin which may decide to examine them.

Requests the Council for Trade in Goods to examine the following proposals:

4.4 that when calculating the quota levels for small suppliers for the remaining years of the Agreement, Members will apply the most favourable methodology available in respect of those Members under the growth-on-growth provisions from the beginning of the implementation period; extend the same treatment to least-developed countries; and, where possible, eliminate quota restrictions on imports of such Members;

4.5 that Members will calculate the quota levels for the remaining years of the Agreement with respect to other restrained Members as if implementation of the growth-on-growth provision for stage 3 had been advanced to 1 January 2000; and make recommendations to the General Council by 31 July 2002 for appropriate action.

5. Agreement on Technical Barriers to Trade

5.1 Confirms the approach to technical assistance being developed by the Committee on Technical Barriers to Trade, reflecting the results of the triennial review work in this area, and mandates this work to continue.

5.2 Subject to the conditions specified in paragraph 12 of Article 2 of the Agreement on Technical Barriers to Trade, the phrase "reasonable interval" shall be understood to mean normally a period of not less than 6 months, except when this would be ineffective in fulfilling the legitimate objectives pursued.

5.3 (i) Takes note of the actions taken to date by the Director-General to facilitate the increased participation of Members at different levels of development in the work of the relevant international standard setting organizations as well as his efforts to coordinate with these organizations and financial institutions in identifying TBT-related technical assistance needs and how best to address them; and

(ii) urges the Director-General to continue his cooperative efforts with these organizations and institutions, including with a view to according priority to the

effective participation of least-developed countries and facilitating the provision of technical and financial assistance for this purpose.

5.4 (i) Urges Members to provide, to the extent possible, the financial and technical assistance necessary to enable least-developed countries to respond adequately to the introduction of any new TBT measures which may have significant negative effects on their trade; and

(ii) urges Members to ensure that technical assistance is provided to least-developed countries with a view to responding to the special problems faced by them in implementing the Agreement on Technical Barriers to Trade.

6. Agreement on Trade-Related Investment Measures

6.1 Takes note of the actions taken by the Council for Trade in Goods in regard to requests from some developing-country Members for the extension of the five-year transitional period provided for in Article 5.2 of Agreement on Trade-Related Investment Measures.

6.2 Urges the Council for Trade in Goods to consider positively requests that may be made by least-developed countries under Article 5.3 of the TRIMs Agreement or Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

7. Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

7.1 Agrees that investigating authorities shall examine with special care any application for the initiation of an anti-dumping investigation where an investigation of the same product from the same Member resulted in a negative finding within the 365 days prior to the filing of the application and that, unless this pre-initiation examination indicates that circumstances have changed, the investigation shall not proceed.

7.2 Recognizes that, while Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 is a mandatory provision, the modalities for its application would benefit from clarification. Accordingly, the Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to examine this issue and to draw up appropriate recommendations within twelve months on how to operationalize this provision.

7.3 Takes note that Article 5.8 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 does not specify the time-frame to be used in determining the volume of dumped imports, and that this lack of specificity creates uncertainties in the implementation of the provision. The Committee on Anti-Dumping Practices is instructed, through its working group on Implementation, to study this issue and draw up recommendations within 12

months, with a view to ensuring the maximum possible predictability and objectivity in the application of time frames.

7.4 Takes note that Article 18.6 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 requires the Committee on Anti-Dumping Practices to review annually the implementation and operation of the Agreement taking into account the objectives thereof. The Committee on Anti-dumping Practices is instructed to draw up guidelines for the improvement of annual reviews and to report its views and recommendations to the General Council for subsequent decision within 12 months.

8. Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

8.1 Takes note of the actions taken by the Committee on Customs Valuation in regard to the requests from a number of developing-country Members for the extension of the five-year transitional period provided for in Article 20.1 of Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

8.2 Urges the Council for Trade in Goods to give positive consideration to requests that may be made by least-developed country Members under paragraphs 1 and 2 of Annex III of the Customs Valuation Agreement or under Article IX.3 of the WTO Agreement, as well as to take into consideration the particular circumstances of least-developed countries when setting the terms and conditions including time-frames.

8.3 Underlines the importance of strengthening cooperation between the customs administrations of Members in the prevention of customs fraud. In this regard, it is agreed that, further to the 1994 Ministerial Decision Regarding Cases Where Customs Administrations Have Reasons to Doubt the Truth or Accuracy of the Declared Value, when the customs administration of an importing Member has reasonable grounds to doubt the truth or accuracy of the declared value, it may seek assistance from the customs administration of an exporting Member on the value of the good concerned. In such cases, the exporting Member shall offer cooperation and assistance, consistent with its domestic laws and procedures, including furnishing information on the export value of the good concerned. Any information provided in this context shall be treated in accordance with Article 10 of the Customs Valuation Agreement. Furthermore, recognizing the legitimate concerns expressed by the customs administrations of several importing Members on the accuracy of the declared value, the Committee on Customs Valuation is directed to identify and assess practical means to address such concerns, including the exchange of information on export values and to report to the General Council by the end of 2002 at the latest.

9. Agreement on Rules of Origin

9.1 Takes note of the report of the Committee on Rules of Origin (G/RO/48) regarding progress on the harmonization work programme, and urges the Committee to complete its work by the end of 2001.

9.2 Agrees that any interim arrangements on rules of origin implemented by Members in the transitional period before the entry into force of the results of the harmonisation work programme shall be consistent with the Agreement on Rules of Origin, particularly Articles 2 and 5 thereof. Without prejudice to Members' rights and obligations, such arrangements may be examined by the Committee on Rules of Origin.

10. Agreement on Subsidies and Countervailing Measures

10.1 Agrees that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US $1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US $1000 based upon the most recent data from the World Bank.

10.2 Takes note of the proposal to treat measures implemented by developing countries with a view to achieving legitimate development goals, such as regional growth, technology research and development funding, production diversification and development and implementation of environmentally sound methods of production as non-actionable subsidies, and agrees that this issue be addressed in accordance with paragraph 13 below. During the course of the negotiations, Members are urged to exercise due restraint with respect to challenging such measures.

10.3 Agrees that the Committee on Subsidies and Countervailing Measures shall continue its review of the provisions of the Agreement on Subsidies and Countervailing Measures regarding countervailing duty investigations and report to the General Council by 31 July 2002.

10.4 Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US$ 1,000.

10.5 Subject to the provisions of Articles 27.5 and 27.6, it is reaffirmed that least-developed country Members are exempt from the prohibition on export subsidies set forth in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures, and thus have flexibility to finance their exporters, consistent with their development needs. It is understood that the eight-year period in Article

27.5 within which a least-developed country Member must phase out its export subsidies in respect of a product in which it is export-competitive begins from the date export competitiveness exists within the meaning of Article 27.6.

10.6 Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39.

11. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

11.1 The TRIPS Council is directed to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to the Fifth Session of the Ministerial Conference. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

11.2 Reaffirming that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, it is agreed that the TRIPS Council shall put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question. To this end, developed-country Members shall submit prior to the end of 2002 detailed reports on the functioning in practice of the incentives provided to their enterprises for the transfer of technology in pursuance of their commitments under Article 66.2. These submissions shall be subject to a review in the TRIPS Council and information shall be updated by Members annually.

12. Cross-cutting Issues

12.1 The Committee on Trade and Development is instructed:

- (i) to identify those special and differential treatment provisions that are already mandatory in nature and those that are non-binding in character, to consider the legal and practical implications for developed and developing Members of converting special and differential treatment measures into mandatory provisions, to identify those that Members consider should be made mandatory, and to report to the General Council with clear recommendations for a decision by July 2002;

- (ii) to examine additional ways in which special and differential treatment provisions can be made more effective, to consider ways, including improved information flows, in which developing countries, in particular the least-developed countries, may be assisted to make best use of special and differential treatment provisions, and to report to the General Council with clear recommendations for a decision by July 2002; and

- (iii) to consider, in the context of the work programme adopted at the Fourth Session of the Ministerial Conference, how special and differential treatment may be incorporated into the architecture of WTO rules.

The work of the Committee on Trade and Development in this regard shall take fully into consideration previous work undertaken as noted in WT/COMTD/W/77/Rev.1. It will also be without prejudice to work in respect of implementation of WTO Agreements in the General Council and in other Councils and Committees.

12.2 Reaffirms that preferences granted to developing countries pursuant to the Decision of the Contracting Parties of 28 November 1979 ("Enabling Clause")[1] should be generalised, non-reciprocal and non-discriminatory.

13. Outstanding Implementation Issues[2]

Agrees that outstanding implementation issues be addressed in accordance with paragraph 12 of the Ministerial Declaration (WT/MIN(01)/DEC/1).

14. Final Provisions

Requests the Director-General, consistent with paragraphs 38 to 43 of the Ministerial Declaration (WT/MIN(01)/DEC/1), to ensure that WTO technical assistance focuses, on a priority basis, on assisting developing countries to implement existing WTO obligations as well as on increasing their capacity to participate more effectively in future multilateral trade negotiations. In carrying out this mandate, the WTO Secretariat should cooperate more closely with international and regional intergovernmental organisations so as to increase efficiency and synergies and avoid duplication of programmes.

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[1] BISD 26S/203.

[2] A list of these issues is compiled in document Job(01)/152/Rev.1.

WORLD TRADE ORGANIZATION

WT/L/579
2 August 2004

(04-3297)

Doha Work Programme

Decision Adopted by the General Council on 1 August 2004

1. The General Council reaffirms the Ministerial Declarations and Decisions adopted at Doha and the full commitment of all Members to give effect to them. The Council emphasizes Members' resolve to complete the Doha Work Programme fully and to conclude successfully the negotiations launched at Doha. Taking into account the Ministerial Statement adopted at Cancún on 14 September 2003, and the statements by the Council Chairman and the Director-General at the Council meeting of 15-16 December 2003, the Council takes note of the report by the Chairman of the Trade Negotiations Committee (TNC) and agrees to take action as follows:

a. Agriculture: the General Council adopts the framework set out in Annex A to this document.

b. Cotton: the General Council reaffirms the importance of the Sectoral Initiative on Cotton and takes note of the parameters set out in Annex A within which the trade-related aspects of this issue will be pursued in the agriculture negotiations. The General Council also attaches importance to the development aspects of the Cotton Initiative and wishes to stress the complementarity between the trade and development aspects. The Council takes note of the recent Workshop on Cotton in Cotonou on 23-24 March 2004 organized by the WTO Secretariat, and other bilateral and multilateral efforts to make progress on the development assistance aspects and instructs the Secretariat to continue to work with the development community and to provide the Council with periodic reports on relevant developments.

Members should work on related issues of development multilaterally with the international financial institutions, continue their bilateral programmes, and all developed countries are urged to participate. In this regard, the General Council instructs the Director General to consult with the relevant international organizations, including the Bretton Woods Institutions, the Food and Agriculture Organization and the International Trade Centre to direct effectively existing programmes and any additional resources towards development of the economies where cotton has vital importance.

c. Non-agricultural Market Access: the General Council adopts the framework set out in Annex B to this document.

d. Development:

Principles: development concerns form an integral part of the Doha Ministerial Declaration. The General Council rededicates and recommits Members to fulfilling the development

dimension of the Doha Development Agenda, which places the needs and interests of developing and least-developed countries at the heart of the Doha Work Programme. The Council reiterates the important role that enhanced market access, balanced rules, and well targeted, sustainably financed technical assistance and capacity building programmes can play in the economic development of these countries.

Special and Differential Treatment: the General Council reaffirms that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. The Council recalls Ministers' decision in Doha to review all S&D treatment provisions with a view to strengthening them and making them more precise, effective and operational. The Council recognizes the progress that has been made so far. The Council instructs the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by July 2005. The Council further instructs the Committee, within the parameters of the Doha mandate, to address all other outstanding work, including on the cross-cutting issues, the monitoring mechanism and the incorporation of S&D treatment into the architecture of WTO rules, as referred to in TN/CTD/7 and report, as appropriate, to the General Council.

The Council also instructs all WTO bodies to which proposals in Category II have been referred to expeditiously complete the consideration of these proposals and report to the General Council, with clear recommendations for a decision, as soon as possible and no later than July 2005. In doing so these bodies will ensure that, as far as possible, their meetings do not overlap so as to enable full and effective participation of developing countries in these discussions.

Technical Assistance: the General Council recognizes the progress that has been made since the Doha Ministerial Conference in expanding Trade-Related Technical Assistance (TRTA) to developing countries and low-income countries in transition. In furthering this effort the Council affirms that such countries, and in particular least-developed countries, should be provided with enhanced TRTA and capacity building, to increase their effective participation in the negotiations, to facilitate their implementation of WTO rules, and to enable them to adjust and diversify their economies. In this context the Council welcomes and further encourages the improved coordination with other agencies, including under the Integrated Framework for TRTA for the LDCs (IF) and the Joint Integrated Technical Assistance Programme (JITAP).

Implementation: concerning implementation-related issues, the General Council reaffirms the mandates Ministers gave in paragraph 12 of the Doha Ministerial Declaration and the Doha Decision on Implementation-Related Issues and Concerns, and renews Members' determination to find appropriate solutions to outstanding issues. The Council instructs the Trade Negotiations Committee, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority. Without prejudice to the positions of Members, the Council requests the Director-General to continue with his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits, if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to the TNC and the General Council no later than May 2005. The Council shall review progress and take any appropriate action no later than July 2005.

Other Development Issues: in the ongoing market access negotiations, recognising the fundamental principles of the WTO and relevant provisions of GATT 1994, special attention shall be given to the specific trade and development related needs and concerns of developing countries, including capacity constraints. These particular concerns of developing countries, including relating to food security, rural development, livelihood, preferences, commodities and net food imports, as well as prior unilateral liberalisation, should be taken into consideration, as appropriate, in the course of the Agriculture and NAMA negotiations. The trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system, should also be addressed, without creating a sub-category of Members, as part of a work programme, as mandated in paragraph 35 of the Doha Ministerial Declaration.

Least-Developed Countries: the General Council reaffirms the commitments made at Doha concerning least-developed countries and renews its determination to fulfil these commitments. Members will continue to take due account of the concerns of least-developed countries in the negotiations. The Council confirms that nothing in this Decision shall detract in any way from the special provisions agreed by Members in respect of these countries.

e. Services: the General Council takes note of the report to the TNC by the Special Session of the Council for Trade in Services[1] and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the recommendations agreed by the Special Session, set out in Annex C to this document, on the basis of which further progress in the services negotiations will be pursued. Revised offers should be tabled by May 2005.

f. Other negotiating bodies:

Rules, Trade & Environment and TRIPS: the General Council takes note of the reports to the TNC by the Negotiating Group on Rules and by the Special Sessions of the Committee on Trade and Environment and the TRIPS Council.[2] The Council reaffirms Members' commitment to progress in all of these areas of the negotiations in line with the Doha mandates.

Dispute Settlement: the General Council takes note of the report to the TNC by the Special Session of the Dispute Settlement Body[3] and reaffirms Members' commitment to progress in this area of the negotiations in line with the Doha mandate. The Council adopts the TNC's recommendation that work in the Special Session should continue on the basis set out by the Chairman of that body in his report to the TNC.

g. Trade Facilitation: taking note of the work done on trade facilitation by the Council for Trade in Goods under the mandate in paragraph 27 of the Doha Ministerial Declaration and the work carried out under the auspices of the General Council both prior to the Fifth Ministerial Conference and after its conclusion, the General Council decides by explicit consensus to commence negotiations on the basis of the modalities set out in Annex D to this document.

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[1] This report is contained in document TN/S/16.

[2] The reports to the TNC referenced in this paragraph are contained in the following documents: Negotiating Group on Rules - TN/RL/9; Special Session of the Committee on Trade and Environment - TN/TE/9; Special Session of the Council for TRIPS - TN/IP/10.

[3] This report is contained in document TN/DS/10.

Relationship between Trade and Investment, Interaction between Trade and Competition Policy and Transparency in Government Procurement: the Council agrees that these issues, mentioned in the Doha Ministerial Declaration in paragraphs 20-22, 23-25 and 26 respectively, will not form part of the Work Programme set out in that Declaration and therefore no work towards negotiations on any of these issues will take place within the WTO during the Doha Round.

h. Other elements of the Work Programme: the General Council reaffirms the high priority Ministers at Doha gave to those elements of the Work Programme which do not involve negotiations. Noting that a number of these issues are of particular interest to developing-country Members, the Council emphasizes its commitment to fulfil the mandates given by Ministers in all these areas. To this end, the General Council and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference. The moratoria covered by paragraph 11.1 of the Doha Ministerial Decision on Implementation-related Issues and Concerns and paragraph 34 of the Doha Ministerial Declaration are extended up to the Sixth Ministerial Conference.

2. The General Council agrees that this Decision and its Annexes shall not be used in any dispute settlement proceeding under the DSU and shall not be used for interpreting the existing WTO Agreements.

3. The General Council calls on all Members to redouble their efforts towards the conclusion of a balanced overall outcome of the Doha Development Agenda in fulfilment of the commitments Ministers took at Doha. The Council agrees to continue the negotiations launched at Doha beyond the timeframe set out in paragraph 45 of the Doha Declaration, leading to the Sixth Session of the Ministerial Conference. Recalling its decision of 21 October 2003 to accept the generous offer of the Government of Hong Kong, China to host the Sixth Session, the Council further agrees that this Session will be held in December 2005.

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Annex A

Framework for Establishing Modalities in Agriculture

1. The starting point for the current phase of the agriculture negotiations has been the mandate set out in Paragraph 13 of the Doha Ministerial Declaration. This in turn built on the long-term objective of the Agreement on Agriculture to establish a fair and market-oriented trading system through a programme of fundamental reform. The elements below offer the additional precision required at this stage of the negotiations and thus the basis for the negotiations of full modalities in the next phase. The level of ambition set by the Doha mandate will continue to be the basis for the negotiations on agriculture.

2. The final balance will be found only at the conclusion of these subsequent negotiations and within the Single Undertaking. To achieve this balance, the modalities to be developed will need to incorporate operationally effective and meaningful provisions for special and differential treatment for developing country Members. Agriculture is of critical importance to the economic development of developing country Members and they must be able to pursue agricultural policies that are supportive of their development goals, poverty reduction strategies, food security and livelihood concerns. Non-trade concerns, as referred to in Paragraph 13 of the Doha Declaration, will be taken into account.

3. The reforms in all three pillars form an interconnected whole and must be approached in a balanced and equitable manner.

4. The General Council recognizes the importance of cotton for a certain number of countries and its vital importance for developing countries, especially LDCs. It will be addressed ambitiously, expeditiously, and specifically, within the agriculture negotiations. The provisions of this framework provide a basis for this approach, as does the sectoral initiative on cotton. The Special Session of the Committee on Agriculture shall ensure appropriate prioritization of the cotton issue independently from other sectoral initiatives. A subcommittee on cotton will meet periodically and report to the Special Session of the Committee on Agriculture to review progress. Work shall encompass all trade-distorting policies affecting the sector in all three pillars of market access, domestic support, and export competition, as specified in the Doha text and this Framework text.

5. Coherence between trade and development aspects of the cotton issue will be pursued as set out in paragraph 1.b of the text to which this Framework is annexed.

DOMESTIC SUPPORT

6. The Doha Ministerial Declaration calls for "substantial reductions in trade-distorting domestic support". With a view to achieving these substantial reductions, the negotiations in this pillar will ensure the following:

- Special and differential treatment remains an integral component of domestic support. Modalities to be developed will include longer implementation periods and lower reduction coefficients for all types of trade-distorting domestic support and continued access to the provisions under Article 6.2.

- There will be a strong element of harmonisation in the reductions made by developed Members. Specifically, higher levels of permitted trade-distorting domestic support will be subject to deeper cuts.

- Each such Member will make a substantial reduction in the overall level of its trade-distorting support from bound levels.

- As well as this overall commitment, Final Bound Total AMS and permitted *de minimis* levels will be subject to substantial reductions and, in the case of the Blue Box, will be capped as specified in paragraph 15 in order to ensure results that are coherent with the long-term reform objective. Any clarification or development of rules and conditions to govern trade distorting support will take this into account.

Overall Reduction: A Tiered Formula

7. The overall base level of all trade-distorting domestic support, as measured by the Final Bound Total AMS plus permitted *de minimis* level and the level agreed in paragraph 8 below for Blue Box payments, will be reduced according to a tiered formula. Under this formula, Members having higher levels of trade-distorting domestic support will make greater overall reductions in order to achieve a harmonizing result. As the first instalment of the overall cut, in the first year and throughout the implementation period, the sum of all trade-distorting support will not exceed 80 per cent of the sum of Final Bound Total AMS plus permitted *de minimis* plus the Blue Box at the level determined in paragraph 15.

8. The following parameters will guide the further negotiation of this tiered formula:

- This commitment will apply as a minimum overall commitment. It will not be applied as a ceiling on reductions of overall trade-distorting domestic support, should the separate and complementary formulae to be developed for Total AMS, *de minimis* and Blue Box payments imply, when taken together, a deeper cut in overall trade-distorting domestic support for an individual Member.

- The base for measuring the Blue Box component will be the higher of existing Blue Box payments during a recent representative period to be agreed and the cap established in paragraph 15 below.

Final Bound Total AMS: A Tiered Formula

9. To achieve reductions with a harmonizing effect:

- Final Bound Total AMS will be reduced substantially, using a tiered approach.

- Members having higher Total AMS will make greater reductions.

- To prevent circumvention of the objective of the Agreement through transfers of unchanged domestic support between different support categories, product-specific AMSs will be capped at their respective average levels according to a methodology to be agreed.

- Substantial reductions in Final Bound Total AMS will result in reductions of some product-specific support.

10. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

De Minimis

11. Reductions in *de minimis* will be negotiated taking into account the principle of special and differential treatment. Developing countries that allocate almost all *de minimis* support for subsistence and resource-poor farmers will be exempt.

12. Members may make greater than formula reductions in order to achieve the required level of cut in overall trade-distorting domestic support.

Blue Box

13. Members recognize the role of the Blue Box in promoting agricultural reforms. In this light, Article 6.5 will be reviewed so that Members may have recourse to the following measures:

- Direct payments under production-limiting programmes if:
  - such payments are based on fixed and unchanging areas and yields; or
  - such payments are made on 85% or less of a fixed and unchanging base level of production; or
  - livestock payments are made on a fixed and unchanging number of head.

Or

- Direct payments that do not require production if:
  - such payments are based on fixed and unchanging bases and yields; or
  - livestock payments made on a fixed and unchanging number of head; and
  - such payments are made on 85% or less of a fixed and unchanging base level of production.

14. The above criteria, along with additional criteria will be negotiated. Any such criteria will ensure that Blue Box payments are less trade-distorting than AMS measures, it being understood that:

- Any new criteria would need to take account of the balance of WTO rights and obligations.

- Any new criteria to be agreed will not have the perverse effect of undoing ongoing reforms.

15. Blue Box support will not exceed 5% of a Member's average total value of agricultural production during an historical period. The historical period will be established in the negotiations. This ceiling will apply to any actual or potential Blue Box user from the beginning of the implementation period. In cases where a Member has placed an exceptionally large percentage of its trade-distorting support in the Blue Box, some flexibility will be provided on a

basis to be agreed to ensure that such a Member is not called upon to make a wholly disproportionate cut.

Green Box

16. Green Box criteria will be reviewed and clarified with a view to ensuring that Green Box measures have no, or at most minimal, trade-distorting effects or effects on production. Such a review and clarification will need to ensure that the basic concepts, principles and effectiveness of the Green Box remain and take due account of non-trade concerns. The improved obligations for monitoring and surveillance of all new disciplines foreshadowed in paragraph 48 below will be particularly important with respect to the Green Box.

EXPORT COMPETITION

17. The Doha Ministerial Declaration calls for "reduction of, with a view to phasing out, all forms of export subsidies". As an outcome of the negotiations, Members agree to establish detailed modalities ensuring the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect by a credible end date.

End Point

18. The following will be eliminated by the end date to be agreed:

- Export subsidies as scheduled.

- Export credits, export credit guarantees or insurance programmes with repayment periods beyond 180 days.

- Terms and conditions relating to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below which are not in accordance with disciplines to be agreed. These disciplines will cover, *inter alia*, payment of interest, minimum interest rates, minimum premium requirements, and other elements which can constitute subsidies or otherwise distort trade.

- Trade distorting practices with respect to exporting STEs including eliminating export subsidies provided to or by them, government financing, and the underwriting of losses. The issue of the future use of monopoly powers will be subject to further negotiation.

- Provision of food aid that is not in conformity with operationally effective disciplines to be agreed. The objective of such disciplines will be to prevent commercial displacement. The role of international organizations as regards the provision of food aid by Members, including related humanitarian and developmental issues, will be addressed in the negotiations. The question of providing food aid exclusively in fully grant form will also be addressed in the negotiations.

19. Effective transparency provisions for paragraph 18 will be established. Such provisions, in accordance with standard WTO practice, will be consistent with commercial confidentiality considerations.

Implementation

20. Commitments and disciplines in paragraph 18 will be implemented according to a schedule and modalities to be agreed. Commitments will be implemented by annual instalments. Their phasing will take into account the need for some coherence with internal reform steps of Members.

21. The negotiation of the elements in paragraph 18 and their implementation will ensure equivalent and parallel commitments by Members.

Special and Differential Treatment

22. Developing country Members will benefit from longer implementation periods for the phasing out of all forms of export subsidies.

23. Developing countries will continue to benefit from special and differential treatment under the provisions of Article 9.4 of the Agreement on Agriculture for a reasonable period, to be negotiated, after the phasing out of all forms of export subsidies and implementation of all disciplines identified above are completed.

24. Members will ensure that the disciplines on export credits, export credit guarantees or insurance programs to be agreed will make appropriate provision for differential treatment in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries. Improved obligations for monitoring and surveillance of all new disciplines as foreshadowed in paragraph 48 will be critically important in this regard. Provisions to be agreed in this respect must not undermine the commitments undertaken by Members under the obligations in paragraph 18 above.

25. STEs in developing country Members which enjoy special privileges to preserve domestic consumer price stability and to ensure food security will receive special consideration for maintaining monopoly status.

Special Circumstances

26. In exceptional circumstances, which cannot be adequately covered by food aid, commercial export credits or preferential international financing facilities, ad hoc temporary financing arrangements relating to exports to developing countries may be agreed by Members. Such agreements must not have the effect of undermining commitments undertaken by Members in paragraph 18 above, and will be based on criteria and consultation procedures to be established.

MARKET ACCESS

27. The Doha Ministerial Declaration calls for "substantial improvements in market access". Members also agreed that special and differential treatment for developing Members would be an integral part of all elements in the negotiations.

The Single Approach: a Tiered Formula

28. To ensure that a single approach for developed and developing country Members meets all the objectives of the Doha mandate, tariff reductions will be made through a tiered formula that takes into account their different tariff structures.

29. To ensure that such a formula will lead to substantial trade expansion, the following principles will guide its further negotiation:

- Tariff reductions will be made from bound rates. Substantial overall tariff reductions will be achieved as a final result from negotiations.

- Each Member (other than LDCs) will make a contribution. Operationally effective special and differential provisions for developing country Members will be an integral part of all elements.

- Progressivity in tariff reductions will be achieved through deeper cuts in higher tariffs with flexibilities for sensitive products. Substantial improvements in market access will be achieved for all products.

30. The number of bands, the thresholds for defining the bands and the type of tariff reduction in each band remain under negotiation. The role of a tariff cap in a tiered formula with distinct treatment for sensitive products will be further evaluated.

Sensitive Products

Selection

31. Without undermining the overall objective of the tiered approach, Members may designate an appropriate number, to be negotiated, of tariff lines to be treated as sensitive, taking account of existing commitments for these products.

Treatment

32. The principle of 'substantial improvement' will apply to each product.

33. 'Substantial improvement' will be achieved through combinations of tariff quota commitments and tariff reductions applying to each product**.** However, balance in this negotiation will be found only if the final negotiated result also reflects the sensitivity of the product concerned.

34. Some MFN-based tariff quota expansion will be required for all such products. A base for such an expansion will be established, taking account of coherent and equitable criteria to be developed in the negotiations. In order not to undermine the objective of the tiered approach, for all such products, MFN based tariff quota expansion will be provided under specific rules to be negotiated taking into account deviations from the tariff formula.

Other Elements

35. Other elements that will give the flexibility required to reach a final balanced result include reduction or elimination of in-quota tariff rates**,** and operationally effective improvements

in tariff quota administration for existing tariff quotas so as to enable Members, and particularly developing country Members, to fully benefit from the market access opportunities under tariff rate quotas.

36. Tariff escalation will be addressed through a formula to be agreed.

37. The issue of tariff simplification remains under negotiation.

38. The question of the special agricultural safeguard (SSG) remains under negotiation.

Special and differential treatment

39. Having regard to their rural development, food security and/or livelihood security needs, special and differential treatment for developing countries will be an integral part of all elements of the negotiation, including the tariff reduction formula, the number and treatment of sensitive products, expansion of tariff rate quotas, and implementation period.

40. Proportionality will be achieved by requiring lesser tariff reduction commitments or tariff quota expansion commitments from developing country Members.

41. Developing country Members will have the flexibility to designate an appropriate number of products as Special Products, based on criteria of food security, livelihood security and rural development needs. These products will be eligible for more flexible treatment. The criteria and treatment of these products will be further specified during the negotiation phase and will recognize the fundamental importance of Special Products to developing countries.

42. A Special Safeguard Mechanism (SSM) will be established for use by developing country Members.

43. Full implementation of the long-standing commitment to achieve the fullest liberalisation of trade in tropical agricultural products and for products of particular importance to the diversification of production from the growing of illicit narcotic crops is overdue and will be addressed effectively in the market access negotiations.

44. The importance of long-standing preferences is fully recognised. The issue of preference erosion will be addressed. For the further consideration in this regard, paragraph 16 and other relevant provisions of TN/AG/W/1/Rev.1 will be used as a reference.

LEAST- DEVELOPED COUNTRIES

45. Least-Developed Countries, which will have full access to all special and differential treatment provisions above, are not required to undertake reduction commitments. Developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries.

46. Work on cotton under all the pillars will reflect the vital importance of this sector to certain LDC Members and we will work to achieve ambitious results expeditiously.

RECENTLY ACCEDED MEMBERS

47. The particular concerns of recently acceded Members will be effectively addressed through specific flexibility provisions.

MONITORING AND SURVEILLANCE

48. Article 18 of the Agreement on Agriculture will be amended with a view to enhancing monitoring so as to effectively ensure full transparency, including through timely and complete notifications with respect to the commitments in market access, domestic support and export competition. The particular concerns of developing countries in this regard will be addressed.

OTHER ISSUES

49. Issues of interest but not agreed: sectoral initiatives, differential export taxes, GIs.

50. Disciplines on export prohibitions and restrictions in Article 12.1 of the Agreement on Agriculture will be strengthened.

Annex B

Framework for Establishing Modalities in Market Access for Non-Agricultural Products

1. This Framework contains the initial elements for future work on modalities by the Negotiating Group on Market Access. Additional negotiations are required to reach agreement on the specifics of some of these elements. These relate to the formula, the issues concerning the treatment of unbound tariffs in indent two of paragraph 5, the flexibilities for developing-country participants, the issue of participation in the sectorial tariff component and the preferences. In order to finalize the modalities, the Negotiating Group is instructed to address these issues expeditiously in a manner consistent with the mandate of paragraph 16 of the Doha Ministerial Declaration and the overall balance therein.

2. We reaffirm that negotiations on market access for non-agricultural products shall aim to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. We also reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments as integral parts of the modalities.

3. We acknowledge the substantial work undertaken by the Negotiating Group on Market Access and the progress towards achieving an agreement on negotiating modalities. We take note of the constructive dialogue on the Chair's Draft Elements of Modalities (TN/MA/W/35/Rev.1) and confirm our intention to use this document as a reference for the future work of the Negotiating Group. We instruct the Negotiating Group to continue its work, as mandated by paragraph 16 of the Doha Ministerial Declaration with its corresponding references to the relevant provisions of Article XXVIII *bis* of GATT 1994 and to the provisions cited in paragraph 50 of the Doha Ministerial Declaration, on the basis set out below.

4. We recognize that a formula approach is key to reducing tariffs, and reducing or eliminating tariff peaks, high tariffs, and tariff escalation. We agree that the Negotiating Group should continue its work on a non-linear formula applied on a line-by-line basis which shall take fully into account the special needs and interests of developing and least-developed country participants, including through less than full reciprocity in reduction commitments.

5. We further agree on the following elements regarding the formula:

- product coverage shall be comprehensive without *a priori* exclusions;
- tariff reductions or elimination shall commence from the bound rates after full implementation of current concessions; however, for unbound tariff lines, the basis for commencing the tariff reductions shall be [two] times the MFN applied rate in the base year;
- the base year for MFN applied tariff rates shall be 2001 (applicable rates on 14 November);
- credit shall be given for autonomous liberalization by developing countries provided that the tariff lines were bound on an MFN basis in the WTO since the conclusion of the Uruguay Round;

- all non-*ad valorem* duties shall be converted to *ad valorem* equivalents on the basis of a methodology to be determined and bound in *ad valorem* terms;
- negotiations shall commence on the basis of the HS96 or HS2002 nomenclature, with the results of the negotiations to be finalized in HS2002 nomenclature;
- the reference period for import data shall be 1999-2001.

6. We furthermore agree that, as an exception, participants with a binding coverage of non-agricultural tariff lines of less than [35] percent would be exempt from making tariff reductions through the formula. Instead, we expect them to bind [100] percent of non-agricultural tariff lines at an average level that does not exceed the overall average of bound tariffs for all developing countries after full implementation of current concessions.

7. We recognize that a sectorial tariff component, aiming at elimination or harmonization is another key element to achieving the objectives of paragraph 16 of the Doha Ministerial Declaration with regard to the reduction or elimination of tariffs, in particular on products of export interest to developing countries. We recognize that participation by all participants will be important to that effect. We therefore instruct the Negotiating Group to pursue its discussions on such a component, with a view to defining product coverage, participation, and adequate provisions of flexibility for developing-country participants.

8. We agree that developing-country participants shall have longer implementation periods for tariff reductions. In addition, they shall be given the following flexibility:

a) applying less than formula cuts to up to [10] percent of the tariff lines provided that the cuts are no less than half the formula cuts and that these tariff lines do not exceed [10] percent of the total value of a Member's imports; or

b) keeping, as an exception, tariff lines unbound, or not applying formula cuts for up to [5] percent of tariff lines provided they do not exceed [5] percent of the total value of a Member's imports.

We furthermore agree that this flexibility could not be used to exclude entire HS Chapters.

9. We agree that least-developed country participants shall not be required to apply the formula nor participate in the sectorial approach, however, as part of their contribution to this round of negotiations, they are expected to substantially increase their level of binding commitments.

10. Furthermore, in recognition of the need to enhance the integration of least-developed countries into the multilateral trading system and support the diversification of their production and export base, we call upon developed-country participants and other participants who so decide, to grant on an autonomous basis duty-free and quota-free market access for non-agricultural products originating from least-developed countries by the year […].

11. We recognize that newly acceded Members shall have recourse to special provisions for tariff reductions in order to take into account their extensive market access commitments undertaken as part of their accession and that staged tariff reductions are still being implemented in many cases. We instruct the Negotiating Group to further elaborate on such provisions.

12. We agree that pending agreement on core modalities for tariffs, the possibilities of supplementary modalities such as zero-for-zero sector elimination, sectorial harmonization, and request & offer, should be kept open.

13. In addition, we ask developed-country participants and other participants who so decide to consider the elimination of low duties.

14. We recognize that NTBs are an integral and equally important part of these negotiations and instruct participants to intensify their work on NTBs. In particular, we encourage all participants to make notifications on NTBs by 31 October 2004 and to proceed with identification, examination, categorization, and ultimately negotiations on NTBs. We take note that the modalities for addressing NTBs in these negotiations could include request/offer, horizontal, or vertical approaches; and should fully take into account the principle of special and differential treatment for developing and least-developed country participants.

15. We recognize that appropriate studies and capacity building measures shall be an integral part of the modalities to be agreed. We also recognize the work that has already been undertaken in these areas and ask participants to continue to identify such issues to improve participation in the negotiations.

16. We recognize the challenges that may be faced by non-reciprocal preference beneficiary Members and those Members that are at present highly dependent on tariff revenue as a result of these negotiations on non-agricultural products. We instruct the Negotiating Group to take into consideration, in the course of its work, the particular needs that may arise for the Members concerned.

17. We furthermore encourage the Negotiating Group to work closely with the Committee on Trade and Environment in Special Session with a view to addressing the issue of non-agricultural environmental goods covered in paragraph 31 (iii) of the Doha Ministerial Declaration.

Annex C

Recommendations of the Special Session of the Council for Trade in Services

(a) Members who have not yet submitted their initial offers must do so as soon as possible.

(b) A date for the submission of a round of revised offers should be established as soon as feasible.

(c) With a view to providing effective market access to all Members and in order to ensure a substantive outcome, Members shall strive to ensure a high quality of offers, particularly in sectors and modes of supply of export interest to developing countries, with special attention to be given to least-developed countries.

(d) Members shall aim to achieve progressively higher levels of liberalization with no a priori exclusion of any service sector or mode of supply and shall give special attention to sectors and modes of supply of export interest to developing countries. Members note the interest of developing countries, as well as other Members, in Mode 4.

(e) Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles VI:4, X, XIII and XV in accordance with their respective mandates and deadlines.

(f) Targeted technical assistance should be provided with a view to enabling developing countries to participate effectively in the negotiations.

(g) For the purpose of the Sixth Ministerial meeting, the Special Session of the Council for Trade in Services shall review progress in these negotiations and provide a full report to the Trade Negotiations Committee, including possible recommendations.

Annex D

Modalities for Negotiations on Trade Facilitation

1. Negotiations shall aim to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit.[4] Negotiations shall also aim at enhancing technical assistance and support for capacity building in this area. The negotiations shall further aim at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues.

2. The results of the negotiations shall take fully into account the principle of special and differential treatment for developing and least-developed countries. Members recognize that this principle should extend beyond the granting of traditional transition periods for implementing commitments. In particular, the extent and the timing of entering into commitments shall be related to the implementation capacities of developing and least-developed Members. It is further agreed that those Members would not be obliged to undertake investments in infrastructure projects beyond their means.

3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

4. As an integral part of the negotiations, Members shall seek to identify their trade facilitation needs and priorities, particularly those of developing and least-developed countries, and shall also address the concerns of developing and least-developed countries related to cost implications of proposed measures.

5. It is recognized that the provision of technical assistance and support for capacity building is vital for developing and least-developed countries to enable them to fully participate in and benefit from the negotiations. Members, in particular developed countries, therefore commit themselves to adequately ensure such support and assistance during the negotiations.[5]

6. Support and assistance should also be provided to help developing and least-developed countries implement the commitments resulting from the negotiations, in accordance with their nature and scope. In this context, it is recognized that negotiations could lead to certain commitments whose implementation would require support for infrastructure development on the part of some Members. In these limited cases, developed-country Members will make every effort to ensure support and assistance directly related to the nature and scope of the commitments in order to allow implementation. It is understood, however, that in cases where required support and assistance for such infrastructure is not forthcoming, and where a developing or least-developed Member continues to lack the necessary capacity, implementation will not be required. While every effort will be made to ensure the necessary support and assistance, it is understood that the commitments by developed countries to provide such support are not open-ended.

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[4] It is understood that this is without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes.

[5] In connection with this paragraph, Members note that paragraph 38 of the Doha Ministerial Declaration addresses relevant technical assistance and capacity building concerns of Members.

7. Members agree to review the effectiveness of the support and assistance provided and its ability to support the implementation of the results of the negotiations.

8. In order to make technical assistance and capacity building more effective and operational and to ensure better coherence, Members shall invite relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to undertake a collaborative effort in this regard.

9. Due account shall be taken of the relevant work of the WCO and other relevant international organizations in this area.

10. Paragraphs 45-51 of the Doha Ministerial Declaration shall apply to these negotiations. At its first meeting after the July session of the General Council, the Trade Negotiations Committee shall establish a Negotiating Group on Trade Facilitation and appoint its Chair. The first meeting of the Negotiating Group shall agree on a work plan and schedule of meetings.

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WORLD TRADE ORGANIZATION

WT/L/641
8 December 2005

(05-5842)

AMENDMENT OF THE TRIPS AGREEMENT

Decision of 6 December 2005

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Noting the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and, in particular, the instruction of the Ministerial Conference to the Council for TRIPS contained in paragraph 6 of the Declaration to find an expeditious solution to the problem of the difficulties that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement;

Recognizing, where eligible importing Members seek to obtain supplies under the system set out in the proposed amendment of the TRIPS Agreement, the importance of a rapid response to those needs consistent with the provisions of the proposed amendment of the TRIPS Agreement;

Recalling paragraph 11 of the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;

Having considered the proposal to amend the TRIPS Agreement submitted by the Council for TRIPS (IP/C/41);

Noting the consensus to submit this proposed amendment to the Members for acceptance;

Decides as follows:

1. The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.

2. The Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.

3. The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

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ATTACHMENT

PROTOCOL AMENDING THE TRIPS AGREEMENT

Members of the World Trade Organization;

Having regard to the Decision of the General Council in document WT/L/641, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Hereby agree as follows:

- The Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement") shall, upon the entry into force of the Protocol pursuant to paragraph 4, be amended as set out in the Annex to this Protocol, by inserting Article 31*bis* after Article 31 and by inserting the Annex to the TRIPS Agreement after Article 73.

- Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.

- This Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.

- This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.

- This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.

- This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this sixth day of December two thousand and five, in a single copy in the English, French and Spanish languages, each text being authentic.

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ANNEX TO THE PROTOCOL AMENDING THE TRIPS AGREEMENT

Article 31bis

1. The obligations of an exporting Member under Article 31(f) shall not apply with respect to the grant by it of a compulsory licence to the extent necessary for the purposes of production of a pharmaceutical product(s) and its export to an eligible importing Member(s) in accordance with the terms set out in paragraph 2 of the Annex to this Agreement.

2. Where a compulsory licence is granted by an exporting Member under the system set out in this Article and the Annex to this Agreement, adequate remuneration pursuant to Article 31(h) shall be paid in that Member taking into account the economic value to the importing Member of the use that has been authorized in the exporting Member. Where a compulsory licence is granted for the same products in the eligible importing Member, the obligation of that Member under Article 31(h) shall not apply in respect of those products for which remuneration in accordance with the first sentence of this paragraph is paid in the exporting Member.

3. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products: where a developing or least-developed country WTO Member is a party to a regional trade agreement within the meaning of Article XXIV of the GATT 1994 and the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903), at least half of the current membership of which is made up of countries presently on the United Nations list of least-developed countries, the obligation of that Member under Article 31(f) shall not apply to the extent necessary to enable a pharmaceutical product produced or imported under a compulsory licence in that Member to be exported to the markets of those other developing or least-developed country parties to the regional trade agreement that share the health problem in question. It is understood that this will not prejudice the territorial nature of the patent rights in question.

4. Members shall not challenge any measures taken in conformity with the provisions of this Article and the Annex to this Agreement under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994.

5. This Article and the Annex to this Agreement are without prejudice to the rights, obligations and flexibilities that Members have under the provisions of this Agreement other than paragraphs (f) and (h) of Article 31, including those reaffirmed by the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and to their interpretation. They are also without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under the provisions of Article 31(f).

ANNEX TO THE TRIPS AGREEMENT

1. For the purposes of Article 31*bis* and this Annex:

   (a) "pharmaceutical product" means any patented product, or product manufactured through a patented process, of the pharmaceutical sector needed to address the public health problems as recognized in paragraph 1 of the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2). It is understood that active ingredients necessary for its manufacture and diagnostic kits needed for its use would be included[1];

   (b) "eligible importing Member" means any least-developed country Member, and any other Member that has made a notification[2] to the Council for TRIPS of its intention to use the system set out in Article 31*bis* and this Annex ("system") as an importer, it being understood that a Member may notify at any time that it will use the system in whole or in a limited way, for example only in the case of a national emergency or other circumstances of extreme urgency or in cases of public non-commercial use. It is noted that some Members will not use the system as importing Members[3] and that some other Members have stated that, if they use the system, it would be in no more than situations of national emergency or other circumstances of extreme urgency;

   (c) "exporting Member" means a Member using the system to produce pharmaceutical products for, and export them to, an eligible importing Member.

2. The terms referred to in paragraph 1 of Article 31*bis* are that:

   (a) the eligible importing Member(s)[4] has made a notification[2] to the Council for TRIPS, that:

      (i) specifies the names and expected quantities of the product(s) needed[5];

      (ii) confirms that the eligible importing Member in question, other than a least-developed country Member, has established that it has insufficient or no manufacturing capacities in the pharmaceutical sector for the product(s) in question in one of the ways set out in the Appendix to this Annex; and

      (iii) confirms that, where a pharmaceutical product is patented in its territory, it has granted or intends to grant a compulsory licence in accordance

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[1] This subparagraph is without prejudice to subparagraph 1(b).

[2] It is understood that this notification does not need to be approved by a WTO body in order to use the system.

[3] Australia, Canada, the European Communities with, for the purposes of Article 31*bis* and this Annex, its member States, Iceland, Japan, New Zealand, Norway, Switzerland, and the United States.

[4] Joint notifications providing the information required under this subparagraph may be made by the regional organizations referred to in paragraph 3 of Article 31*bis* on behalf of eligible importing Members using the system that are parties to them, with the agreement of those parties.

[5] The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

with Articles 31 and 31*bis* of this Agreement and the provisions of this Annex[6];

(b) the compulsory licence issued by the exporting Member under the system shall contain the following conditions:

(i) only the amount necessary to meet the needs of the eligible importing Member(s) may be manufactured under the licence and the entirety of this production shall be exported to the Member(s) which has notified its needs to the Council for TRIPS;

(ii) products produced under the licence shall be clearly identified as being produced under the system through specific labelling or marking. Suppliers should distinguish such products through special packaging and/or special colouring/shaping of the products themselves, provided that such distinction is feasible and does not have a significant impact on price; and

(iii) before shipment begins, the licensee shall post on a website[7] the following information:

- the quantities being supplied to each destination as referred to in indent (i) above; and

- the distinguishing features of the product(s) referred to in indent (ii) above;

(c) the exporting Member shall notify[8] the Council for TRIPS of the grant of the licence, including the conditions attached to it.[9] The information provided shall include the name and address of the licensee, the product(s) for which the licence has been granted, the quantity(ies) for which it has been granted, the country(ies) to which the product(s) is (are) to be supplied and the duration of the licence. The notification shall also indicate the address of the website referred to in subparagraph (b)(iii) above.

3. In order to ensure that the products imported under the system are used for the public health purposes underlying their importation, eligible importing Members shall take reasonable measures within their means, proportionate to their administrative capacities and to the risk of trade diversion to prevent re-exportation of the products that have actually been imported into their territories under the system. In the event that an eligible importing Member that is a developing country Member or a least-developed country Member experiences difficulty in implementing this provision, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in order to facilitate its implementation.

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[6] This subparagraph is without prejudice to Article 66.1 of this Agreement.

[7] The licensee may use for this purpose its own website or, with the assistance of the WTO Secretariat, the page on the WTO website dedicated to the system.

[8] It is understood that this notification does not need to be approved by a WTO body in order to use the system.

[9] The notification will be made available publicly by the WTO Secretariat through a page on the WTO website dedicated to the system.

4. Members shall ensure the availability of effective legal means to prevent the importation into, and sale in, their territories of products produced under the system and diverted to their markets inconsistently with its provisions, using the means already required to be available under this Agreement. If any Member considers that such measures are proving insufficient for this purpose, the matter may be reviewed in the Council for TRIPS at the request of that Member.

5. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products, it is recognized that the development of systems providing for the grant of regional patents to be applicable in the Members described in paragraph 3 of Article 31*bis* should be promoted. To this end, developed country Members undertake to provide technical cooperation in accordance with Article 67 of this Agreement, including in conjunction with other relevant intergovernmental organizations.

6. Members recognize the desirability of promoting the transfer of technology and capacity building in the pharmaceutical sector in order to overcome the problem faced by Members with insufficient or no manufacturing capacities in the pharmaceutical sector. To this end, eligible importing Members and exporting Members are encouraged to use the system in a way which would promote this objective. Members undertake to cooperate in paying special attention to the transfer of technology and capacity building in the pharmaceutical sector in the work to be undertaken pursuant to Article 66.2 of this Agreement, paragraph 7 of the Declaration on the TRIPS Agreement and Public Health and any other relevant work of the Council for TRIPS.

7. The Council for TRIPS shall review annually the functioning of the system with a view to ensuring its effective operation and shall annually report on its operation to the General Council.

APPENDIX TO THE ANNEX TO THE TRIPS AGREEMENT

Assessment of Manufacturing Capacities in the Pharmaceutical Sector

Least-developed country Members are deemed to have insufficient or no manufacturing capacities in the pharmaceutical sector.

For other eligible importing Members insufficient or no manufacturing capacities for the product(s) in question may be established in either of the following ways:

(i) the Member in question has established that it has no manufacturing capacity in the pharmaceutical sector;

or

(ii) where the Member has some manufacturing capacity in this sector, it has examined this capacity and found that, excluding any capacity owned or controlled by the patent owner, it is currently insufficient for the purposes of meeting its needs. When it is established that such capacity has become sufficient to meet the Member's needs, the system shall no longer apply.

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WORLD TRADE ORGANIZATION

WT/MIN(05)/DEC
22 December 2005

(05-6248)

MINISTERIAL CONFERENCE
Sixth Session
Hong Kong, 13 - 18 December 2005

DOHA WORK PROGRAMME

Ministerial Declaration

Adopted on 18 December 2005

1. We reaffirm the Declarations and Decisions we adopted at Doha, as well as the Decision adopted by the General Council on 1 August 2004, and our full commitment to give effect to them. We renew our resolve to complete the Doha Work Programme fully and to conclude the negotiations launched at Doha successfully in 2006.

2. We emphasize the central importance of the development dimension in every aspect of the Doha Work Programme and recommit ourselves to making it a meaningful reality, in terms both of the results of the negotiations on market access and rule-making and of the specific development-related issues set out below.

3. In pursuance of these objectives, we agree as follows:

Agriculture negotiations

4. We reaffirm our commitment to the mandate on agriculture as set out in paragraph 13 of the Doha Ministerial Declaration and to the Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Special Session on his own responsibility (TN/AG/21, contained in Annex A). We welcome the progress made by the Special Session of the Committee on Agriculture since 2004 and recorded therein.

5. On domestic support, there will be three bands for reductions in Final Bound Total AMS and in the overall cut in trade-distorting domestic support, with higher linear cuts in higher bands. In both cases, the Member with the highest level of permitted support will be in the top band, the two Members with the second and third highest levels of support will be in the middle band and all other Members, including all developing country Members, will be in the bottom band. In addition, developed country Members in the lower bands with high relative levels of Final Bound Total AMS will make an additional effort in AMS reduction. We also note that there has been some convergence concerning the reductions in Final Bound Total AMS, the overall cut in trade-distorting domestic support and in both product-specific and non product-specific *de minimis* limits. Disciplines will be developed to achieve effective cuts in trade-distorting domestic support consistent with the Framework. The overall reduction in trade-distorting domestic support

will still need to be made even if the sum of the reductions in Final Bound Total AMS, *de minimis* and Blue Box payments would otherwise be less than that overall reduction. Developing country Members with no AMS commitments will be exempt from reductions in *de minimis* and the overall cut in trade-distorting domestic support. Green Box criteria will be reviewed in line with paragraph 16 of the Framework, *inter alia*, to ensure that programmes of developing country Members that cause not more than minimal trade-distortion are effectively covered.

6. We agree to ensure the parallel elimination of all forms of export subsidies and disciplines on all export measures with equivalent effect to be completed by the end of 2013. This will be achieved in a progressive and parallel manner, to be specified in the modalities, so that a substantial part is realized by the end of the first half of the implementation period. We note emerging convergence on some elements of disciplines with respect to export credits, export credit guarantees or insurance programmes with repayment periods of 180 days and below. We agree that such programmes should be self-financing, reflecting market consistency, and that the period should be of a sufficiently short duration so as not to effectively circumvent real commercially-oriented discipline. As a means of ensuring that trade-distorting practices of STEs are eliminated, disciplines relating to exporting STEs will extend to the future use of monopoly powers so that such powers cannot be exercised in any way that would circumvent the direct disciplines on STEs on export subsidies, government financing and the underwriting of losses. On food aid, we reconfirm our commitment to maintain an adequate level and to take into account the interests of food aid recipient countries. To this end, a "safe box" for bona fide food aid will be provided to ensure that there is no unintended impediment to dealing with emergency situations. Beyond that, we will ensure elimination of commercial displacement. To this end, we will agree effective disciplines on in-kind food aid, monetization and re-exports so that there can be no loop-hole for continuing export subsidization. The disciplines on export credits, export credit guarantees or insurance programmes, exporting state trading enterprises and food aid will be completed by 30 April 2006 as part of the modalities, including appropriate provision in favour of least-developed and net food-importing developing countries as provided for in paragraph 4 of the Marrakesh Decision. The date above for the elimination of all forms of export subsidies, together with the agreed progressivity and parallelism, will be confirmed only upon the completion of the modalities. Developing country Members will continue to benefit from the provisions of Article 9.4 of the Agreement on Agriculture for five years after the end-date for elimination of all forms of export subsidies.

7. On market access, we note the progress made on *ad valorem* equivalents. We adopt four bands for structuring tariff cuts, recognizing that we need now to agree on the relevant thresholds – including those applicable for developing country Members. We recognize the need to agree on treatment of sensitive products, taking into account all the elements involved. We also note that there have been some recent movements on the designation and treatment of Special Products and elements of the Special Safeguard Mechanism. Developing country Members will have the flexibility to self-designate an appropriate number of tariff lines as Special Products guided by indicators based on the criteria of food security, livelihood security and rural development. Developing country Members will also have the right to have recourse to a Special Safeguard Mechanism based on import

quantity and price triggers, with precise arrangements to be further defined. Special Products and the Special Safeguard Mechanism shall be an integral part of the modalities and the outcome of negotiations in agriculture.

8. On other elements of special and differential treatment, we note in particular the consensus that exists in the Framework on several issues in all three pillars of domestic support, export competition and market access and that some progress has been made on other special and differential treatment issues.

9. We reaffirm that nothing we have agreed here compromises the agreement already reflected in the Framework on other issues including tropical products and products of particular importance to the diversification of production from the growing of illicit narcotic crops, long-standing preferences and preference erosion.

10. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

Cotton

11. We recall the mandate given by the Members in the Decision adopted by the General Council on 1 August 2004 to address cotton ambitiously, expeditiously and specifically, within the agriculture negotiations in relation to all trade-distorting policies affecting the sector in all three pillars of market access, domestic support and export competition, as specified in the Doha text and the July 2004 Framework text. We note the work already undertaken in the Sub-Committee on Cotton and the proposals made with regard to this matter. Without prejudice to Members' current WTO rights and obligations, including those flowing from actions taken by the Dispute Settlement Body, we reaffirm our commitment to ensure having an explicit decision on cotton within the agriculture negotiations and through the Sub-Committee on Cotton ambitiously, expeditiously and specifically as follows:

- All forms of export subsidies for cotton will be eliminated by developed countries in 2006.
- On market access, developed countries will give duty and quota free access for cotton exports from least-developed countries (LDCs) from the commencement of the implementation period.
- Members agree that the objective is that, as an outcome for the negotiations, trade distorting domestic subsidies for cotton production be reduced more ambitiously than under whatever general formula is agreed and that it should be implemented over a shorter period of time than generally applicable. We commit ourselves to give priority in the negotiations to reach such an outcome.

12. With regard to the development assistance aspects of cotton, we welcome the Consultative Framework process initiated by the Director-General to implement the decisions on these aspects pursuant to paragraph 1.b of the Decision adopted by the General Council on 1 August 2004. We take note of his Periodic Reports and the positive evolution of development assistance noted therein. We urge the Director-General to further intensify his consultative efforts with bilateral donors

and with multilateral and regional institutions, with emphasis on improved coherence, coordination and enhanced implementation and to explore the possibility of establishing through such institutions a mechanism to deal with income declines in the cotton sector until the end of subsidies. Noting the importance of achieving enhanced efficiency and competitiveness in the cotton producing process, we urge the development community to further scale up its cotton-specific assistance and to support the efforts of the Director-General. In this context, we urge Members to promote and support South-South cooperation, including transfer of technology. We welcome the domestic reform efforts by African cotton producers aimed at enhancing productivity and efficiency, and encourage them to deepen this process. We reaffirm the complementarity of the trade policy and development assistance aspects of cotton. We invite the Director-General to furnish a third Periodic Report to our next Session with updates, at appropriate intervals in the meantime, to the General Council, while keeping the Sub-Committee on Cotton fully informed of progress. Finally, as regards follow up and monitoring, we request the Director-General to set up an appropriate follow-up and monitoring mechanism.

NAMA negotiations

13. We reaffirm our commitment to the mandate for negotiations on market access for non-agricultural products as set out in paragraph 16 of the Doha Ministerial Declaration. We also reaffirm all the elements of the NAMA Framework adopted by the General Council on 1 August 2004. We take note of the report by the Chairman of the Negotiating Group on Market Access on his own responsibility (TN/MA/16, contained in Annex B). We welcome the progress made by the Negotiating Group on Market Access since 2004 and recorded therein.

14. We adopt a Swiss Formula with coefficients at levels which shall *inter alia*:

- Reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, in particular on products of export interest to developing countries; and
- Take fully into account the special needs and interests of developing countries, including through less than full reciprocity in reduction commitments.

We instruct the Negotiating Group to finalize its structure and details as soon as possible.

15. We reaffirm the importance of special and differential treatment and less than full reciprocity in reduction commitments, including paragraph 8 of the NAMA Framework, as integral parts of the modalities. We instruct the Negotiating Group to finalize its details as soon as possible.

16. In furtherance of paragraph 7 of the NAMA Framework, we recognize that Members are pursuing sectoral initiatives. To this end, we instruct the Negotiating Group to review proposals with a view to identifying those which could garner sufficient participation to be realized. Participation should be on a non-mandatory basis.

17. For the purpose of the second indent of paragraph 5 of the NAMA

Framework, we adopt a non-linear mark-up approach to establish base rates for commencing tariff reductions. We instruct the Negotiating Group to finalize its details as soon as possible.

18. We take note of the progress made to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of an agreed methodology as contained in JOB(05)/166/Rev.1.

19. We take note of the level of common understanding reached on the issue of product coverage and direct the Negotiating Group to resolve differences on the limited issues that remain as quickly as possible.

20. As a supplement to paragraph 16 of the NAMA Framework, we recognize the challenges that may be faced by non-reciprocal preference beneficiary Members as a consequence of the MFN liberalization that will result from these negotiations. We instruct the Negotiating Group to intensify work on the assessment of the scope of the problem with a view to finding possible solutions.

21. We note the concerns raised by small, vulnerable economies, and instruct the Negotiating Group to establish ways to provide flexibilities for these Members without creating a sub-category of WTO Members.

22. We note that the Negotiating Group has made progress in the identification, categorization and examination of notified NTBs. We also take note that Members are developing bilateral, vertical and horizontal approaches to the NTB negotiations, and that some of the NTBs are being addressed in other fora including other Negotiating Groups. We recognize the need for specific negotiating proposals and encourage participants to make such submissions as quickly as possible.

23. However, we recognize that much remains to be done in order to establish modalities and to conclude the negotiations. Therefore, we agree to intensify work on all outstanding issues to fulfil the Doha objectives, in particular, we are resolved to establish modalities no later than 30 April 2006 and to submit comprehensive draft Schedules based on these modalities no later than 31 July 2006.

Balance between Agriculture and NAMA

24. We recognize that it is important to advance the development objectives of this Round through enhanced market access for developing countries in both Agriculture and NAMA. To that end, we instruct our negotiators to ensure that there is a comparably high level of ambition in market access for Agriculture and NAMA. This ambition is to be achieved in a balanced and proportionate manner consistent with the principle of special and differential treatment.

Services negotiations

25. The negotiations on trade in services shall proceed to their conclusion with a view to promoting the economic growth of all trading partners and the development of developing and least-developed countries, and with due respect for the right of Members to regulate. In this regard, we recall and reaffirm the objectives and principles stipulated in the GATS, the Doha Ministerial Declaration, the Guidelines and Procedures for the Negotiations on Trade in Services adopted by the Special Session of the Council for Trade in Services on 28 March 2001 and

the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services adopted on 3 September 2003, as well as Annex C of the Decision adopted by the General Council on 1 August 2004.

26. We urge all Members to participate actively in these negotiations towards achieving a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing countries as provided for in Article XIX of the GATS. Negotiations shall have regard to the size of economies of individual Members, both overall and in individual sectors. We recognize the particular economic situation of LDCs, including the difficulties they face, and acknowledge that they are not expected to undertake new commitments.

27. We are determined to intensify the negotiations in accordance with the above principles and the Objectives, Approaches and Timelines set out in Annex C to this document with a view to expanding the sectoral and modal coverage of commitments and improving their quality. In this regard, particular attention will be given to sectors and modes of supply of export interest to developing countries.

Rules negotiations

28. We recall the mandates in paragraphs 28 and 29 of the Doha Ministerial Declaration and reaffirm our commitment to the negotiations on rules, as we set forth in Annex D to this document.

TRIPS negotiations

29. We take note of the report of the Chairman of the Special Session of the Council for TRIPS setting out the progress in the negotiations on the establishment of a multilateral system of notification and registration of geographical indications for wines and spirits, as mandated in Article 23.4 of the TRIPS Agreement and paragraph 18 of the Doha Ministerial Declaration, contained in document TN/IP/14, and agree to intensify these negotiations in order to complete them within the overall time-frame for the conclusion of the negotiations that were foreseen in the Doha Ministerial Declaration.

Environment negotiations

30. We reaffirm the mandate in paragraph 31 of the Doha Ministerial Declaration aimed at enhancing the mutual supportiveness of trade and environment and welcome the significant work undertaken in the Committee on Trade and Environment (CTE) in Special Session. We instruct Members to intensify the negotiations, without prejudging their outcome, on all parts of paragraph 31 to fulfil the mandate.

31. We recognize the progress in the work under paragraph 31(i) based on Members' submissions on the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs). We further recognize the work undertaken under paragraph 31(ii) towards developing effective procedures for regular information exchange between MEA Secretariats and the relevant WTO committees, and criteria for the granting of observer status.

32. We recognize that recently more work has been carried out under paragraph 31(iii) through numerous submissions by Members and discussions in the CTE in Special Session, including technical discussions, which were also held in informal information exchange sessions without prejudice to Members' positions. We instruct Members to complete the work expeditiously under

paragraph 31(iii).

Trade Facilitation negotiations

33. We recall and reaffirm the mandate and modalities for negotiations on Trade Facilitation contained in Annex D of the Decision adopted by the General Council on 1 August 2004. We note with appreciation the report of the Negotiating Group, attached in Annex E to this document, and the comments made by our delegations on that report as reflected in document TN/TF/M/11. We endorse the recommendations contained in paragraphs 3, 4, 5, 6 and 7 of the report.

DSU negotiations

34. We take note of the progress made in the Dispute Settlement Understanding negotiations as reflected in the report by the Chairman of the Special Session of the Dispute Settlement Body to the Trade Negotiations Committee (TNC) and direct the Special Session to continue to work towards a rapid conclusion of the negotiations.

S&D treatment

35. We reaffirm that provisions for special and differential (S&D) treatment are an integral part of the WTO Agreements. We renew our determination to fulfil the mandate contained in paragraph 44 of the Doha Ministerial Declaration and in the Decision adopted by the General Council on 1 August 2004, that all S&D treatment provisions be reviewed with a view to strengthening them and making them more precise, effective and operational.

36. We take note of the work done on the Agreement-specific proposals, especially the five LDC proposals. We agree to adopt the decisions contained in Annex F to this document. However, we also recognize that substantial work still remains to be done. We commit ourselves to address the development interests and concerns of developing countries, especially the LDCs, in the multilateral trading system, and we recommit ourselves to complete the task we set ourselves at Doha. We accordingly instruct the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006.

37. We are concerned at the lack of progress on the Category II proposals that had been referred to other WTO bodies and negotiating groups. We instruct these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision are made no later than December 2006. We also instruct the Special Session to continue to coordinate its efforts with these bodies, so as to ensure that this work is completed on time.

38. We further instruct the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues, including on the cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules, and report on a regular basis to the General Council.

Implementation

39. We reiterate the instruction in the Decision adopted by the General Council on 1 August 2004 to the TNC, negotiating bodies and other WTO bodies concerned to redouble their efforts to find appropriate solutions as a priority to outstanding

implementation-related issues. We take note of the work undertaken by the Director-General in his consultative process on all outstanding implementation issues under paragraph 12(b) of the Doha Ministerial Declaration, including on issues related to the extension of the protection of geographical indications provided for in Article 23 of the TRIPS Agreement to products other than wines and spirits and those related to the relationship between the TRIPS Agreement and the Convention on Biological Diversity. We request the Director-General, without prejudice to the positions of Members, to intensify his consultative process on all outstanding implementation issues under paragraph 12(b), if need be by appointing Chairpersons of concerned WTO bodies as his Friends and/or by holding dedicated consultations. The Director-General shall report to each regular meeting of the TNC and the General Council. The Council shall review progress and take any appropriate action no later than 31 July 2006.

TRIPS & Public Health

40. We reaffirm the importance we attach to the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, and to an amendment to the TRIPS Agreement replacing its provisions. In this regard, we welcome the work that has taken place in the Council for TRIPS and the Decision of the General Council of 6 December 2005 on an Amendment of the TRIPS Agreement.

Small Economies

41. We reaffirm our commitment to the Work Programme on Small Economies and urge Members to adopt specific measures that would facilitate the fuller integration of small, vulnerable economies into the multilateral trading system, without creating a sub-category of WTO Members. We take note of the report of the Committee on Trade and Development in Dedicated Session on the Work Programme on Small Economies to the General Council and agree to the recommendations on future work. We instruct the Committee on Trade and Development, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than 31 December 2006. We instruct the General Council to report on progress and action taken, together with any further recommendations as appropriate, to our next Session.

Trade, Debt & Finance

42. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade, debt and finance and on the consideration of any possible recommendations on steps that might be taken within the mandate and competence of the WTO as provided in paragraph 36 of the Doha Ministerial Declaration and agree that, building on the work carried out to date, this work shall continue on the basis of the Doha mandate. We instruct the General Council to report further to our next Session.

Trade & Transfer of Technology

43. We take note of the report transmitted by the General Council on the work undertaken and progress made in the examination of the relationship between trade and transfer of technology and on the consideration of any possible recommendations on steps that might be taken within the mandate of the WTO to increase flows of technology to developing countries. Recognizing the relevance

of the relationship between trade and transfer of technology to the development dimension of the Doha Work Programme and building on the work carried out to date, we agree that this work shall continue on the basis of the mandate contained in paragraph 37 of the Doha Ministerial Declaration. We instruct the General Council to report further to our next Session.

Doha paragraph 19

44. We take note of the work undertaken by the Council for TRIPS pursuant to paragraph 19 of the Doha Ministerial Declaration and agree that this work shall continue on the basis of paragraph 19 of the Doha Ministerial Declaration and the progress made in the Council for TRIPS to date. The General Council shall report on its work in this regard to our next Session.

TRIPS non-violation and situation complaints

45. We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to paragraph 11.1 of the Doha Decision on Implementation-Related Issues and Concerns and paragraph 1.h of the Decision adopted by the General Council on 1 August 2004, and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement.

E-commerce

46. We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, *inter alia*, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session.

LDCs

47. We reaffirm our commitment to effectively and meaningfully integrate LDCs into the multilateral trading system and shall continue to implement the WTO Work Programme for LDCs adopted in February 2002. We acknowledge the seriousness of the concerns and interests of the LDCs in the negotiations as expressed in the Livingstone Declaration, adopted by their Ministers in June 2005. We take note that issues of interest to LDCs are being addressed in all areas of negotiations and we welcome the progress made since the Doha Ministerial Declaration as reflected in the Decision adopted by the General Council on 1 August 2004. Building upon the commitment in the Doha Ministerial Declaration, developed-country Members, and developing-country Members declaring themselves in a position to do so, agree to implement duty-free and quota-free market access for products originating from LDCs as provided for in Annex F to this document. Furthermore, in accordance with our commitment in the Doha Ministerial Declaration, Members shall take additional measures to provide effective market access, both at the border and otherwise, including simplified and transparent rules of origin so as to facilitate exports from LDCs. In the services negotiations, Members shall implement the LDC modalities and give priority to the sectors and modes of supply of export interest to LDCs, particularly with regard to movement of service providers under Mode 4. We agree to facilitate and accelerate negotiations with acceding LDCs based on the accession guidelines adopted by the

General Council in December 2002. We commit to continue giving our attention and priority to concluding the ongoing accession proceedings as rapidly as possible. We welcome the Decision by the TRIPS Council to extend the transition period under Article 66.1 of the TRIPS Agreement. We reaffirm our commitment to enhance effective trade-related technical assistance and capacity building to LDCs on a priority basis in helping to overcome their limited human and institutional trade-related capacity to enable LDCs to maximize the benefits resulting from the Doha Development Agenda (DDA).

Integrated Framework

48. We continue to attach high priority to the effective implementation of the Integrated Framework (IF) and reiterate our endorsement of the IF as a viable instrument for LDCs' trade development, building on its principles of country ownership and partnership. We highlight the importance of contributing to reducing their supply side constraints. We reaffirm our commitment made at Doha, and recognize the urgent need to make the IF more effective and timely in addressing the trade-related development needs of LDCs.

49. In this regard, we are encouraged by the endorsement by the Development Committee of the World Bank and International Monetary Fund (IMF) at its autumn 2005 meeting of an enhanced IF. We welcome the establishment of a Task Force by the Integrated Framework Working Group as endorsed by the IF Steering Committee (IFSC) as well as an agreement on the three elements which together constitute an enhanced IF. The Task Force, composed of donor and LDC members, will provide recommendations to the IFSC by April 2006. The enhanced IF shall enter into force no later than 31 December 2006.

50.We agree that the Task Force, in line with its Mandate and based on the three elements agreed to, shall provide recommendations on how the implementation of the IF can be improved, *inter alia*, by considering ways to:

1. provide increased, predictable, and additional funding on a multi-year basis;
2. strengthen the IF in-country, including through mainstreaming trade into national development plans and poverty reduction strategies; more effective follow-up to diagnostic trade integration studies and implementation of action matrices; and achieving greater and more effective coordination amongst donors and IF stakeholders, including beneficiaries;
3. improve the IF decision-making and management structure to ensure an effective and timely delivery of the increased financial resources and programmes.

51. We welcome the increased commitment already expressed by some Members in the run-up to, and during, this Session. We urge other development partners to significantly increase their contribution to the IF Trust Fund. We also urge the six IF core agencies to continue to cooperate closely in the implementation of the IF, to increase their investments in this initiative and to intensify their assistance in trade-related infrastructure, private sector development and institution building to help LDCs expand and diversify their export base.

Technical Cooperation

52. We note with appreciation the substantial increase in trade-related technical assistance since our Fourth Session, which reflects the enhanced commitment of Members to address the increased demand for technical assistance, through both bilateral and multilateral programmes. We note the progress made in the current approach to planning and implementation of WTO's programmes, as embodied in the Technical Assistance and Training Plans adopted by Members, as well as the improved quality of those programmes. We note that a strategic review of WTO's technical assistance is to be carried out by Members, and expect that in future planning and implementation of training and technical assistance, the conclusions and recommendations of the review will be taken into account, as appropriate.

53. We reaffirm the priorities established in paragraph 38 of the Doha Ministerial Declaration for the delivery of technical assistance and urge the Director-General to ensure that programmes focus accordingly on the needs of beneficiary countries and reflect the priorities and mandates adopted by Members. We endorse the application of appropriate needs assessment mechanisms and support the efforts to enhance ownership by beneficiaries, in order to ensure the sustainability of trade-related capacity building. We invite the Director-General to reinforce the partnerships and coordination with other agencies and regional bodies in the design and implementation of technical assistance programmes, so that all dimensions of trade-related capacity building are addressed, in a manner coherent with the programmes of other providers. In particular, we encourage all Members to cooperate with the International Trade Centre, which complements WTO work by providing a platform for business to interact with trade negotiators, and practical advice for small and medium-sized enterprises (SMEs) to benefit from the multilateral trading system. In this connection, we note the role of the Joint Integrated Technical Assistance Programme (JITAP) in building the capacity of participating countries.

54. In order to continue progress in the effective and timely delivery of trade-related capacity building, in line with the priority Members attach to it, the relevant structures of the Secretariat should be strengthened and its resources enhanced. We reaffirm our commitment to ensure secure and adequate levels of funding for trade-related capacity building, including in the Doha Development Agenda Global Trust Fund, to conclude the Doha Work Programme and implement its results.

Commodity Issues

55. We recognize the dependence of several developing and least-developed countries on the export of commodities and the problems they face because of the adverse impact of the long-term decline and sharp fluctuation in the prices of these commodities. We take note of the work undertaken in the Committee on Trade and Development on commodity issues, and instruct the Committee, within its mandate, to intensify its work in cooperation with other relevant international organizations and report regularly to the General Council with possible recommendations. We agree that the particular trade-related concerns of developing and least-developed countries related to commodities shall also be addressed in the course of the agriculture and NAMA negotiations. We further acknowledge that these countries may need support and technical assistance to overcome the particular problems they face, and urge Members and relevant international organizations to consider favourably requests by these countries for support and assistance.

Coherence

56. We welcome the Director-General's actions to strengthen the WTO's cooperation with the IMF and the World Bank in the context of the WTO's Marrakesh mandate on Coherence, and invite him to continue to work closely with the General Council in this area. We value the General Council meetings that are held with the participation of the heads of the IMF and the World Bank to advance our Coherence mandate. We agree to continue building on that experience and expand the debate on international trade and development policymaking and inter-agency cooperation with the participation of relevant UN agencies. In that regard, we note the discussions taking place in the Working Group on Trade, Debt and Finance on, *inter alia*, the issue of Coherence, and look forward to any possible recommendations it may make on steps that might be taken within the mandate and competence of the WTO on this issue.

Aid for Trade

57. We welcome the discussions of Finance and Development Ministers in various fora, including the Development Committee of the World Bank and IMF, that have taken place this year on expanding Aid for Trade. Aid for Trade should aim to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. Aid for Trade cannot be a substitute for the development benefits that will result from a successful conclusion to the DDA, particularly on market access. However, it can be a valuable complement to the DDA. We invite the Director-General to create a task force that shall provide recommendations on how to operationalize Aid for Trade. The Task Force will provide recommendations to the General Council by July 2006 on how Aid for Trade might contribute most effectively to the development dimension of the DDA. We also invite the Director-General to consult with Members as well as with the IMF and World Bank, relevant international organisations and the regional development banks with a view to reporting to the General Council on appropriate mechanisms to secure additional financial resources for Aid for Trade, where appropriate through grants and concessional loans.

Recently-acceded Members

58. We recognize the special situation of recently-acceded Members who have undertaken extensive market access commitments at the time of accession. This situation will be taken into account in the negotiations.

Accessions

59. We reaffirm our strong commitment to making the WTO truly global in scope and membership. We welcome those new Members who have completed their accession processes since our last Session, namely Nepal, Cambodia and Saudi Arabia. We note with satisfaction that Tonga has completed its accession negotiations to the WTO. These accessions further strengthen the rules-based multilateral trading system. We continue to attach priority to the 29 ongoing accessions with a view to concluding them as rapidly and smoothly as possible. We stress the importance of facilitating and accelerating the accession negotiations of least-developed countries, taking due account of the guidelines on LDC accession adopted by the General Council in December 2002.

Annex A

Agriculture

Report by the Chairman of the Special Session of the Committee on Agriculture to the TNC

1. The present report has been prepared on my own responsibility. I have done so in response to the direction of Members as expressed at the informal Special Session of the Committee on Agriculture on 11 November 2005. At that meeting, following the informal Heads of Delegation meeting the preceding day, Members made it crystal clear that they sought from me at this point an objective factual summary of where the negotiations have reached at this time. It was clear from that meeting that Members did not expect or desire anything that purported to be more than that. In particular, it was clear that, following the decision at the Heads of Delegation meeting that full modalities will not be achieved at Hong Kong, Members did not want anything that suggested implicit or explicit agreement where it did not exist.

2. This is not, of course, the kind of paper that I would have chosen or preferred to have prepared at this point. Ideally, my task should have been to work with Members to generate a draft text of modalities. But this text reflects the reality of the present situation. There will be – because there must be if we are to conclude these negotiations – such a draft text in the future. I look at this now as a task postponed, but the precise timing of this is in the hands of Members.

3. As for this paper, it is precisely what it is described to be. No more, no less. It is the Chairman's report and, as such, it goes from me to the TNC. It is not anything more than my personal report – in particular, it is not in any sense an agreed text of Members. It does not, therefore, in any way prejudge or prejudice the positions of Members on any matter within it or outside of it. And, it certainly does not bind Members in any way. It should go without saying that the agreed basis of our work is, and shall remain, the Doha Mandate itself and the Framework in the Decision adopted by the General Council on 1 August 2004.

4. As to the character of the paper, I have endeavoured to reflect what I discerned as the wishes of Members when they directed me to prepare this paper. I have tried to capture as clearly as I can such conditional progress and convergence as has developed in the post-July 2004 period. In doing so, I have not tried to brush under the carpet divergences that remain, and the paper tries to be just as clear on those points. Of course, it is a summary report. As such, it cannot – and does not – recapitulate each and every detail on each and every issue. But I took from Members' comments that they would prefer a paper which could 'orient' further discussion.

5. In that regard, I hope that anyone reading this paper would be able to get a pretty clear idea of what it is that remains to be done. Members made it clear that it was not my task as Chair to prescribe what is to be done next in a programmatic way. My task was to register where we are now, but I confess to having done so with an eye to genuinely clarifying where key convergences exist or key divergences remain, rather than obscuring or overcomplicating matters.

6. My own sense, when I review this myself, is the compelling urgency of seizing the moment and driving the process to a conclusion as rapidly as possible. We have made – particularly since August of this year – genuine and material progress. Indeed, it has come at a relatively rapid pace. It is also clear to me that it has been the product of a genuinely negotiating process. In other words, it has been a case of making proposals and counterproposals. That is why the matters covered in this report have an essentially conditional character. As I see it, the reality is that we have yet to find that last bridge to agreement that we need to secure modalities. But it would be a grave error, in my view, to imagine that we can take much time to find that bridge. As Chair, I am convinced that we must maintain momentum.

You don't close divergences by taking time off to have a cup of tea. If you do so, you will find that everyone has moved backwards in the meantime. That, it seems to me, is a profound risk to our process. I would like to believe that this report at least underlines to us that there is indeed something real and important still within our grasp and we ought not to risk losing it. Our over-riding challenge and responsibility is to meet the development objective of the Doha Development Agenda. To meet this challenge and achieve this goal, we must act decisively and with real urgency.

7. The future life of this paper, if any, is a matter entirely in the hands of TNC Members to decide. This, as I see it, is the proper safeguard of the integrity of what has come to be described as a "bottom-up" process.

DOMESTIC SUPPORT

8. There has been very considerable potential convergence, albeit on a manifestly conditional basis.

Overall Cut

- There is a working hypothesis of three bands for overall cuts by developed countries. There is a strongly convergent working hypothesis that the thresholds for the three bands be US$ billion 0-10; 10-60; >60. On this basis, the European Communities would be in the top band, the United States and Japan in the second band, and all other developed countries at least in the third band. For developing countries, there is a view that either developing countries are assigned to the relevant integrated band (the bottom) or that there is a separate band for them.[1]

- Based on post-July 2005 proposals, there has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But subject to that feature, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix provides a snapshot:

Bands	Thresholds (US$ billion)	Cuts
1	0-10	31%-70%
2	10-60	53%-75%
3	> 60	70%-80%

De Minimis

- On product-specific *de minimis* and non-product-specific *de minimis*, there is a zone of engagement for cuts between 50% and 80% for developed countries.

- As regards developing countries, there are still divergences to be bridged. In addition to the exemption specifically provided for in the Framework, there is a view that, for all developing countries, there should be no cut in *de minimis* at all. Alternatively, at least for those with no

[1] On the proposed basis that cut remains to be determined for those developing countries with an AMS. In any case, there is a view (not shared by all) that cuts for developing countries should be less than 2/3 of the cut for developed countries.

AMS, there should be no cut and, in any case, any cut for those with an AMS should be less than 2/3 of the cut for developed countries.

Blue Box

9. There is important and significant convergence on moving beyond (i.e. further constraining) Blue Box programme payments envisaged in the July 2004 Framework. However, the technique for achieving this remains to be determined. One proposal is to shrink the current 5% ceiling to 2.5%.[2] Another proposal rejects this in favour of additional criteria disciplining the so-called "new" Blue Box only. Others favour a combination of both, including additional disciplines on the "old" Blue Box.

AMS

- There is a working hypothesis of three bands for developed countries.

- There is close (but not full) convergence on the thresholds for those bands. There appears to be convergence that the top tier should be US$25 billion and above. There is some remaining divergence over the ceiling for the bottom band: between US$12 billion and 15 billion.

- There has been an undeniably significant convergence on the range of cuts. Of course, this has been conditional. But, that understood, a great deal of progress has been made since the bare bones of the July 2004 Framework. The following matrix[3] provides a snapshot:

Bands	**Thresholds (US$ billion)**	**Cuts**
1	0-12/15	37-60%
2	12/15-25	60-70%
3	>25	70-83%

- There is therefore working hypothesis agreement that the European Communities should be in the top tier, and the United States in the second tier. However, while the basis for Japan's placement as between these two tiers has been narrowed, it remains to be finally resolved.

- For developed countries in the bottom band, with a relatively high level of AMS relative to total value of agriculture production, there is emerging consensus that their band-related reduction should be complemented with an additional effort.

- What is needed now is a further step to bridge the remaining gap in positions – particularly as regards the United States and the European Communities, it being understood that this is not a matter to be resolved in isolation from the other elements in this pillar and beyond.

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[2] The exact extent of the flexibility to be provided pursuant to paragraph 15 of the July 2004 Framework remains to be agreed.

[3] Of course, this needs to be viewed as illustrative rather than overly literally, if for no other reason than that these are conditional figures. For instance, while the European Communities has indicated it could be prepared to go as far as 70% in the top tier, they make it clear that this is acceptable only if the United States will go to 60% in the second tier. The United States for its part, however, has only indicated preparedness to go to that 60% if the European Communities is prepared to go as high as 83% - which it has not indicated it is prepared to do.

- On the base period for product-specific caps, certain proposals (such as for 1995-2000 and 1999-2001) are on the table. This needs to be resolved appropriately, including the manner in which special and differential treatment should be applied.

Green Box

10. The review and clarification commitment has not resulted in any discernible convergence on operational outcomes. There is, on the one side, a firm rejection of anything that is seen as departing from the existing disciplines while there is, on the other, an enduring sense that more could be done to review the Green Box without undermining ongoing reform. Beyond that there is, however, some tangible openness to finding appropriate ways to ensure that the Green Box is more "development friendly" i.e. better tailored to meet the realities of developing country agriculture but in a way that respects the fundamental requirement of at most minimal trade distortion.

EXPORT COMPETITION

End Date

11. While concrete proposals[4] have been made on the issue of an end date for elimination of all forms of export subsidies, there is at this stage no convergence. There are suggestions for the principle of front-loading or accelerated elimination for specific products, including particularly cotton.

Export Credits

12. Convergence has been achieved on a number of elements of disciplines with respect to export credits, export credit guarantee or insurance programmes with repayment periods of 180 days and below. However, a number of critical issues remain.[5]

Exporting State Trading Enterprises

13. There has been material convergence on rules to address trade-distorting practices identified in the July 2004 Framework text, although there are still major differences regarding the scope of practices to be covered by the new disciplines. Fundamentally opposing positions remain, however, on the issue of the future use of monopoly powers. There have been concrete drafting proposals on such matters as definition of entities and practices to be addressed as well as transparency. But there has been no genuine convergence in such areas.

Food Aid

14. There is consensus among Members that the WTO shall not stand in the way of the provision of genuine food aid. There is also consensus that what is to be eliminated is commercial displacement. There

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[4] One Member has proposed the year 2010 for "export subsidies", with accelerated elimination for "specific" products. Another group of Members have proposed a period "no longer than five years" for all forms of export subsidies, with "direct" export subsidies subject to front-loading within that period.

[5] This includes, but is not limited to: exemptions, if any, to the 180 day rule; whether the disciplines should allow for pure cover only or also permit direct financing; the appropriate period for programmes to fully recover their costs and losses through the premia levied from the exporters (principle of self-financing - there needs to be convergence between position which range from one year to fifteen years); the disciplines regarding special circumstances; and the question of special and differential treatment, including whether, as some Members argue, developing countries should be allowed longer repayment terms for export credits extended by them to other developing countries and the specifics of differential treatment in favour of least-developed and net food-importing developing countries.

have been detailed and intensive discussions, some of which have even been text-based, but not to a point where a consolidated draft text could be developed. This has been precluded by Members clinging to fundamentally disparate conceptual premises. There are proposals that in the disciplines a distinction should be made between at least two types of food aid: emergency food aid and food aid to address other situations. However, there is not yet a common understanding where emergency food aid ends and other food aid begins, reflecting concerns that this distinction should not become a means to create a loophole in disciplines. A fundamental sticking point is whether, except in exceptional, genuine emergency situations, Members should (albeit gradually) move towards untied, in-cash food aid only, as some Members propose but other Members strongly oppose.[6]

Special and Differential Treatment

15. Framework provisions for special and differential treatment, including with respect to the monopoly status of state trading enterprises in developing countries and an extended lifetime for Article 9.4, have been uncontroversial, but details remain to be established.

Special Circumstances

16. Work on the criteria and consultation procedures to govern any ad hoc temporary financing arrangements relating to exports to developing countries in exceptional circumstances is not much developed.

MARKET ACCESS

Tiered Formula

- We have progressed on *ad valorem* equivalents.[7] This has successfully created a basis for allocating items into bands for the tiered formula.

- We have a working hypothesis of four bands for structuring tariff cuts.

- There has been very considerable convergence on adopting a linear-based approach for cuts within those bands. Members have, of course, by no means formally abandoned positions that are even more divergent.[8] We need now to narrow the extent of divergence that remains. This will include whether or not to include any "pivot" in any band.

- Members have made strong efforts to promote convergence on the size of actual cuts to be undertaken within those bands. But, even though genuine efforts have been made to move from formal positions (which of course remain), major gaps are yet to be bridged. Somewhat

[6] This fundamental divergence has effectively precluded convergence on such matters as what disciplines, if any, should be established with respect to monetization of food aid or the question of the provision of food aid in fully grant form only. The importance of operationally effective transparency requirements is generally acknowledged, but details have still to be developed, particularly those relating to the role of the WTO in this context. Further work is required to clarify the role of recipient countries and relevant international organizations or other entities in triggering or providing food aid.

[7] The method for calculating the AVEs for the sugar lines is still to be established.

[8] At one end of the spectrum, as it were, a "harmonisation" formula within the bands; at the other end "flexibility" within the formula.

greater convergence has been achieved as regards the thresholds for the bands. Substantial movement is clearly essential to progress.[9]

- Some Members continue to reject completely the concept of a tariff cap. Others have proposed[10] a cap between 75-100%.

Sensitive Products

- Members have been prepared to make concrete - albeit conditional - proposals on the number of sensitive products. But, in a situation where proposals extend from as little as 1% to as much as 15% of tariff lines, further bridging this difference is essential to progress.

- The fundamental divergence over the basic approach to treatment of sensitive products needs to be resolved.[11] Beyond that, there needs to be convergence on the consequential extent of liberalisation for such products.

Special and Differential Treatment

- Just as for developed countries, there is a working hypothesis of four bands for developing countries. There is no disagreement on lesser cuts within the bands. A certain body of opinion is open to considering cuts of two-thirds of the amount of the cuts for developed countries as a plausible zone in which to search more intensively for convergence.[12] But

[9] The matrix below is an illustrative table that portrays the extent of divergences that remain, even on the basis of post-August 2005 proposals. This does not entirely cover all the subtleties of those proposals to utilize a "pivot" (although most are in fact within the ranges tabulated), but is intended to convey a snapshot of the status of average cuts proposed post-August.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/30%	20-65
Band 2	20/30% - 40/60%	30-75
Band 3	40/60% - 60/90%	35-85
Band 4	>60/90%	42-90

[10] As an element in certain conditional proposals on overall market access, tabled post-July 2005.

[11] Some see this as being tariff quota based and expressed as a percentage of domestic consumption, with proposals of up to 10%. Others propose *pro rata* expansion on an existing trade basis, including taking account of current imports. Some also propose no new TRQs, with sensitivity in such cases to be provided through other means, e.g. differential phasing. There is also a proposal for a "sliding scale" approach.

[12] In this pillar, as well as in the other two, there is general convergence on the point that developing countries will have entitlement to longer implementation periods, albeit that concrete precision remains to be determined.

significant disagreement on that remains, and divergence is, if anything, somewhat more marked on the connected issue of higher thresholds for developing countries.[13]

- Some Members continue to reject completely the concept of a tariff cap for developing countries. Others have proposed[14] a cap at 150%.

- For sensitive products, there is no disagreement that there should be greater flexibility for developing countries, but the extent of this needs to be further defined.[15]

Special Products

- Regarding *designation* of special products, there has been a clear divergence between those Members which consider that, prior to establishment of schedules, a list of non-exhaustive and illustrative criteria-based indicators should be established and those Members which are looking for a list which would act as a filter or screen for the selection of such products. Latterly, it has been proposed (but not yet discussed with Members as a whole) that a developing country Member should have the right to designate at least 20 per cent of its agricultural tariff lines as Special Products, and be further entitled to designate an SP where, for that product, an AMS has been notified and exports have taken place. This issue needs to be resolved as part of modalities so that there is assurance of the basis upon which Members may designate special products.

- Some moves toward convergence on *treatment* of Special Products have been made recently. Some Members had considered that special products should be fully exempt from any new market access commitments whatsoever and have automatic access to the SSM. Others had argued there should be some degree of market opening for these products, albeit reflecting

[13] The matrix below is an illustrative table that portrays the extent of divergences that remain, just on the basis of post-August 2005 proposals.

	Thresholds	Range of cuts (%)
Band 1	0% - 20/50%	15-25*
Band 2	20/50% - 40/100%	20-30*
Band 3	40/100% - 60/150%	25-35*
Band 4	>60-150%	30-40*

*There is also a proposal that cuts for developing countries should be "slightly lesser" than the upper tariff cuts for developed countries shown in the preceding table (i.e.: "slightly lesser" than 65, 75, 85 and 90%).

[14] As an element in certain conditional proposals on overall market access, tabled post-July 2005.

[15] While the eventual zone of convergence for developed countries undoubtedly has a bearing in this area, it has been proposed by a group of Members that the principles of sensitive products generally and for TRQs specifically should be different for developing countries. Another group of Members has proposed, in the post-August period, an entitlement for developing countries of at least 50% more than the maximum number of lines used by any developed Member. This would (based on developed country proposals) amount to a potential variation between 1.5% and 22.5% of tariff lines. This latter group has also proposed that products relating to long-standing preferences shall be designated as sensitive and that any TRQ expansion should not be "at the detriment of existing ACP quotas". This particular view has been, however, strongly opposed by other Members which take the firm position that tropical and diversification products should not at all be designated as sensitive products.

more flexible treatment than for other products. In the presence of this fundamental divergence, it had clearly been impossible to undertake any definition of what such flexibility would be. Genuine convergence is obviously urgently needed. There is now a new proposal for a tripartite categorization of Special Products involving limited tariff cuts for at least a proportion of such products which remains to be fully discussed. It remains to be seen whether this discussion can help move us forward.

Special Safeguard Mechanism

- There is agreement that there would be a special safeguard mechanism and that it should be tailored to the particular circumstances and needs of developing countries. There is no material disagreement with the view that it should have a quantity trigger. Nor is there disagreement with the view that it should at least be capable of addressing effectively what might be described as import "surges". Divergence remains over whether, or if so how, situations that are lesser than "surge" are to be dealt with. There is, however, agreement that any remedy should be of a temporary nature. There remains strong divergence however on whether, or if so how, a special safeguard should be "price-based" to deal specifically with price effects.

- There is some discernible openness, albeit at varying levels, to at least consider coverage of products that are likely to undergo significant liberalisation effects, and/or are already bound at low levels and/or are special products. Beyond that, however, there remains a fundamental divergence between those considering all products should be eligible for such a mechanism and those opposing such a blanket approach.

Other Elements

17. There has been no further material convergence on the matters covered by paragraphs 35 and 37 of the July 2004 Framework text. The same may be said for paragraph 36 on tariff escalation, albeit that there is full agreement on the need for this to be done, and a genuine recognition of the particular importance of this for commodities exporters. Certain concrete proposals have been made on paragraph 38 (SSG) and met with opposition from some Members.

18. Concrete proposals have been made and discussed on how to implement paragraph 43 of the July 2004 Framework on tropical and diversification products. But there remains divergence over the precise interpretation of this section of the July Framework[16] and no common approach has been established.

19. The importance of long-standing preferences pursuant to paragraph 44 of the July 2004 Framework is fully recognised and concrete proposals regarding preference erosion have been made and discussed.[17] There seems not to be inherent difficulty with a role for capacity building. However, while there is some degree of support for e.g. longer implementation periods for at least certain products in order to facilitate adjustment, there is far from convergence on even this. Some argue it is not sufficient or certainly not in all cases, while others that it is not warranted at all.

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[16] It is argued by some Members that this is to be interpreted as meaning full duty- and tariff quota-free access, but by others as less than that.

[17] Note 15 above refers.

LEAST-DEVELOPED COUNTRIES

20. There is no questioning of the terms of paragraph 45 of the July Framework agreement, which exempts least-developed countries from any reduction requirement. The stipulation that "developed Members, and developing country Members in a position to do so, should provide duty-free and quota-free market access for products originating from least-developed countries" is not at this point concretely operational for all Members. At this stage, several Members have made undertakings. Proposals for this to be bound remain on the table.[18]

COTTON

21. While there is genuine recognition of the problem to be addressed and concrete proposals have been made, Members remain at this point short of concrete and specific achievement that would be needed to meet the July Framework direction to address this matter ambitiously, expeditiously and specifically. There is no disagreement with the view that all forms of export subsidies are to be eliminated for cotton although the timing and speed remains to be specified. Proposals to eliminate them immediately or from day one of the implementation period are not at this point shared by all Members. In the case of trade distorting support, proponents seek full elimination with "front-loaded" implementation.[19] There is a view that the extent to which this can occur, and its timing, can only be determined in the context of an overall agreement. Another view is that there could be at least substantial and front-loaded reduction on cotton specifically from day one of implementation, with the major implementation achieved within twelve months, and the remainder to be completed within a period shorter than the overall implementation period for agriculture.[20]

RECENTLY-ACCEDED MEMBERS

22. Concrete proposals have been made and discussed, but no specific flexibility provisions have commanded consensus.

MONITORING AND SURVEILLANCE

23. A proposal has been made but there is no material advance at this point.

OTHER ISSUES

24. On paragraph 49 (sectoral initiatives, differential export taxes, GIs) certain positions and proposals have been tabled and/or referred to. They are issues that remain of interest but not agreed.

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[18] It is also proposed that this should be accompanied by simple and transparent rules of origin and other measures to address non-tariff barriers.

[19] Concrete proposals have been made, with a three-step approach: 80% on day one, an additional 10% after 12 months and the last 10% a year later.

[20] A Member has indicated that it is prepared to implement all its commitments from day one and, in any case, to autonomously ensure that its commitments on eliminating the most trade-distorting domestic support, eliminating all forms of export subsidies and providing mfn duty- and quota-free access for cotton will take place from 2006.

25. At this point, proposals on paragraph 50 have not advanced materially.

26. In the case of small and vulnerable economies, a concrete proposal has been made recently. It has not yet been subject to consultation.

27. There is openness to the particular concerns of commodity-dependent developing and least-developed countries facing long-term decline and/or sharp fluctuations in prices. There is, at this point (where, overall, precise modalities are still pending), support for the view that such modalities should eventually be capable of addressing effectively key areas for them.[21]

[21] This would appear to include in particular such a matter as tariff escalation, where it discourages the development of processing industries in the commodity producing countries. The idea of a review and clarification of what the current status is of GATT 1994 provisions relating to the stabilisation of prices through the adoption of supply management systems by producing countries, and the use of export taxes and restrictions under such systems is also on the table. Proponents would seek something more than this such as more concrete undertakings in the area of non-tariff measures and actual revision of existing provisions. There is, at this point, no consensus in these latter areas, but an appreciation at least of the underlying issues at stake.

Annex B

Market Access for Non-Agricultural Products

Report by the Chairman of the Negotiating Group on Market Access to the TNC

B. INTRODUCTION

1. A Chairman's commentary of the state of play of the NAMA negotiations was prepared in July 2005 and circulated in document JOB(05)/147 and Add.1 (hereinafter referred to as the "Chairman's commentary"). The current report, made on my responsibility, reflects the state of play of the NAMA negotiations at this juncture of the Doha Development Agenda, and supplements that commentary.

2. With an eye on the forthcoming Ministerial, Section B of this report attempts to highlight those areas of convergence and divergence on the elements of Annex B of Decision adopted by the General Council on 1 August 2004, (hereinafter referred to as the "NAMA framework"), and to provide some guidance as to what may be a possible future course of action with respect to some of the elements. Section C of the report provides some final remarks about possible action by Ministers at Hong Kong.

3. In preparing this report, use has been made of documents provided by Members (as listed in TN/MA/S/16/Rev.2) as well as the discussions in the open-ended sessions of the Group, plurilateral meetings and bilateral contacts, as long as they were not in the nature of confessionals.

C. SUMMARY OF THE STATE OF PLAY

4. Full modalities must have detailed language and, where required, final numbers on all elements of the NAMA framework. Such an agreement should also contain a detailed work plan concerning the process after the establishment of full modalities for the purpose of the submission, verification and annexation of Doha Schedules to a legal instrument. While acknowledging that progress has been made since the adoption of the NAMA framework, the establishment of full modalities is, at present, a difficult prospect given the lack of agreement on a number of elements in the NAMA framework including the formula, paragraph 8 flexibilities and unbound tariffs.

5. Regarding the structure of this section, generally Members recognize that the issues identified in the preceding paragraph are the three elements of the NAMA framework on which solutions are required as a matter of priority, and that there is a need to address them in an interlinked fashion. So, this report will commence with these three subjects before moving on to the other elements of the NAMA framework in the order in which they are presented therein.

Formula (paragraph 4 of the NAMA framework)

6. On the non-linear formula, there has been movement since the adoption of the NAMA framework. There is a more common understanding of the shape of the formula that Members are willing to adopt in these negotiations. In fact, Members have been focusing on a Swiss formula. During the past few months, much time and effort has been spent examining the impact of such a formula from both a defensive and offensive angle. In terms of the specifics of that formula, there are basically two variations on the table: a formula with a limited number of negotiated coefficients and a formula where the value of each country's coefficient would be based essentially on the tariff average of bound rates of that Member, resulting in multiple coefficients.

7. In order to move beyond a debate on the merits of the two options (and in recognition of the fact that what matters in the final analysis is the level of the coefficient) more recently Members have engaged in a discussion of numbers. Such a debate has been particularly helpful, especially as it demonstrated in a quantifiable manner to what extent the benchmarks established in paragraph 16 of the Doha Ministerial Declaration would be achieved. While it is evident that one of the characteristics of such a formula is to address tariff peaks, tariff escalation and high tariffs (as it brings down high tariffs more than low tariffs), one benchmark which has been the subject of differences of opinion has been that of "less than full reciprocity in reduction commitments" and how it should be measured. Some developing Members are of the view that this means less than average percentage cuts i.e. as translated through a higher coefficient in the formula, than those undertaken by developed country Members. However, the latter have indicated that there are other measurements of less than full reciprocity in reduction commitments including the final rates after the formula cut which in their markets would be less than in developing country markets. Also, in their view, such a measurement of less than full reciprocity in reduction commitments has to take into account not only the additional effort made by them in all areas but also of paragraph 8 flexibilities and the fact that several developing Members and the LDCs would be exempt from formula cuts.

8. Other objectives put forward by developed Members and some developing Members as being part of the Doha NAMA mandate are: harmonization of tariffs between Members; cuts into applied rates; and improvement of South-South trade. However, these objectives have been challenged by other developing Members who believe that, on the contrary, they are not part of that mandate.

9. During the informal discussions, many Members engaged in an exchange on the basis of an approach with two coefficients. In the context of such debates, the coefficients which were mentioned for developed Members fell generally within the range of 5 to 10, and for developing Members within the range of 15 to 30, although some developing Members did propose lower coefficients for developed Members and higher coefficients for developing Members. In addition, a developing country coefficient of 10 was also put forward by some developed Members. However, while this discussion of numbers is a positive development, the inescapable reality is that the range of coefficients is wide and reflects the divergence that exists as to Members' expectations regarding the contributions that their trading partners should be making.

Flexibilities for developing Members subject to a formula (paragraph 8 of the NAMA framework)

10. A central issue concerning the paragraph 8 flexibilities has been the question of linkage or non-linkage between these flexibilities and the coefficient in the formula. A view was expressed that the flexibilities currently provided for in paragraph 8 are equivalent to 4-5 additional points to the coefficient in the formula, and as a result there was need to take this aspect into account in the developing country coefficient. In response, the argument has been made by many developing Members that those flexibilities are a stand alone provision as reflected in the language of that provision, and should not be linked to the coefficient. Otherwise, this would amount to re-opening the NAMA framework. Some of those Members have also expressed the view that the numbers currently within square brackets are the minimum required for their sensitive tariff lines, and have expressed concern about the conditions attached to the use of such flexibilities, such as the capping of the import value. In response, the point has been made by developed Members that they are not seeking to remove the flexibilities under paragraph 8, and therefore are not re-opening the NAMA framework. They further point out that the numbers in paragraph 8 are within square brackets precisely to reflect the fact that they are not fixed and may need to be adjusted downwards depending on the level of the coefficient. In addition, the need for more transparency and predictability with regard to the tariff lines which would be covered by paragraph 8 flexibilities has been raised by some of these Members. Some developing Members have also advanced the idea that there should be the option for those developing Members not wanting to use paragraph 8 flexibilities to have recourse to a higher coefficient in the formula in the interest of having a balanced outcome.

Unbound Tariff Lines (paragraph 5, indent two of the NAMA framework)

11. There has been progress on the discussion of unbound tariff lines. There is an understanding that full bindings would be a desirable objective of the NAMA negotiations, and a growing sense that unbound tariff lines should be subject to formula cuts provided there is a pragmatic solution for those lines with low applied rates. However, some Members have stressed that their unbound tariff lines with high applied rates are also sensitive and due consideration should be given to those lines. There now appears to be a willingness among several Members to move forward on the basis of a non-linear mark-up approach to establish base rates, and in the case of some of these Members, provided that such an approach yields an equitable result. A non-linear mark-up approach envisages the addition of a certain number of percentage points to the applied rate of the unbound tariff line in order to establish the base rate on which the formula is to be applied. There are two variations of such an approach. In one case, a constant number of percentage points are added to the applied rate in order to establish the base rate. The other variation consists of having a different number of percentage points depending on the level of the applied rate. In other words, the lower the applied rate the higher the mark-up and the higher the applied rate, the lower the mark-up. There is also one proposal on the table of a target average approach where an average is established through the use of a formula, with the unbound tariff lines expected to have final bindings around that average.

12. On a practical level, in their discussions on unbound tariff lines, Members have been referring mostly to the constant mark-up methodology to establish base rates. In the context of such discussions, the number for the mark-up has ranged from 5 to 30 percentage points. Once again the gap between the two figures is wide, but Members have displayed willingness to be flexible.

Other elements of the formula (paragraph 5 of the NAMA framework)

13. Concerning product coverage (indent 1), Members have made good progress to establish a list of non-agricultural products as reflected in document JOB(05)/226/Rev.2. The main issue is whether the outcome of this exercise should be an agreed list or guidelines. It would appear that several Members are in favour of the former outcome, however, some have expressed their preference for the latter. In any event, there are only a limited number of items (17) on which differences exist and Members should try and resolve these differences as quickly as possible.

14. On *ad valorem* equivalents (indent 5), agreement was reached to convert non *ad valorem* duties to *ad valorem* equivalents on the basis of the methodology contained in JOB(05)/166/Rev.1 and to bind them in *ad valorem* terms. To date, four Members have submitted their preliminary AVE calculations, but there are many more due. Those Members would need to submit this information as quickly as possible so as to allow sufficient time for the multilateral verification process.

15. The subject of how credit is to be given for autonomous liberalization (indent 4) by developing countries provided that the tariff lines are bound on an MFN basis in the WTO since the conclusion of the Uruguay Round has not been discussed in detail since the adoption of the NAMA framework. However, this issue may be more usefully taken up once there is a clearer picture of the formula.

16. All the other elements of the formula such as tariff cuts commencing from bound rates after full implementation of current commitments (indent 2), the base year (indent 3), the nomenclature (indent 6) and reference period for import data (indent 7) have not been discussed any further since July 2004, as they were acceptable to Members as currently reflected in the NAMA framework.

Other flexibilities for developing Members

Members with low binding coverage (paragraph 6 of the NAMA framework)

17. A submission by a group of developing Members, covered under paragraph 6 provisions, was made in June 2005. The paper proposed that Members falling under this paragraph should be encouraged to substantially increase their binding coverage, and bind tariff lines at a level consistent with their individual development, trade, fiscal and strategic needs. A preliminary discussion of this proposal revealed that there were concerns about this proposal re-opening this paragraph by seeking to enhance the flexibilities contained therein. Further discussion of this proposal is required. However, it appears that the issue of concern to some of the paragraph 6 Members is not related so much to the full binding coverage, but rather to the average level at which these Members would be required to bind their tariffs.

Flexibilities for LDCs (paragraph 9 of the NAMA framework)

18. There appears to be a common understanding that LDCs will be the judge of the extent and level of the bindings that they make. At the same time, Members have indicated that this substantial increase of the binding commitments which LDCs are expected to undertake should be done with a good faith effort. In this regard, some yardsticks for this effort were mentioned including the coverage and level of bindings made in the Uruguay Round by other LDCs as well as the more recently acceded LDCs.

Small, vulnerable economies

19. A paper was submitted recently by a group of Members which proposes *inter alia* lesser and linear cuts to Members identified by a criterion using trade share. While some developing and developed Members were sympathetic to the situation of such Members, concerns were expressed with respect to the threshold used to establish eligibility, and also the treatment envisaged. Other developing Members expressed serious reservations about this proposal which in their view appeared to be creating a new category of developing Members, and to be further diluting the ambition of the NAMA negotiations. The sponsors of this proposal stressed that the small, vulnerable economies had characteristics which warranted special treatment.

20. This is an issue on which there is a serious divergence of opinion among developing Members. This subject will need to be debated further. Discussions may be facilitated through additional statistical analysis.

Sectorals (paragraph 7 of the NAMA framework)

21. It appears that good progress is being made on the sectoral tariff component of the NAMA negotiations. Work which is taking place in an informal Member-driven process has focused on *inter alia* identification of sectors, product coverage, participation, end rates and adequate provisions of flexibilities for developing countries. Besides the sectorals based on a critical mass approach identified in the Chairman's commentary – bicycles, chemicals, electronics/electrical equipment, fish, footwear, forest products, gems and jewellery, pharmaceuticals and medical equipment, raw materials and sporting goods – I understand that work is ongoing on other sectors namely apparel, auto/auto parts and textiles.

22. While this component of the NAMA negotiations is recognized in the NAMA framework to be a key element to delivering on the objectives of paragraph 16 of the Doha NAMA mandate, some developing Members have questioned the rationale of engaging in sectoral negotiations before having the formula finalized. Many have also re-iterated their view that sectorals are voluntary in nature. The point has also been made by other developing Members that sectorals harm smaller developing Members due to

an erosion of their preferences. However, the proponents of such initiatives have argued that sectorals are another key element of the NAMA negotiations and an important modality for delivering on the elimination of duties as mandated in paragraph 16 of the Doha Ministerial Declaration. In addition, they have pointed out that some of the sectorals were initiated by developing Members. Moreover, such initiatives require substantive work and were time-consuming to prepare. Concerning preference erosion, this was a cross-cutting issue.

23. Members will need to begin considering time-lines for the finalization of such work, and the submission of the outcomes which will be applied on an MFN basis.

Market Access for LDCs (paragraph 10 of the NAMA framework)

24. In the discussions on this subject, it was noted that the Committee on Trade and Development in Special Session is examining the question of duty-free and quota-free access for non-agricultural products originating from LDCs. Consequently, there is recognition by Members that the discussions in that Committee would most probably have an impact on this element of the NAMA framework, and would need to be factored in at the appropriate time.

Newly Acceded Members (paragraph 11 of the NAMA framework)

25. Members recognize the extensive market access commitments made by the NAMs at the time of their accession. From the discussions held on this subject, it was clarified that those NAMs which are developing Members have access to paragraph 8 flexibilities. As special provisions for tariff reductions for the NAMs, some Members are willing to consider longer implementation periods than those to be provided to developing Members. Other proposals such as a higher coefficient and "grace periods" for the NAMs were also put forward, but a number of Members have objected to these ideas. There has also been a submission by four low-income economies in transition who have requested to be exempt from formula cuts in light of their substantive contributions at the time of their WTO accession and the current difficult state of their economies. While some Members showed sympathy for the situation of these Members, they expressed the view that other solutions may be more appropriate. Some developing Members also expressed concern about this proposal creating a differentiation between Members. Further discussion is required on these issues.

NTBs (paragraph 14 of the NAMA framework)

26. Since adoption of the July 2004 framework, Members have been focusing their attention on non-tariff barriers in recognition of the fact that they are an integral and equally important part of the NAMA negotiations. Some Members claim that they constitute a greater barrier to their exports than tariffs. The Group has spent a considerable amount of time identifying, categorizing and examining the notified NTBs. Members are using bilateral, vertical and horizontal approaches to the NTB negotiations. For example, many Members are raising issues bilaterally with their trading partners. Vertical initiatives are ongoing on automobiles, electronic products and wood products. There have been some proposals of a horizontal nature concerning export taxes, export restrictions and remanufactured products. On export taxes, some Members have expressed the view that such measures fall outside the mandate of the NAMA negotiations. Some Members have also raised in other Negotiating Groups some of the NTBs they had notified initially in the context of the NAMA negotiations. For example, a number of trade facilitation measures are now being examined in the Negotiating Group on Trade Facilitation. Some other Members have also indicated their intention to bring issues to the regular WTO Committees. NTBs currently proposed for negotiation in the NAMA Group are contained in document JOB(05)/85/Rev.3.

27. Some proposals have been made of a procedural nature in order to expedite the NTB work, including a suggestion to hold dedicated NTB sessions. Further consideration will need to be given to

this and other proposals. Members will also need to begin considering some time-lines for the submission of specific negotiating proposals and NTB outcomes.

Appropriate Studies and Capacity Building Measures (paragraph 15 of the NAMA framework)

28. There has been no discussion as such on this element as it is an ongoing and integral part of the negotiating process. Several papers have been prepared by the Secretariat during the course of the negotiations and capacity building activities by the Secretariat have increased considerably since the launch of the Doha Development Agenda. Such activities will need to continue taking into account the evolution of the negotiations.

Non-reciprocal preferences (paragraph 16 of the NAMA framework)

29. In response to calls by some Members for a better idea of the scope of the problem, the ACP Group circulated an indicative list of products (170 HS 6-digit tariff lines) vulnerable to preference erosion in the EC and US markets as identified through a vulnerability index. Simulations were also submitted by the African Group. Some developing Members expressed concern that the tariff lines listed covered the majority of their exports, or covered critical exports to those markets and were also precisely the lines on which they sought MFN cuts. As a result, for these Members, it was impossible to entertain any solution which related to less than full formula cuts or longer staging. In this regard, concern was expressed by them that non-trade solutions were not being examined. For the proponents of the issue, a trade solution was necessary as this was a trade problem. According to them, their proposal would not undermine trade liberalization because they were seeking to manage such liberalization on a limited number of products.

30. This subject is highly divisive precisely because the interests of the two groups of developing Members are in direct conflict. Additionally, it is a cross-cutting issue which makes it even more sensitive. While, the aforementioned list of products has been helpful in providing a sense of the scope of the problem and may help Members to engage in a more focused discussion, it is clear that pragmatism will need to be shown by all concerned.

Environmental Goods (paragraph 17 of the NAMA framework)

31. Since the adoption of the July framework in 2004, limited discussions have been held on this subject in the Group. However, it is noted that much work under paragraph 31(iii) of the Doha Ministerial Declaration has been undertaken by the Committee on Trade and Environment in Special Session. There would need to be close coordination between the two negotiating groups and a stock taking of the work undertaken in that Committee would be required at the appropriate time by the NAMA Negotiating Group.

Other elements of the NAMA framework

32. On the other elements of the NAMA framework, such as supplementary modalities (paragraph 12), elimination of low duties (paragraph 13) and tariff revenue dependency (paragraph 16) the Group has not had a substantive debate. This has in part to do with the nature of the issue or because more information is required from the proponents. Regarding supplementary modalities, such modalities will become more relevant once the formula has been finalized. On elimination of low duties, this issue may be more suitable to consider once there is a better sense of the likely outcome of the NAMA negotiations. On tariff revenue dependency, more clarity is required from the proponents on the nature and scope of the problem.

D. FINAL REMARKS

33. As may be observed from the above report, Members are far away from achieving full modalities. This is highly troubling. It will take a major effort by all if the objective of concluding the NAMA negotiations by the end of 2006 is to be realized.

34. To this end, I would highlight as a critical objective for Hong Kong a common understanding on the formula, paragraph 8 flexibilities and unbound tariffs. It is crucial that Ministers move decisively on these elements so that the overall outcome is acceptable to all. This will give the necessary impetus to try and fulfill at a date soon thereafter the objective of full modalities for the NAMA negotiations.

35. Specifically, Ministers should:

- Obtain agreement on the final structure of the formula and narrow the range of numbers.
- Resolve their basic differences over paragraph 8 flexibilities.
- Clarify whether the constant mark-up approach is the way forward, and if so, narrow the range of numbers.

Annex C

Services

Objectives

1. In order to achieve a progressively higher level of liberalization of trade in services, with appropriate flexibility for individual developing country Members, we agree that Members should be guided, to the maximum extent possible, by the following objectives in making their new and improved commitments:

(a) Mode 1

(i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members

(ii) removal of existing requirements of commercial presence

(b) Mode 2

(i) commitments at existing levels of market access on a non-discriminatory basis across sectors of interest to Members

(ii) commitments on mode 2 where commitments on mode 1 exist

(c) Mode 3

(i) commitments on enhanced levels of foreign equity participation

(ii) removal or substantial reduction of economic needs tests

(iii) commitments allowing greater flexibility on the types of legal entity permitted

(d) Mode 4

(i) new or improved commitments on the categories of Contractual Services Suppliers, Independent Professionals and Others, de-linked from commercial presence, to reflect *inter alia*:

- removal or substantial reduction of economic needs tests

- indication of prescribed duration of stay and possibility of renewal, if any

(ii) new or improved commitments on the categories of Intra-corporate Transferees and Business Visitors, to reflect *inter alia*:

- removal or substantial reduction of economic needs tests

- indication of prescribed duration of stay and possibility of renewal, if any

(e) MFN Exemptions

(i) removal or substantial reduction of exemptions from most-favoured-nation (MFN) treatment

(ii) clarification of remaining MFN exemptions in terms of scope of application and duration

(f) Scheduling of Commitments

(i) ensuring clarity, certainty, comparability and coherence in the scheduling and classification of commitments through adherence to, *inter alia*, the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001

(ii) ensuring that scheduling of any remaining economic needs tests adheres to the Scheduling Guidelines pursuant to the Decision of the Council for Trade in Services adopted on 23 March 2001.

2. As a reference for the request-offer negotiations, the sectoral and modal objectives as identified by Members may be considered.[22]

3. Members shall pursue full and effective implementation of the Modalities for the Special Treatment for Least-Developed Country Members in the Negotiations on Trade in Services (LDC Modalities) adopted by the Special Session of the Council for Trade in Services on 3 September 2003, with a view to the beneficial and meaningful integration of LDCs into the multilateral trading system.

4. Members must intensify their efforts to conclude the negotiations on rule-making under GATS Articles X, XIII, and XV in accordance with their respective mandates and timelines:

(a) Members should engage in more focused discussions in connection with the technical and procedural questions relating to the operation and application of any possible emergency safeguard measures in services.

(b) On government procurement, Members should engage in more focused discussions and in this context put greater emphasis on proposals by Members, in accordance with Article XIII of the GATS.

(c) On subsidies, Members should intensify their efforts to expedite and fulfil the information exchange required for the purpose of such negotiations, and should engage in more focused discussions on proposals by Members, including the development of a possible working definition of subsidies in services.

5. Members shall develop disciplines on domestic regulation pursuant to the mandate under Article VI:4 of the GATS before the end of the current round of negotiations. We call upon Members to develop text for adoption. In so doing, Members shall consider proposals and the illustrative list of possible elements for Article VI:4 disciplines.[23]

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[22] As attached to the Report by the Chairman to the Trade Negotiations Committee on 28 November 2005, contained in document TN/S/23. This attachment has no legal standing.

[23] As attached to the Report of the Chairman of the Working Party on Domestic Regulation to the Special Session of the Council for Trade in Services on 15 November 2005, contained in document JOB(05)/280.

Approaches

6. Pursuant to the principles and objectives above, we agree to intensify and expedite the request-offer negotiations, which shall remain the main method of negotiation, with a view to securing substantial commitments.

7. In addition to bilateral negotiations, we agree that the request-offer negotiations should also be pursued on a plurilateral basis in accordance with the principles of the GATS and the Guidelines and Procedures for the Negotiations on Trade in Services. The results of such negotiations shall be extended on an MFN basis. These negotiations would be organized in the following manner:

(a) Any Member or group of Members may present requests or collective requests to other Members in any specific sector or mode of supply, identifying their objectives for the negotiations in that sector or mode of supply.

(b) Members to whom such requests have been made shall consider such requests in accordance with paragraphs 2 and 4 of Article XIX of the GATS and paragraph 11 of the Guidelines and Procedures for the Negotiations on Trade in Services.

(c) Plurilateral negotiations should be organised with a view to facilitating the participation of all Members, taking into account the limited capacity of developing countries and smaller delegations to participate in such negotiations.

8. Due consideration shall be given to proposals on trade-related concerns of small economies.

9. Members, in the course of negotiations, shall develop methods for the full and effective implementation of the LDC Modalities, including expeditiously:

(a) Developing appropriate mechanisms for according special priority including to sectors and modes of supply of interest to LDCs in accordance with Article IV:3 of the GATS and paragraph 7 of the LDC Modalities.

(b) Undertaking commitments, to the extent possible, in such sectors and modes of supply identified, or to be identified, by LDCs that represent priority in their development policies in accordance with paragraphs 6 and 9 of the LDC Modalities.

(c) Assisting LDCs to enable them to identify sectors and modes of supply that represent development priorities.

(d) Providing targeted and effective technical assistance and capacity building for LDCs in accordance with the LDC Modalities, particularly paragraphs 8 and 12.

(e) Developing a reporting mechanism to facilitate the review requirement in paragraph 13 of the LDC Modalities.

10. Targeted technical assistance should be provided through, *inter alia*, the WTO Secretariat, with a view to enabling developing and least-developed countries to participate effectively in the negotiations. In particular and in accordance with paragraph 51 on Technical Cooperation of this Declaration, targeted technical assistance should be given to all developing countries allowing them to fully engage in the negotiation. In addition, such assistance should be provided on, *inter alia*, compiling and analyzing statistical data on trade in services, assessing interests in and gains from services trade, building regulatory capacity, particularly on those services sectors where liberalization is being undertaken by developing countries.

Timelines

11. Recognizing that an effective timeline is necessary in order to achieve a successful conclusion of the negotiations, we agree that the negotiations shall adhere to the following dates:

(a) Any outstanding initial offers shall be submitted as soon as possible.

(b) Groups of Members presenting plurilateral requests to other Members should submit such requests by 28 February 2006 or as soon as possible thereafter.

(c) A second round of revised offers shall be submitted by 31 July 2006.

(d) Final draft schedules of commitments shall be submitted by 31 October 2006.

(e) Members shall strive to complete the requirements in 9(a) before the date in 11(c).

Review of Progress

12. The Special Session of the Council for Trade in Services shall review progress in the negotiations and monitor the implementation of the Objectives, Approaches and Timelines set out in this Annex.

Annex D

Rules

I. Anti-Dumping and Subsidies and Countervailing Measures including Fisheries Subsidies

We:

1. *acknowledge* that the achievement of substantial results on all aspects of the Rules mandate, in the form of amendments to the Anti-Dumping (AD) and Subsidies and Countervailing Measures (SCM) Agreements, is important to the development of the rules-based multilateral trading system and to the overall balance of results in the DDA;

2. *aim* to achieve in the negotiations on Rules further improvements, in particular, to the transparency, predictability and clarity of the relevant disciplines, to the benefit of all Members, including in particular developing and least-developed Members. In this respect, the development dimension of the negotiations must be addressed as an integral part of any outcome;

3. *call on* Participants, in considering possible clarifications and improvements in the area of anti-dumping, to take into account, *inter alia*, (a) the need to avoid the unwarranted use of anti-dumping measures, while preserving the basic concepts, principles and effectiveness of the instrument and its objectives where such measures are warranted; and (b) the desirability of limiting the costs and complexity of proceedings for interested parties and the investigating authorities alike, while strengthening the due process, transparency and predictability of such proceedings and measures;

4. *consider* that negotiations on anti-dumping should, as appropriate, clarify and improve the rules regarding, *inter alia*, (a) determinations of dumping, injury and causation, and the application of measures; (b) procedures governing the initiation, conduct and completion of antidumping investigations, including with a view to strengthening due process and enhancing transparency; and (c) the level, scope and duration of measures, including duty assessment, interim and new shipper reviews, sunset, and anti-circumvention proceedings;

5. *recognize* that negotiations on anti-dumping have intensified and deepened, that Participants are showing a high level of constructive engagement, and that the process of rigorous discussion of the issues based on specific textual proposals for amendment to the AD Agreement has been productive and is a necessary step in achieving the substantial results to which Ministers are committed;

6. *note* that, in the negotiations on anti-dumping, the Negotiating Group on Rules has been discussing in detail proposals on such issues as determinations of injury/causation, the lesser duty rule, public interest, transparency and due process, interim reviews, sunset, duty assessment, circumvention, the use of facts available, limited examination and all others rates, dispute settlement, the definition of dumped imports, affiliated parties, product under consideration, and the initiation and completion of investigations, and that this process of discussing proposals before the Group or yet to be submitted will continue after Hong Kong;

7. *note*, in respect of subsidies and countervailing measures, that while proposals for amendments to the SCM Agreement have been submitted on a number of issues, including the definition of a subsidy, specificity, prohibited subsidies, serious prejudice, export credits and guarantees, and the

allocation of benefit, there is a need to deepen the analysis on the basis of specific textual proposals in order to ensure a balanced outcome in all areas of the Group's mandate;

8. *note* the desirability of applying to both anti-dumping and countervailing measures any clarifications and improvements which are relevant and appropriate to both instruments;

9. *recall* our commitment at Doha to enhancing the mutual supportiveness of trade and environment, *note* that there is broad agreement that the Group should strengthen disciplines on subsidies in the fisheries sector, including through the prohibition of certain forms of fisheries subsidies that contribute to overcapacity and over-fishing, and *call on* Participants promptly to undertake further detailed work to, *inter alia*, establish the nature and extent of those disciplines, including transparency and enforceability. Appropriate and effective special and differential treatment for developing and least-developed Members should be an integral part of the fisheries subsidies negotiations, taking into account the importance of this sector to development priorities, poverty reduction, and livelihood and food security concerns;

10. *direct* the Group to intensify and accelerate the negotiating process in all areas of its mandate, on the basis of detailed textual proposals before the Group or yet to be submitted, and complete the process of analysing proposals by Participants on the AD and SCM Agreements as soon as possible;

11. *mandate* the Chairman to prepare, early enough to assure a timely outcome within the context of the 2006 end date for the Doha Development Agenda and taking account of progress in other areas of the negotiations, consolidated texts of the AD and SCM Agreements that shall be the basis for the final stage of the negotiations.

II. Regional Trade Agreements

1. We welcome the progress in negotiations to clarify and improve the WTO's disciplines and procedures on regional trade agreements (RTAs). Such agreements, which can foster trade liberalization and promote development, have become an important element in the trade policies of virtually all Members. Transparency of RTAs is thus of systemic interest as are disciplines that ensure the complementarity of RTAs with the WTO.

2. We commend the progress in defining the elements of a transparency mechanism for RTAs, aimed, in particular, at improving existing WTO procedures for gathering factual information on RTAs, without prejudice to the rights and obligations of Members. We instruct the Negotiating Group on Rules to intensify its efforts to resolve outstanding issues, with a view to a provisional decision on RTA transparency by 30 April 2006.

3. We also note with appreciation the work of the Negotiating Group on Rules on WTO's disciplines governing RTAs, including *inter alia* on the "substantially all the trade" requirement, the length of RTA transition periods and RTA developmental aspects. We instruct the Group to intensify negotiations, based on text proposals as soon as possible after the Sixth Ministerial Conference, so as to arrive at appropriate outcomes by end 2006.

Annex E

Trade Facilitation

Report by the Negotiating Group on Trade Facilitation to the TNC

1. Since its establishment on 12 October 2004, the Negotiating Group on Trade Facilitation met eleven times to carry out work under the mandate contained in Annex D of the Decision adopted by the General Council on 1 August 2004. The negotiations are benefiting from the fact that the mandate allows for the central development dimension of the Doha negotiations to be addressed directly through the widely acknowledged benefits of trade facilitation reforms for all WTO Members, the enhancement of trade facilitation capacity in developing countries and LDCs, and provisions on special and differential treatment (S&DT) that provide flexibility. Based on the Group's Work Plan (TN/TF/1), Members contributed to the agreed agenda of the Group, tabling 60 written submissions sponsored by more than 100 delegations. Members appreciate the transparent and inclusive manner in which the negotiations are being conducted.

2. Good progress has been made in all areas covered by the mandate, through both verbal and written contributions by Members. A considerable part of the Negotiating Group's meetings has been spent on addressing the negotiating objective of improving and clarifying relevant aspects of GATT Articles V, VIII and X, on which about 40 written submissions[1] have been tabled by Members representing the full spectrum of the WTO's Membership. Through discussions on these submissions and related questions and answers (JOB(05)/222), Members have advanced their understanding of the measures in question and are working towards common ground on many aspects of this part of the negotiating mandate. Many of these submissions also covered the negotiating objective of enhancing technical assistance and support for capacity building on trade facilitation, as well as the practical application of the principle of S&DT. The Group also discussed other valuable submissions dedicated to these issues.[2] Advances have also been made on the objective of arriving at provisions for effective cooperation between customs or any other appropriate authorities on trade facilitation and customs compliance issues, where two written proposals have been discussed.[3] Members have also made valuable contributions on the identification of trade facilitation needs and priorities, development aspects, cost implications and inter-agency cooperation.[4]

3. Valuable input has been provided by a number of Members in the form of national experience papers[5] describing national trade facilitation reform processes. In appreciation of the value to developing countries and LDCs of this aspect of the negotiations, the Negotiating Group recommends that Members be encouraged to continue this information sharing exercise.

4. Building on the progress made in the negotiations so far, and with a view to developing a set of multilateral commitments on all elements of the mandate, the Negotiating Group recommends that it continue to intensify its negotiations on the basis of Members' proposals, as reflected currently in document TN/TF/W/43/Rev.4, and any new proposals to be presented. Without prejudice to individual Member's positions on individual proposals, a list of (I) proposed measures to improve and clarify GATT Articles V, VIII and X; (II) proposed provisions for effective cooperation between customs and other

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[1] TN/TF/W/6-W/15, W/17-W/26, W/28, W/30-W32, W/34-36, W/38-W/40, W/42, W/44-W/49, W/53, W/55, W/58, W/60-W/62, W/64-W/67, W/69, W/70.
[2] TN/TF/W/33, W/41, W/56, W/63, W/73 and W/74.
[3] TN/TF/W/57 and W/68.
[4] TN/TF/W/29, W/33, W/41, W/62 and W/63.
[5] TN/TF/W/48, W/50 , W/53, W/55, W/58, W/60, W/61, W/65, W/69 and W/75.

authorities on trade facilitation and customs compliance; and, (III) cross-cutting submissions; is provided below to facilitate further negotiations. In carrying out this work and in tabling further proposals, Members should be mindful of the overall deadline for finishing the negotiations and the resulting need to move into focussed drafting mode early enough after the Sixth Ministerial Conference so as to allow for a timely conclusion of text-based negotiations on all aspects of the mandate.

5. Work needs to continue and broaden on the process of identifying individual Member's trade facilitation needs and priorities, and the cost implications of possible measures. The Negotiating Group recommends that relevant international organizations be invited to continue to assist Members in this process, recognizing the important contributions being made by them already, and be encouraged to continue and intensify their work more generally in support of the negotiations.

6. In light of the vital importance of technical assistance and capacity building to allow developing countries and LDCs to fully participate in and benefit from the negotiations, the Negotiating Group recommends that the commitments in Annex D's mandate in this area be reaffirmed, reinforced and made operational in a timely manner. To bring the negotiations to a successful conclusion, special attention needs to be paid to support for technical assistance and capacity building that will allow developing counties and LDCs to participate effectively in the negotiations, and to technical assistance and capacity building to implement the results of the negotiations that is precise, effective and operational, and reflects the trade facilitation needs and priorities of developing countries and LDCs. Recognizing the valuable assistance already being provided in this area, the Negotiating Group recommends that Members, in particular developed ones, continue to intensify their support in a comprehensive manner and on a long-term and sustainable basis, backed by secure funding.

7. The Negotiating Group also recommends that it deepen and intensify its negotiations on the issue of S&DT, with a view to arriving at S&DT provisions that are precise, effective and operational and that allow for necessary flexibility in implementing the results of the negotiations. Reaffirming the linkages among the elements of Annex D, the Negotiating Group recommends that further negotiations on S&DT build on input presented by Members in the context of measures related to GATT Articles V, VIII and X and in their proposals of a cross-cutting nature on S&DT.

- **PROPOSED MEASURES TO IMPROVE AND CLARIFY GATT ARTICLES V, VIII AND X**

A. PUBLICATION AND AVAILABILITY OF INFORMATION

- Publication of Trade Regulations
- Publication of Penalty Provisions
- Internet Publication
  (a) of elements set out in Article X of GATT 1994
  (b) of specified information setting forth procedural sequence and other requirements for importing goods
- Notification of Trade Regulations
- Establishment of Enquiry Points/SNFP/Information Centres
- Other Measures to Enhance the Availability of Information

B. TIME PERIODS BETWEEN PUBLICATION AND IMPLEMENTATION

- Interval between Publication and Entry into Force

C. CONSULTATION AND COMMENTS ON NEW AND AMENDED RULES

- Prior Consultation and Commenting on New and Amended Rules
- Information on Policy Objectives Sought

D. ADVANCE RULINGS

- Provision of Advance Rulings

E. APPEAL PROCEDURES

- Right of Appeal
- Release of Goods in Event of Appeal

F. OTHER MEASURES TO ENHANCE IMPARTIALITY AND NON-DISCRIMINATION

- Uniform Administration of Trade Regulations
- Maintenance and Reinforcement of Integrity and Ethical Conduct Among Officials
  - (a) Establishment of a Code of Conduct
  - (b) Computerized System to Reduce/Eliminate Discretion
  - (c) System of Penalties
  - (d) Technical Assistance to Create/Build up Capacities to Prevent and Control Customs Offences
  - (e) Appointment of Staff for Education and Training
  - (f) Coordination and Control Mechanisms

G. FEES AND CHARGES CONNECTED WITH IMPORTATION AND EXPORTATION

- General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation
  - (a) Specific Parameters for Fees/Charges
  - (b) Publication/Notification of Fees/Charges
  - (c) Prohibition of Collection of Unpublished Fees and Charges
  - (d) Periodic Review of Fees/Charges
  - (e) Automated Payment
- Reduction/Minimization of the Number and Diversity of Fees/Charges

H. FORMALITIES CONNECTED WITH IMPORTATION AND EXPORTATION

- Disciplines on Formalities/Procedures and Data/Documentation Requirements Connected with Importation and Exportation
  - (a) Non-discrimination
  - (b) Periodic Review of Formalities and Requirements
  - (c) Reduction/Limitation of Formalities and Documentation Requirements
  - (d) Use of International Standards
  - (e) Uniform Customs Code
  - (f) Acceptance of Commercially Available Information and of Copies
  - (g) Automation

(h) Single Window/One-time Submission
(i) Elimination of Pre-Shipment Inspection
(j) Phasing out Mandatory Use of Customs Brokers

I. CONSULARIZATION

- Prohibition of Consular Transaction Requirement

J. BORDER AGENCY COOPERATION

- Coordination of Activities and Requirement of all Border Agencies

K. RELEASE AND CLEARANCE OF GOODS

- Expedited/Simplified Release and Clearance of Goods
  (a) Pre-arrival Clearance
  (b) Expedited Procedures for Express Shipments
  (c) Risk Management /Analysis, Authorized Traders
  (d) Post-Clearance Audit
  (e) Separating Release from Clearance Procedures
  (f) Other Measures to Simplify Customs Release and Clearance
- Establishment and Publication of Average Release and Clearance Times

L. TARIFF CLASSIFICATION

- Objective Criteria for Tariff Classification

M. MATTERS RELATED TO GOODS TRANSIT

- Strengthened Non-discrimination
- Disciplines on Fees and Charges
  (a) Publication of Fees and Charges and Prohibition of Unpublished ones
  (b) Periodic Review of Fees and Charges
  (c) More effective Disciplines on Charges for Transit
  (d) Periodic Exchange Between Neighbouring Authorities
- Disciplines on Transit Formalities and Documentation Requirements
  (a) Periodic Review
  (b) Reduction/Simplification
  (c) Harmonization/Standardization
  (d) Promotion of Regional Transit Arrangements
  (e) Simplified and Preferential Clearance for Certain Goods
  (f) Limitation of Inspections and Controls
  (g) Sealing
  (h) Cooperation and Coordination on Document Requirements
  (i) Monitoring
  (j) Bonded Transport Regime/Guarantees
- Improved Coordination and Cooperation
  (a) Amongst Authorities

(b) Between Authorities and the Private Sector

- Operationalization and Clarification of Terms

II. PROPOSED PROVISIONS FOR EFFECTIVE COOPERATION BETWEEN CUSTOMS AND OTHER AUTHORITIES ON TRADE FACILITATION AND CUSTOMS COMPLIANCE

- Multilateral Mechanism for the Exchange and Handling of Information

III. CROSS-CUTTING SUBMISSIONS

1. Needs and Priorities Identification

- General tool to assess needs and priorities and current levels of trade facilitation
- Take result of assessment as one basis for establishing trade facilitation rules, arranging S&D treatment and providing technical assistance and capacity building support

2. Technical Assistance and Capacity Building

- Technical Assistance and Capacity Building in the Course of the Negotiations

- Identification of Needs and Priorities
- Compilation of Needs and Priorities of Individual Members
- Support for Clarification and Educative Process Including Training

- Technical Assistance and Capacity Building Beyond the Negotiations Phase

- Implementation of the Outcome
- Coordination Mechanisms for Implementing Needs and Priorities as well as Commitments

3. Multiple-Areas

- Identification of Trade Facilitation Needs and Priorities of Members
- Cost Assessment
- Inter-Agency Cooperation
- Links and Inter-relationship between the Elements of Annex D
- Inventory of Trade Facilitation Measures
- Assessment of the Current Situation
- Timing and Sequencing of Measures

Annex F

Special and Differential Treatment

LDC Agreement-specific Proposals

23) Understanding in Respect of Waivers of Obligations under the GATT 1994

(i) We agree that requests for waivers by least-developed country Members under Article IX of the WTO Agreement and the Understanding in respect of Waivers of Obligations under the GATT 1994 shall be given positive consideration and a decision taken within 60 days.

(ii) When considering requests for waivers by other Members exclusively in favour of least-developed country Members, we agree that a decision shall be taken within 60 days, or in exceptional circumstances as expeditiously as possible thereafter, without prejudice to the rights of other Members.

36) Decision on Measures in Favour of Least-Developed Countries

We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

(a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.

(ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.

(iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.

(b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation.

38) Decision on Measures in Favour of Least-Developed Countries

It is reaffirmed that least-developed country Members will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs, or their administrative and institutional capacities.

Within the context of coherence arrangements with other international institutions, we urge donors, multilateral agencies and international financial institutions to coordinate their work to ensure that LDCs are not subjected to conditionalities on loans, grants and official development assistance that are inconsistent with their rights and obligations under the WTO Agreements.

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- **84) Agreement on Trade-Related Investment Measures**
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LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. For this purpose, LDCs shall notify the Council for Trade in Goods (CTG) of such measures within two years, starting 30 days after the date of this declaration. LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years. This transition period may be extended by the CTG under the existing procedures set out in the TRIMs Agreement, taking into account the individual financial, trade, and development needs of the Member in question.

LDCs shall also be allowed to introduce new measures that deviate from their obligations under the TRIMs Agreement. These new TRIMs shall be notified to the CTG no later than six months after their adoption. The CTG shall give positive consideration to such notifications, taking into account the individual financial, trade, and development needs of the Member in question. The duration of these measures will not exceed five years, renewable subject to review and decision by the CTG.

Any measures incompatible with the TRIMs Agreement and adopted under this decision shall be phased out by year 2020.

88) Decision on Measures in Favour of Least-Developed Countries–Paragraph 1

Least-developed country Members, whilst reaffirming their commitment to the fundamental principles of the WTO and relevant provisions of GATT 1994, and while complying with the general rules set out in the aforesaid instruments, will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs, and their administrative and institutional capabilities. Should a least-developed country Member find that it is not in a position to comply with a specific obligation or commitment on these grounds, it shall bring the matter to the attention of the General Council for examination and appropriate action.

We agree that the implementation by LDCs of their obligations or commitments will require further technical and financial support directly related to the nature and scope of such obligations or commitments, and direct the WTO to coordinate its efforts with donors and relevant agencies to significantly increase aid for trade-related technical assistance and capacity building.

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U.S. SUBMISSIONS TO THE WTO IN SUPPORT OF THE DOHA DEVELOPMENT AGENDA
(WTO Document Symbol in Parentheses)

Committee on Agriculture, Special Session

- Export Competition, Market Access and Domestic Support (JOB(02)/122)
- Joint EC-US Paper on Agriculture (JOB(03)/157)
- Proposal for Tariff Rate Quota Reform (G/AG/NG/W/58)
- Proposal for Comprehensive Long-Term Agricultural Trade Reform (G/AG/NG/W/15)
- Note on Domestic Support Reform (G/AG/NG/W/16)
- Tariff Quota Administration (JOB(06)/188)
- Domestic Support Simulations – Simulations (JOB(06)/186)
- Tariff Quota Administration - Communication by the United States (JOB(06)/184)
- Comments on Food Aid (JOB(06)/183)
- Agriculture Domestic Support Simulations – Simulations (JOB(06)/151)
- Applied Tariff Simulations - Agriculture - Summary of Results (JOB(06)/152)
- United States Communication on Special Products (JOB(06)/137)
- United States Communication on Export Credits, Export Credit Guarantees or Insurance Programs (JOB(06)/119)
- United States Communication on State Trading Export Enterprises (JOB(06)/79)
- United States Communication on Domestic Support - Annex 2 - Domestic Support: The Basis for Exemption from the Reduction Commitments (JOB(06)/80)
- United States' Communication on Food Aid (JOB(06)/78)
- Market Access Simulations – Simulations (JOB(06)/63)
- US Communication on US Product-Specific Blue Box Limits (JOB(08)/10)
- Elements of Special Products Modalities - Communication from Australia, Canada, Costa Rica, Malaysia, New Zealand, Paraguay, Thailand, United States and Uruguay (JOB(08)/24)
- Agriculture Templates – An Approach and Initial Thoughts on Base Data and Base Data Templates (JOB(09)/104)
- Agriculture Templates - Domestic Support Base Data Templates (JOB(09)/115)
- Agriculture Templates - Market Access Base Data Templates (JOB(09)/125)
- Agriculture Templates - Market Access Doha Development Agenda (DDA) Tariff Rate Quotas (TRQs) Template (JOB(09)/172)

Council on Trade in Services, Special Session

- Framework for Negotiation (S/CSS/W/4)
- Proposals for Negotiation (JOB(00)/8376)
- Accounting Services (S/CSS/W/20)
- Audiovisual and Related Services (S/CSS/W/21)
- Distribution Services (S/CSS/W/22)
- Higher (Tertiary) Education, Adult Education and Training (S/CSS/W/23)
- Energy Services (S/CSS/W/24)
- Environmental Services (S/CSS/W/25)
- Express Delivery Services (S/CSS/W/26)
- Financial Services (S/CSS/W/27)
- Legal Services (S/CSS/W/28)
- Movement of Natural Persons (S/CSS/W/29)

- Market Access in Telecommunications and Complementary Services (S/CSS/W/30)
- Tourism and Hotels (S/CSS/W/31)
- Transparency in Domestic Regulation (S/CSS/W/102)
- Advertising and Related Services (S/CSS/W/100)
- Desirability of a Safeguard Mechanism for Services: Promoting Liberalization of Trade in Services (S/WPGR/W/37)
- Modalities for the Special Treatment For Least-Developed Country Members in the Negotiations on Trade In Services – JOB(03)/133
- U.S. Government Points of Contact in Least-Developed Country Members (JOB (03)/33)
- Proposed Guide for Scheduling Commitments on Energy Services in the WTO (JOB(03)/89)
- Small and Medium Sized Enterprises (TN/S/W/5)
- Initial Offer (TN/S/O/USA)
- An Assessment of Services Trade and Liberalization in the United States and Developing Economies (TN/S/W/12)
- Joint Statement on Market Access in Services (JOB(04)/176)
- U.S. Proposal for Transparency Disciplines in Domestic Regulation: Building on Existing International Disciplines and Proposals (JOB(04)/128)
- Communication from the United States: Horizontal Transparency Disciplines in Domestic Regulation (JOB(06)/182)
- Outline of the U.S. position on a Draft Consolidated Text in the WPDR (JOB(06)/223)
- Classification in the Telecommunications Sector under the WTO-GATS Framework (TN/S/W/35 and S/CSC/W/45)
- Guidelines for Scheduling Commitments Concerning Postal and Courier Services, including Express Delivery (TN/S/W/30)
- Joint Statement on Liberalization of Logistics Services (TN/S/W/34)
- Joint Statement on Legal Services (TN/S/W/37 and S/CSC/W/46)
- Legal Services – Objectives for Further Liberalisation and Limitations to be Removed (JOB(05)/276)
- Joint Statement on Liberalization of Construction and Related Engineering Services (JOB(05)/130)
- Joint Statement on Liberalization of Financial Services (JOB(05)/17)
- Working Toward a Productive Information Exchange (in the Working Party on GATS Rules) (JOB(05)/5)
- Statement on Services of Common Interest in the Energy Sector (JOB(06)/17)
- Implementation of the Modalities for the Special Treatment for Least Developed Country Members in the Trade in Services Negotiations (JOB(06)/77)
- Revised Services Offer (TN/S/O/USA/Rev.1)
- Review of Progress in Telecommunications Services (JOB(07)/199)
- Review of Progress in Postal and Courier Services, including Express Delivery Collective Request (JOB(07)/200)

Negotiating Group on Market Access

- Tariffs & Trade Data Needs Assessment (TN/MA/W/2)
- Negotiations on Environmental Goods (TN/MA/W/3 and TN/TE/W/8)
- Modalities Proposal (TN/MA/W/18)
- Proposal on Modalities for Addressing Non-Tariff Barriers (NTBs) (TN/MA/W/18/Add.1)
- Revenue Implications of Trade Liberalization (TN/MA/W/18/Add.2)
- Vertical NTB Modality (TN/MA/W/18/Add.3)
- Contribution on an Environmental Goods Modality (TN/TE/W/38) & (TN/MA/W/18/Add.5)
- Liberalizing Trade in Environmental Goods (TN/MA/W/3, TN/MA/W/18/Add.4, Add.5, and Add.7)
- Non-Tariff Barrier Notifications (TN/MA/W/46/Add.8)

- Non-Tariff Barrier Notifications – Revision (TN/MA/W/46/Add.8/Rev.1)
- Non-Agricultural Market Access: Modalities (TN/MA/W/44)
- Contribution by Canada, European Communities and United States, Non-Agricultural Market Access: Modalities (JOB(03)/163)
- Progress Report: Discussions on Forestry NTBs (TN/MA/W/48/Add.1)
- Negotiating NTBs Related to Remanufacturing and Refurbishing (TN/MA/W/18/Add.11)
- A View To Harmonize Textile, Apparel, and Footwear Labeling Requirements (TN/MA/W/18/Add.12)
- Progress Report: WTO NAMA Discussions on Autos NTBs (TN/MA/W/18/Add.9)
- Tariff Elimination in the Gems and Jewelry Sector (TN/MA/W/61)
- Tariff Liberalization in the Forest Products Sector (TN/MA/W/64)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/59)
- Initial List of Environmental Goods (TN/MA/W/18/Add.7 or TN/TE/W/52)
- Treatment of Non Ad Valorem Technical Tariffs (TN/MA/W/18/Add.8)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/58)
- How to Create a Critical Mass Sectoral Initiative (TN/MA/W/55)
- U.S. Proposal on Negotiating NTBs Related to the Auto Sector (TN/MA/W/18/Add.6)
- Non-Tariff Barriers Building Codes and the Wood Products Sector (TN/MA/W/48)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3)
- Tariff Elimination in the Electronics/Electrical Sector (TN/MA/W/69)
- Open Access to Enhanced Healthcare (JOB(06)/35)
- Progress Report: NTB Discussions Related to Remanufactured and Refurbished Goods (TN/MA/W/18/Add.10) and (TN/MA/W/18/Add.10/Corr.1)
- Tariff Liberalisation in the Forest Products Sector (TN/MA/W/75)
- Negotiating Text on Textiles, Apparel, Footwear and Travel Goods Labeling Requirements (TN/MA/W/18/Add.14)
- Tariff Liberalization in the Chemicals Sector (TN/MA/W/72)
- Progress Report: Sectoral Discussions on Tariff Elimination in the Chemicals Sector (TN/MA/W/18/Add.1)
- Tariff Elimination in the Electronics/Electrical Sector JOB(06)/85
- Negotiating Proposal on Tariff Liberalisation in the Forest Products Sector JOB(06)/128
- Market Access for Environmental Goods TN/MA/W/70
- Negotiating Proposal on Tariff Elimination in the Gems and Jewellery Sector TN/MA/W/61/Add.2
- Swiss Dual Proposal JOB(05)/36
- Analytical Contributions June 2005 JOB(05)/97
- Room Document for Simulation Presentation March 06. Actual doc # unknown.
- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.15)
- Revised U.S. Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16)
- Regulation of Remanufactured Goods: Answers to Frequently Asked Questions (JOB(07)/60)
- Non-Tariff Barriers – Requests (TN/MA/NTR/3/Add.2)
- Proposal for Modifications to "Ministerial Decision on Procedures for the Facilitation of Solutions to Non-Tariff Barriers" (TN/MA/W/88) NTBs (JOB(07)/145)
- Reducing Non-Tariff Barriers to Trade Related to Labeling of Textiles, Apparel, Footwear and Travel Goods – HS Classifications of Travel Goods (JOB(07)/59)
- Reducing Non-Tariff Barriers to Trade Related to Labelling of Textiles, Apparel, Footwear and Travel Goods - U.S. Responses to U.S. Questions (JOB(06)/266/Add.1)

- Non-Tariff Barriers to Trade related to Textiles, Clothing and Footwear - U.S. answers to Questionnaire by the European Communities (JOB(07)/22)
- Communication from the European Communities and the United States on NTBs related to Textiles, Apparel, Footwear and Clothing (TN/MA/W/93)
- Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.1)
- Illustrative Examples of Remanufactured Goods (JOB(07)/224)
- Negotiating Text on Non-Tariff Barriers Pertaining to the Electrical Safety and Electromagnetic Compatibility (EMC) of Electronic Goods (TN/MA/W/105 Rev.1)
- Negotiating Protocol on Enhanced Transparency on Export Licensing (TN/MA/W/15/Add.4/Rev.1)
- Communication from the United States on Automotive NTBs (JOB(08)/39)
- Non Paper on "Committee-First" for the "Horizontal Mechanism", TN/MA/W/106 of 9 May 2008 (JOB(08)/45)
- Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (JOB (08)/46)
- Sectoral Negotiations in Non-Agricultural Market Access (NAMA) (TN/MA/W/97/Rev.1)
- Joint paper on Revised Draft Modalities for Non-Agricultural Market Access (NAMA) (TN/MA/W/95)
- Communication from the European Communities and the United States for an Anti-Concentration Clause in NAMA (TN/MA/W/96)
- Tariff Elimination in the Sports Equipment Sector (TN/MA/W/85)
- Answers by the Co-sponsors to Questions from the Republic of Korea on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/113)
- Answers to Frequently Asked Questions on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/114)
- Answers by the Co-sponsors to Questions from Singapore on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/116)
- Revised Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/93/Rev/1)
- Answers by the Co-sponsors to Questions from New Zealand, Switzerland, and China on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (JOB(09)/162)
- Compendium of Questions and Answers on Negotiating Text on Textiles, Apparel Footwear and Travel Goods Labeling (TN/MA/W/123)
- Revised Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/105/Rev.2)
- Answers to Questions from Singapore on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/115)
- Answers to Questions from Thailand on U.S. Negotiating Text on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (JOB(09)/37)
- Answers to Questions from Canada on U.S. Autos and Electronics NTBs Negotiating Texts (JOB(09)/157)
- Compendium of Questions and Answers on Agreement on NTBs Pertaining to the Electrical Safety and Electromagnetic Compatibility of Electronic Goods (TN/MA/W/125)
- Revised Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/120)
- Answers to Questions from Singapore on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/121)

- Compendium of Questions and Answers on Agreement on Non-Tariff Barriers Pertaining to Standards, Technical Regulations, and Conformity Assessment Procedures for Automotive Products (TN/MA/W/126)
- Answers by the Co-sponsors to Questions from the Republic of Korea on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/112)
- Answers by the Co-sponsors to Questions from Singapore on the Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/117)
- Revised Negotiating Text on Liberalizing Trade in Remanufactured Goods (TN/MA/W/18/Add.16/Rev.3)
- Answers by the Co-sponsors to Questions from Malaysia on the Ministerial Decision on Trade in Remanufactured Goods (JOB(09)/155)
- Answer by the Co-sponsors to Questions from China on Remanufacturing (TN/MA/W/122)
- Compendium of Questions and Answers on Ministerial Decision on Trade in Remanufactured Goods (TN/MA/W/124)
- Report on 4 November 2009 Remanufacturing Workshops (JOB(09)/179
- Revised Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/Add.4/Rev.4)
- Answers by the Co-sponsors to Questions from Malaysia on Negotiating Text on Enhanced Transparency in Export Licensing (JOB(09)/127)
- Compendium on Questions and Answers on Negotiating Text on Enhanced Transparency in Export Licensing (TN/MA/W/130)

Negotiating Group on Rules

- Fisheries Subsidies -- Joint communication from the United States, Australia, Chile, Ecuador, Iceland, New Zealand, Peru, and the Philippines (TN/RL/W/3)
- Fisheries Subsidies (TN/RL/W/21)
- OECD Steel Paper (TN/RL/W/24)
- Questions on Papers Submitted to Rules Negotiating Group (TN/RL/W/25)
- Basic Concepts of the Trade Remedies Rules (TN/RL/W/27)
- Special and Differential Treatment and the Subsidies Agreement (TN/RL/W/33)
- Second Set of Questions from the United States on Papers Submitted to the Rules Negotiating Group (TN/RL/W/34)
- Investigatory Procedures Under The Antidumping and Subsidies Agreements (TN/RL/W/35)
- Communication From The United States Attaching A Communiqué From The Organization For Economic Cooperation And Development (OECD) (TN/RL/W/49)
- Circumvention (TN/RL/W/50)
- Replies To Questions Presented To The United States On Submission TN/Rl/W/27 (TN/RL/W/53)
- Third Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/54)
- Responses By The United States To Questions From Australia On Investigatory Procedures Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/71)
- Identification Of Certain Major Issues Under The Anti-Dumping And Subsidies Agreements (TN/RL/W/72)
- Possible Approaches To Improved Disciplines On Fisheries Subsidies (TN/RL/W/77)
- Subsidies Disciplines Requiring Clarification And Improvement (TN/RL/W/78)
- Elements Of A Steel Subsidies Agreement (TN/RL/W/95)
- Identification of Additional Issues under the Anti-dumping and Subsidies Agreements (TN/RL/W/98)
- Fourth Set Of Questions From The United States On Papers Submitted To The Rules Negotiating Group (TN/RL/W/103)

- Further Issues Identified Under The Anti-Dumping And Subsidies Agreements For Discussion By the Negotiating Group On Rules (TN/RL/W/130)
- Replies to the Questions from India on TN/RL/W/35 (TN/RL/W/147)
- Three Issues Identified by the United States (TN/RL/W/153)
- Accrual of Interest (TN/RL/W/168)
- Additional Views on the Structure of the Fisheries Subsidies Negotiations (TN/RL/W/169)
- Fisheries Subsidies (TN/RL/W/196) (co-sponsored with Brazil, Chile, Colombia, Ecuador, Iceland, New Zealand, Pakistan and Peru)
- Offsets for Non-Dumped Comparisons (TN/RL/W/208)
- Allocation of Subsidy Benefits Over Time (TN/RL/GEN/4)
- Exchange Rates (TN/RL/W/GEN/5)
- New Shipper Reviews (TN/RL/GEN/11)
- Allocation Periods for Subsidy Benefits (TN/RL/GEN/12)
- Prompt Access to Non-Confidential Information (TN/RL/GEN/13)
- Conduct of Verifications (TN/RL/GEN/15)
- All-Others Rate (TN/RL/GEN/16)
- Expensing Versus Allocating Subsidy Benefits (TN/RL/GEN/17/Rev.1)
- Preliminary Determinations (TN/RL/GEN/25)
- Circumvention (TN/RL/GEN/29)
- Fisheries Subsidies – Programmes for Decommissioning of Vessels and Licence Retirement (TN/RL/GEN/41)
- Further Submission on When and How to Allocate Subsidy Benefits Over Time (TN/RL/GEN/45)
- Further Comments on Lesser Duty Proposals (TN/RL/GEN/58)
- Causation (TN/RL/GEN/59)
- Submission on Circumvention (TN/RL/GEN/71)
- Identification of Parties (TN/RL/GEN/89) (co-sponsored with Brazil)
- Access to Non-Confidential Information (TN/RL/GEN/90)
- New Shipper Reviews (TN/RL/GEN/91)
- Expanding the Prohibited "Red Light" Subsidy Category (TN/RL/GEN/94)
- Further Submission on Facts Available (TN/RL/GEN/105)
- Circumvention (TN/RL/GEN/106)
- Exchange Rates (TN/RL/GEN/107)
- Disclosure of Essential Preliminary Legal and Factual Considerations (Mandatory Preliminary Determinations) (TN/RL/GEN/108)
- Fisheries Subsidies (TN/RL/GEN/127)
- Causation (TN/RL/GEN/128)
- Definition of Domestic Industry for Perishable, Seasonal Agricultural Products (TN/RL/GEN/129)
- Allocation and Expensing of Subsidies Benefits (TN/RL/GEN/130)
- Collection of Anti-Dumping Duties under Article 9.3 (TN/RL/GEN/131)
- Conduct of On-the-Spot Investigations (TN/RL/GEN/132)
- Disclosure of Calculations in Preliminary and Final Determinations (TN/RL/GEN/133)
- Fisheries Subsidies: Proposed New Disciplines (TN/RL/GEN/145)
- Expanding the Prohibited Red Light Subsidy Category – Draft Text (TN/RL/GEN/146)
- Proposal on Offsets for Non-Dumped Comparisons (TN/RL/GEN/147)
- Fisheries Subsidies (TN/RL/W/235) (co-sponsored with Australia and New Zealand)

Committee on Antidumping Practices

- Proposal for Operationalization of Art. 15 (G/ADP/AHG/W/138)

- Draft Recommendation on Operationalizing Art. 15 (G/ADP/AHG/W/143)
- Para. 7.4: Annual Reviews of the Antidumping Agreement (G/ADP/W/427)

Committee on Subsidies and Countervailing Measures

- Approval of Qualifying Requests under SCM Article. 27.4, Joint communication from the United States, Australia, Canada, the EU, Japan and Switzerland (G/SCM/W/521)

Dispute Settlement Body, Special Session

- Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO-Related to Transparency (TN/DS/W/13)
- Negotiations on Improvements And Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/28)
- Further Contribution of The United States to The Improvement of The Dispute Settlement Understanding of the WTO Related to Transparency (TN/DS/W/46)
- Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding on Improving Flexibility and Member Control in WTO Dispute Settlement, Joint communication from United States and Chile (TN/DS/W/52)
- Some Questions for Consideration on Item(f) (TN/DS/W/74)
- Contribution of the United States on Some Practical Considerations in Improving the Dispute Settlement Understanding of the WTO Related to Transparency and Open Meetings (TN/DS/W/79)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement (TN/DS/W/82)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum (TN/DS/W/82/Add.1)
- Further Contribution of the United States on Improving Flexibility and Member Control in WTO Dispute Settlement, Addendum, Corrigendum (TN/DS/W/82/Add.1/Corr.1)
- Further Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO Related to Transparency - Revised Legal Drafting (TN/DS/W/86)
- Dispute Settlement Body - Special Session - Negotiations on Improvements and Clarifications of the Dispute Settlement Understanding - Further Contribution of the United States on Improving Flexibility and Member Control - Addendum (TN/DS/W/82/Add.2)
- Flexibility and Member Control - Revised Textual Proposal by Chile and the United States (TN/DS/W/89)

Trade Facilitation

- Article VIII - Fees and Formalities (G/C/W/384)
- Article X - Publication and Administration (G/C/W/400)
- Integrated and Comprehensive Approach to Special and Differential Treatment (G/C/W/451)
- Communication on Trade Facilitation (JOB(04)/103)
- Introduction to Proposals by the United States of America (TN/TF/W/11)
- Advance Binding Rulings (TN/TF/W/12)
- Proposal on Transparency and Publication (TN/TF/W/13)
- Communication from the United States (TN/TF/W/14)
- Express Shipments (TN/TF/W/15)
- Release of Goods (TN/TF/W/21)
- Consularization - Proposal from Uganda and the United States (TN/TF/W/22)
- Multilateral Mechanism - Proposal from India and the United States (TN/TF/W/57)

- United States Assistance on Trade Facilitation (TN/TF/W/71)
- Communication from Australia, Canada and the United States - Draft Text on Advance Rulings (TN/TF/W/125)
- Communication from Uganda and the United States – Consularization (TN/TF/W/86 and Add.1)
- Communication from Uganda and the United States – Consularization (TN/TF/W/104)
- Communication from the United States - Express Shipments (TN/TF/W/91)
- Communication from Chile, Peru, and the United States - Internet Publication (TN/TF/W/89)
- Communication from Australia, Canada, and the United States - Common Elements of Advance Rulings (TN/TF/W/80)
- Communication from the United States – Draft Text on Internet Publication (TN/TF/W/145)
- Communication from the United States – Draft Text on Expedited Shipments (TN/TF/W/144 and Rev.1,2 &3)
- Communication from the United States United States – Assistance on Trade Facilitation (TN/TF/W/151)
- Communication From Australia, Canada, Turkey And The United States – Draft Text On Advance Rulings (TN/TF/W/153 and Rev.1)
- Communication From Uganda And The United States – Prohibiting Consularization Requirements: Fulfilling A Longstanding Trade Facilitation Objective (TN/TF/W/156)
- Communication from the United States – Transition Provisions for Developing and Least Developed Country Members (TN/TF/W/166)

Committee on Trade and Environment, Regular and Special Session

- Sub-Paragraph 31 (i) of the Doha Declaration – Relationship between existing WTO rules and specific trade obligations set out in Multilateral Environmental Agreements (MEAs) (TN/TE/W/20 and TN/TE/W/40)
- Sub-Paragraph 31 (ii) of the Doha Declaration - Procedures for information exchange between MEA Secretariats and relevant WTO committees and criteria for granting MEA observer status (TN/TE/W/5 and TN/TE/W/70)
- Sub-Paragraph 31(iii) of the Doha Declaration – Market access for environmental goods and services (TN/TE/W/8, TN/TE/W/34, TN/TE/W/38, TN/TE/W/52, TN/TE/W/64, TN/TE/W/65, JOB(06)140 and JOB(06)169, JOB(07)/54, and JOB(07)193)
- Paragraph 33 of the Doha Declaration (WT/CTE/W/227)

Six dual submissions on Environmental Goods to the Committee on Trade and Environment Special Session and the Negotiating Group on Market Access are also listed under the Negotiating Group on Market Access.

Council on TRIPS, Regular & Special Session

- Questions and Answers: Comparison of Proposals (TN/IP/W/1)
- Issues for Discussion, Article 23.4 (TN/IP/W/2)
- Proposal for a Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits Based on Article 23.4 of the TRIPS Agreement (TN/IP/W/5)
- Multilateral System of Registration and Protection of Geographic Indications for Wine & Spirits (TN/IP/W/6)
- Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/340)
- Second Submission on Paragraph 6 of the Doha Declaration on TRIPS and Public Health (IP/C/W/358)
- Implications of Article 23 Extension (IP/C/W/386)

- Moratorium to Address Needs of Developing and Least-Developed Members with No or Insufficient Manufacturing Capacities in the Pharmaceutical Sector (IP/C/W/396)
- Joint Proposal for a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/9)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/434)
- Technology Transfer Practices of the U.S. National Cancer Institute's Departmental Therapeutics Program (IP/C/W/341)
- Access to Genetic Resources: Regime of the United States' National Parks (IP/C/W/393)
- Proposed Draft TRIPS Council Decision on the Establishment of a Multilateral System of Notification and Registration of Geographical Indications for Wines and Spirits (TN/IP/W/10 and Add.1)
- Article 27.3(B), Relationship between the TRIPS Agreement and the CBD and the Protection of Traditional Knowledge and Folklore (IP/C/W/449)
- Comments on Implementation of the 30 August 2003 Agreement (Solution) on the TRIPS Agreement and Public Health (IP/C/W/444)
- Relationship between the Trips Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore (IP/C/W/469)

Committee on Trade and Development, Special Session

- Remarks on the Review of Special and Differential Treatment (TN/CTD/W/9)
- Monitoring Mechanism (TN/CTD/W/19)
- Approach to Agreement-Specific Proposals (TN/CTD/W/27)

Working Group on Transparency in Government Procurement

- Capacity Building Questions (WT/WGTGP/W/34)
- Workplan Proposal (WT/WGTGP/W/35)
- Considerations Related to Enforcement of an Agreement on Transparency in Government Procurement (WT/WGTGP/W/38)

Work Program on Electronic Commerce

- Work Program on Electronic Commerce (WT/GC/W/493/Rev.1)

Working Group on the Relationship between Trade and Investment

- Covering FDI & Portfolio Investment in an Agreement (WT/WGTI/W/142)

Working Group on the Interaction between Trade and Competition Policy

- Technical Assistance (WT/WGTCP/W/185)
- Hardcore Cartels (WT/WGTCP/W/203)
- Voluntary Cooperation (WT/WGTCP/W/204)
- Transparency & Non-discrimination (WT/WGTCP/W/218)
- Procedural Fairness (WT/WGTCP/W/219)
- The Benefits of Peer Review in the WTO Competition Context (WT/WGTCP/W/233)

Updated: 28 Dec 2009

WTO Affinity Groups in the DDA

(As of December 31, 2009)

G-20	G-33	G-10	NAMA-11	LDCs in WTO
Argentina	Antigua- Barbuda	Chinese Taipei	Argentina	Angola
Bolivia	Barbados	Iceland	**Brazil****	Bangladesh
Brazil**	Belize	Israel	Egypt	Benin
Chile	Benin	Japan	**India****	Burkina Faso
China	Bolivia	Korea	Indonesia	Burundi
Cuba	Botswana	Liechtenstein	Namibia	Cambodia
Ecuador	China	Mauritius	Philippines	Central Africa Rep
Egypt	Congo	Norway	**South Africa****	Chad
Guatemala	Cote d'Ivoire	**Switzerland****	Tunisia	Congo, DRC
India	Cuba		Venezuela	Djibouti
Indonesia	Dominica			Gambia
Mexico	Dominican Republic.			Guinea
Nigeria	El Salvador			Guinea Bissau
Pakistan	Grenada			Haiti
Paraguay	Guatemala			Lesotho
Peru	Guyana			Madagascar
Philippines	Haiti			Malawi
South Africa	Honduras			Maldives
Tanzania	India			Mali
Thailand	**Indonesia****			Mauritania
Uruguay	Jamaica			Mozambique
Venezuela	Kenya			Myanmar (Burma)
Zimbabwe	Korea			Nepal
	Madagascar			Niger
	Mauritius			Rwanda
	Mongolia			Senegal
	Mozambique			Sierra Leone
	Nicaragua			Solomon Islands
	Nigeria			Tanzania
	Pakistan			Togo
	Panama			Uganda
	Peru			Zambia
	Philippines			
	St. Kitts &Nevis			**LDCs acceding:**
	St. Lucia			Afghanistan
	St. Vincent & Grenadines			Bhutan
	Senegal			Comoros
	Sri Lanka			Equatorial Guinea
	Suriname			Ethiopia
	Tanzania			Laos
	Trinidad &Tobago			Liberia
	Turkey			Samoa
	Uganda			Sao Tome & Principe
	Venezuela			Sudan
	Zambia			Vanuatu
	Zimbabwe			Yemen
				WTO Observers:
				Holy See*

** = Group Coordinator

*Permanent Observer Status

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION

as of December 31, 2009 (153 Members)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Albania	September 8, 2000	Democratic Republic of the Congo	January 1, 1997
Angola	November 23, 1996	Denmark	January 1, 1995
Antigua and Barbuda	January 1, 1995	Djibouti	May 31, 1995
Argentina	January 1, 1995	Dominica	January 1, 1995
Armenia	February 5, 2003	Dominican Republic	March 9, 1995
Australia	January 1, 1995	Ecuador	January 21, 1996
Austria	January 1, 1995	Egypt	June 30, 1995
Bahrain0078	January 1, 1995	El Salvador	May 7, 1995
Bangladesh	January 1, 1995	Estonia	November 13, 1999
Barbados	January 1, 1995	European Union	January 1, 1995
Belgium	January 1, 1995	Fiji	January 14, 1996
Belize	January 1, 1995	Finland	January 1, 1995
Benin	February 22, 1996	France	January 1, 1995
Bolivia	September 12, 1995	Gabon	January 1, 1995
Botswana	May 31, 1995	Georgia	June 14, 2000
Brazil	January 1, 1995	Germany	January 1, 1995
Brunei Darussalam	January 1, 1995	Ghana	January 1, 1995
Bulgaria	December 1, 1996	Greece	January 1, 1995
Burkina Faso	June 3, 1995	Grenada	February 22, 1996
Burundi	July 23, 1995	Guatemala	July 21, 1995
Cambodia	October 12. 2004	Guinea	October 25, 1995
Cameroon	December 13, 1995	Guinea Bissau	May 31, 1995
Canada	January 1, 1995	Guyana	January 1, 1995
Cape Verde	July 23, 2008		
Central African Republic	May 31, 1995	Haiti	January 30, 1996
Chad	October 19, 1996	Honduras	January 1, 1995
Chile	January 1, 1995	Hong Kong, China	January 1, 1995
China	December 11, 2001	Hungary	January 1, 1995
Colombia	April 30, 1995	Iceland	January 1, 1995
Congo	March 27, 1997	India	January 1, 1995
Costa Rica	January 1, 1995	Indonesia	January 1, 1995
Côte d'Ivoire	January 1, 1995	Ireland	January 1, 1995
Croatia	November 30, 2000	Israel	April 21, 1995
Cuba	April 20, 1995	Italy	January 1, 1995
Cyprus	July 30, 1995	Jamaica	March 9, 1995
Czech Republic	January 1, 1995	Japan	January 1, 1995

MEMBERSHIP OF THE WORLD TRADE ORGANIZATION (cont.)

Government	Entry into Force/ Membership	Government	Entry into Force/ Membership
Jordan	April 11, 2000	Norway	January 1, 1995
Kenya	January 1, 1995	Oman	November 9, 2000
Korea, Republic of	January 1, 1995	Pakistan	January 1, 1995
Kuwait	January 1, 1995	Panama	September 6, 1997
Kyrgyz Republic	December 20, 1998	Papua New Guinea	June 9, 1996
Latvia	February 10, 1999	Paraguay	January 1, 1995
Lesotho	May 31, 1995	Peru	January 1, 1995
Liechtenstein	September 1, 1995	Philippines	January 1, 1995
Lithuania	May 31, 2001	Poland	July 1, 1995
Luxembourg	January 1, 1995	Portugal	January 1, 1995
Macao, China	January 1, 1995	Qatar	January 13, 1996
Macedonia	April 4, 2003	Romania	January 1, 1995
Madagascar	November 17, 1995	Rwanda	May 22, 1996
Malawi	May 31, 1995	Saint Kitts and Nevis	February 21, 1996
Malaysia	January 1, 1995	Saint Lucia	January 1, 1995
Maldives	May 31, 1995	Saint Vincent and the Grenadines	January 1, 1995
Mali	May 31, 1995	Saudi Arabia	December 11, 2005
Malta	January 1, 1995	Senegal	January 1, 1995
Mauritania	May 31, 1995	Sierra Leone	July 23, 1995
Mauritius	January 1, 1995	Singapore	January 1, 1995
Mexico	January 1, 1995	Slovak Republic	January 1, 1995
Moldova	July 26, 2001	Slovenia	July 30, 1995
Mongolia	January 29, 1997	Solomon Islands	July 26, 1996
Morocco	January 1, 1995	South Africa	January 1, 1995
Mozambique	August 26, 1995	Spain	January 1, 1995
Myanmar	January 1, 1995	Sri Lanka	January 1, 1995
Namibia	January 1, 1995	Suriname	January 1, 1995
Nepal	April 14, 2003	Swaziland	January 1, 1995
Netherlands - For the Kingdom in Europe and Netherlands Antilles	January 1, 1995	Sweden	January 1, 1995
New Zealand	January 1, 1995	Switzerland	July 1, 1995
Nicaragua	September 3, 1995	Taiwan (referred to in the WTO as Chinese Taipei)	January 1, 2002
Niger	December 13, 1996	Tanzania	January 1, 1995
Nigeria	January 1, 1995	Thailand	January 1, 1995
		Ukraine	May 16, 2008
The Gambia	October 23, 1996	United Kingdom	January 1, 1995
Togo	May 31, 1995	United States of America	January 1, 1995
Tonga	July 27, 2007	Uruguay	January 1, 1995
Trinidad and Tobago	March 1, , 1995	Venezuela	January 1, 1995
Tunisia	March 29, 1995	Vietnam	January 11, 2007
Turkey	March 26, 1995	Zambia	January 1, 1995
Uganda	January 1, 1995	Zimbabwe	March 5, 1995

United Arab Emirates	April 10, 1996		

2010-2011 PROPOSED REVISED **CONSOLIDATED**
WTO BUDGET FOR THE WTO SECRETARIAT AND THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss Francs)

Part	Line	2009	Inc/Dec 2010	2010	Inc/Dec 2011	2011	Diff. 2010	Diff. 2011
A	Sect 1 Work Years							
	(a)Salary	86,811,900	1,619,400	88,431,300	2,386,800	90,818,100	1.87%	2.70%
	(b)Pension	17,639,300	1,239,200	18,878,500	304,700	19,183,200	7.03%	1.61%
	(c)Common Staff Costs	16,986,000	1,303,500	18,289,500	216,700	18,506,200	7.67%	1.18%
	Sect 2 Temporary Assistance	14,975,500	899,800	15,875,300	117,400	15,992,700	6.01%	0.74%
B	Sect 3 Communications							
	(a) Telecommunications	506,500	(20,000)	486,500	20,000	506,500	(3.95%)	4.11%
	(b) Postal Charges	1,305,000	(5,000)	1,300,000	(20,000)	1,280,000	(0.38%)	(1.54%)
	Sect 4 Building Facilities							
	(a) Rental	609,000	11,000	620,000	5,000	625,000	1.81%	0.81%
	(b) Utilities	1,876,000	38,000	1,914,000	15,000	1,929,000	2.03%	0.78%
	(c) Maintenance and Insurance	1,211,000	98,000	1,309,000	3,000	1,312,000	8.09%	0.23%
	Sect 5 Permanent Equipment							
	(a)Permanent Equipment	1,266,000	(263,000)	1,003,000	22,000	1,025,000	(20.77%)	2.19%
	(b)Perm. Equipment Lease	932,000	(805,000)	127,000	(63,000)	64,000	(86.37%)	(49.61%)
	Sect 6 Expendable Supplies	1,305,000	(114,000)	1,191,000	90,000	1,281,000	(8.74%)	7.56%
	Sect 7 Contractual Services							
	(a) Reproduction	1,425,000	(20,000)	1,405,000	215,600	1,620,600	(1.40%)	15.35%
	(b) Office Automation	3,756,000	35,000	3,791,000	(426,000)	3,365,000	0.93%	(11.24%)
	(c)Other	282,000	(63,000)	219,000	19,000	238,000	(22.34%)	8.68%
	(d) Security Outsourcing	3,787,000	96,000	3,883,000	130,000	4,013,000	2.53%	3.35%
C	Sect 8 Staff Overheads							
	(a) Training	1,775,000	(250,000)	1,525,000	0	1,525,000	(14.08%)	0.00%
	(b) Insurance	2,622,500	185,500	2,808,000	203,000	3,011,000	7.07%	7.23%
	(c) Joint Services	204,000	51,000	255,000	0	255,000	25.00%	0.00%
	(d) Miscellaneous	32,000	4,000	36,000	0	36,000	12.50%	0.00%
	Sect 9 Missions							
	(a)Missions Official	1,533,000	0	1,533,000	0	1,533,000	0.00%	0.00%
	(b)Missions Technical	1,406,000	0	1,406,000	0	1,406,000	0.00%	0.00%
	Sect 10 Trade Policy Courses	3,823,600	(508,600)	3,315,000	0	3,315,000	(13.30%)	0.00%
	Sect 11 Various							
	(a) Representation and Hospitality	299,000	0	299,000	0	299,000	0.00%	0.00%
	(b) Dispute Settlement Panels	1,247,000	(260,000)	987,000	0	987,000	(20.85%)	0.00%
	(c) Experts	50,000	0	50,000	0	50,000	0.00%	0.00%
	(d) Appellate Body Members	789,700	3,800	793,500	3,800	797,300	0.48%	0.48%
	(e) Library	700,000	0	700,000	0	700,000	0.00%	0.00%
	(f) Publications	790,000	13,000	803,000	0	803,000	1.65%	0.00%
	(g) Public Information Activities	270,000	110,000	380,000	0	380,000	40.74%	0.00%
	(h) External Auditors	40,000	10,000	50,000	0	50,000	25.00%	0.00%
	(i) Ministerial Operating Fund	0	600,000	600,000	0	600,000	0.00%	0.00%
	(j) ISO	57,000	0	57,000	0	57,000	0.00%	0.00%
	(k) Other	80,000	50,000	130,000	0	130,000	62.50%	0.00%
	(l) Appellate Body Operating Fund	1,575,700	(75,700)	1,500,000	100,000	1,600,000	(4.80%)	6.67%
	(m) Security Enhancement Programme	330,000	(330,000)	0	0	0	(100.00%)	0.00%
	Sect 12 Unforeseen	100,000	(100,000)	0	0	0	(100.00%)	0.00%
D	Sect 13 ITC	16,859,900	1,179,000	18,038,900	872,100	18,911,000	6.99%	4.83%
Grand Total		**189,257,600**	**4,731,900**	**193,989,500**	**4,215,100**	**198,204,600**	**2.50%**	**2.17%**

2010-2011 PROPOSED REVISED BUDGET FOR
THE WTO SECRETARIAT
(in Swiss Francs)

Part	Section/Line	2009	Inc/Dec 2010	2010	Inc/Dec 2011	2011	Diff 2010	Diff. 2011
A	Sect 1 Work Years				2,328,30			
	(a)Salary	84,732,900	1,608,900	86,341,800	0	88,670,100	1.90%	2.70%
	(b)Pension	17,216,300	1,216,700	18,433,000	294,200	18,727,200	7.07%	1.60%
	(c)Common Staff Costs	16,587,000	1,272,000	17,859,000	212,200	18,071,200	7.67%	1.19%
	Sect 2 Temporary Assistance	14,909,900	899,800	15,809,700	117,400	15,927,100	6.03%	0.74%
B	Sect 3 Communications							
	(a) Telecommunications	500,000	(20,000)	480,000	20,000	500,000	(4.00%)	4.17%
	(b) Postal Charges	1,305,000	(5,000)	1,300,000	(20,000)	1,280,000	(0.38%)	(1.54%)
	Sect 4 Building Facilities							
	(a) Rental	609,000	11,000	620,000	5,000	625,000	1.81%	0.81%
	(b) Utilities	1,863,000	38,000	1,901,000	15,000	1,916,000	2.04%	0.79%
	(c) Maintenance and Insurance	1,206,000	98,000	1,304,000	3,000	1,307,000	8.13%	0.23%
	Sect 5 Permanent Equipment							
	(a)Permanent Equipment	1,241,000	(263,000)	978,000	22,000	1,000,000	(21.19%)	2.25%
	(b)Perm. Equipment Lease	932,000	(805,000)	127,000	(63,000)	64,000	(86.37%)	(49.61%)
	Sect 6 Expendable Supplies	1,285,000	(114,000)	1,171,000	90,000	1,261,000	(8.87%)	7.69%
	Sect 7 Contractual Services							
	(a) Reproduction	1,410,000	(20,000)	1,390,000	215,600	1,605,600	(1.42%)	15.51%
	(b) Office Automation	3,746,000	35,000	3,781,000	(426,000)	3,355,000	0.93%	(11.27%)
	(c) Other	282,000	(63,000)	219,000	19,000	238,000	(22.34%)	8.68%
	(d) Security Outsourcing	3,787,000	96,000	3,883,000	130,000	4,013,000	2.53%	3.35%
C	Sect 8 Staff Overheads							
	(a) Training	1,750,000	(250,000)	1,500,000	0	1,500,000	(14.29%)	0.00%
	(b) Insurance	2,610,500	185,500	2,796,000	203,000	2,999,000	7.11%	7.26%
	(c) Joint Services	204,000	51,000	255,000	0	255,000	25.00%	0.00%
	(d) Miscellaneous	30,000	4,000	34,000	0	34,000	13.33%	0.00%
	Sect 9 Missions							
	(a)Missions Official	1,496,000	0	1,496,000	0	1,496,000	0.00%	0.00%
	(b)Missions Technical	1,406,000	0	1,406,000	0	1,406,000	0.00%	0.00%
	Sect 10 Trade Policy Courses	3,823,600	(508,600)	3,315,000	0	3,315,000	(13.30%)	0.00%
	Sect 11 Various							
	(a) Representation and Hospitality	298,000	0	298,000	0	298,000	0.00%	0.00%
	(b) Dispute Settlement Panels	1,247,000	(260,000)	987,000	0	987,000	(20.85%)	0.00%
	(c) Experts	50,000	0	50,000	0	50,000	0.00%	0.00%
	(e) Library	690,000	0	690,000	0	690,000	0.00%	0.00%
	(f) Publications	790,000	13,000	803,000	0	803,000	1.65%	0.00%
	(g) Public Information Activities	270,000	110,000	380,000	0	380,000	40.74%	0.00%
	(h) External Auditors	40,000	10,000	50,000	0	50,000	25.00%	0.00%
	(i) Ministerial Operating Fund	0	600,000	600,000	0	600,000	0.00%	0.00%
	(j) ISO	57,000	0	57,000	0	57,000	0.00%	0.00%
	(k) Other	80,000	50,000	130,000	0	130,000	62.50%	0.00%
	(m) Security Enhancement Programme	330,000	(330,000)	0	0	0	(100.00%)	0.00%
	Sect 12 Unforeseen	100,000	(100,000)	0	0	0	(100.00%)	0.00%
D	Sect 13 ITC	16,859,900	1,179,000	18,038,900	872,100	18,911,000	6.99%	4.83%
Grand Total		**183,744,100**	**4,739,300**	**188,483,400**	**4,037,80 0**	**192,521,20 0**	**2.58%**	**2.14%**

2010-2011 PROPOSED REVISED BUDGET FOR
THE APPELLATE BODY AND ITS SECRETARIAT
(in Swiss Francs)

Part	Section/Line	2009	Inc/Dec 2010	2010	Inc/Dec 2011	2011	Diff. 2010	Diff. 2011
A	Sect 1 Work Years							
	(a)Salary	2,079,000	10,500	2,089,500	58,500	2,148,000	0.51%	2.80%
	(b)Pension	423,000	22,500	445,500	10,500	456,000	5.32%	2.36%
	(c)Common Staff Costs	399,000	31,500	430,500	4,500	435,000	7.89%	1.05%
	Sect 2 Temporary Assistance	65,600	0	65,600	0	65,600	0.00%	0.00%
B	Sect 3 Communications							
	(a) Telecommunications	6,500	0	6,500	0	6,500	0.00%	0.00%
	(b) Postal Charges	0	0	0	0	0	0.00%	0.00%
	Sect 4 Building Facilities							
	(b) Utilities	13,000	0	13,000	0	13,000	0.00%	0.00%
	(c) Maintenance and Insurance	5,000	0	5,000	0	5,000	0.00%	0.00%
	Sect 5 Permanent Equipment							
	(a)Permanent Equipment	25,000	0	25,000	0	25,000	0.00%	0.00%
	Sect 6 Expendable Supplies	20,000	0	20,000	0	20,000	0.00%	0.00%
	Sect 7 Contractual Services							
	(a) Reproduction	15,000	0	15,000	0	15,000	0.00%	0.00%
	(b) Office Automation	10,000	0	10,000	0	10,000	0.00%	0.00%
C	Sect 8 Staff Overheads							
	(a) Training	25,000	0	25,000	0	25,000	0.00%	0.00%
	(b) Insurance	12,000	0	12,000	0	12,000	0.00%	0.00%
	(d) Miscellaneous	2,000	0	2,000	0	2,000	0.00%	0.00%
	Sect 9 Missions							
	(a)Missions Official	37,000	0	37,000	0	37,000	0.00%	0.00%
	Sect 11 Various							
	(a) Representation and Hospitality	1,000	0	1,000	0	1,000	0.00%	0.00%
	(d) Appellate Body Members	789,700	3,800	793,500	3,800	797,300	0.48%	0.48%
	(e) Library	10,000	0	10,000	0	10,000	0.00%	0.00%
	(g) Public Information Activities	0	0	0	0	0	0.00%	0.00%
	(l) Appellate Body Operating Fund	1,575,700	(75,700)	1,500,000	100,000	1,600,000	(4.80%)	6.67%
Grand Total		**5,513,500**	**(7,400)**	**5,506,100**	**177,300**	**5,683,400**	**(0.13%)**	**3.22%**

2010 REVISED DRAFT SCALE OF CONTRIBUTIONS
(in Swiss francs with a minimum contribution of 0.015%)

MEMBER	2009 Contributions after Redistribution Surplus	2010 Contribution before Surplus	Refund Surplus 2008	Contribution after Redistribution Surplus 2008[1]	2010 Contribution %	Interest[2] earned in 2008 for 2010	2010 net Contribution
Albania	40,414	42,284	(616)	41,668	0.022%	(321)	41,347
Angola	246,158	307,520	(4,480)	303,040	0.160%	(1,470)	301,570
Antigua and Barbuda	27,555	28,830	(420)	28,410	0.015%	(248)	28,162
Argentina	578,655	643,870	(9,380)	634,490	0.335%	(3,469)	631,021
Armenia	27,555	28,830	(420)	28,410	0.015%	(179)	28,231
Australia	2,103,365	2,225,676	(32,424)	2,193,252	1.158%	(16,858)	2,176,394
Austria	2,509,342	2,464,004	(35,896)	2,428,108	1.282%	(22,665)	2,405,443
Bahrain	148,797	174,902	(2,548)	172,354	0.091%	(709)	171,645
Bangladesh	185,537	194,122	(2,828)	191,294	0.101%	(930)	190,364
Barbados	27,555	28,830	(420)	28,410	0.015%	(89)	28,321
Belgium	4,708,231	4,868,426	(70,924)	4,797,502	2.533%	(35,658)	4,761,844
Belize	27,555	28,830	(420)	28,410	0.015%	(94)	28,316
Benin	27,555	28,830	(420)	28,410	0.015%	(28)	28,382
Bolivia	44,088	48,050	(700)	47,350	0.025%	(8)	47,342
Botswana	62,458	65,348	(952)	64,396	0.034%	(362)	64,034
Brazil	1,647,789	1,814,368	(26,432)	1,787,936	0.944%	(12,023)	1,775,913
Brunei Darussalam	71,643	63,426	(924)	62,502	0.033%	(621)	61,881
Bulgaria	260,854	301,754	(4,396)	297,358	0.157%	(2,053)	295,305
Burkina Faso	27,555	28,830	(420)	28,410	0.015%	(7)	28,403
Burundi	27,555	28,830	(420)	28,410	0.015%	0	28,410
Cambodia	62,458	67,270	(980)	66,290	0.035%	(207)	66,083
Cameroon	51,436	65,348	(952)	64,396	0.034%	(203)	64,193
Canada	6,174,157	6,175,386	(89,964)	6,085,422	3.213%	(55,438)	6,029,984
Cape Verde	27,555	28,830	(420)	28,410	0.015%	0	28,410
Central African Republic	27,555	28,830	(420)	28,410	0.015%	0	28,410
Chad	27,555	42,284	(616)	41,668	0.022%	0	41,668
Chile	611,721	688,076	(10,024)	678,052	0.358%	(2,374)	675,678
China, People's Republic of	10,834,626	12,404,588	(180,712)	12,223,876	6.454%	(16,208)	12,207,668
Colombia	356,378	388,244	(5,656)	382,588	0.202%	(2,544)	380,044
Congo	44,088	63,426	(924)	62,502	0.033%	0	62,502
Costa Rica	157,982	163,370	(2,380)	160,990	0.085%	(742)	160,248
Côte d'Ivoire	113,894	115,320	(1,680)	113,640	0.060%	0	113,640
Croatia	306,779	324,818	(4,732)	320,086	0.169%	(2,242)	317,844
Cuba	113,894	130,696	(1,904)	128,792	0.068%	(650)	128,142
Cyprus	121,242	126,852	(1,848)	125,004	0.066%	(1,040)	123,964
Czech Republic	1,276,715	1,433,812	(20,888)	1,412,924	0.746%	(8,817)	1,404,107
Democratic Republic of the Congo	27,555	28,830	(420)	28,410	0.015%	0	28,410
Denmark	1,807,608	1,883,560	(27,440)	1,856,120	0.980%	(13,601)	1,842,519
Djibouti	27,555	28,830	(420)	28,410	0.015%	0	28,410
Dominica	27,555	28,830	(420)	28,410	0.015%	0	28,410
Dominican Republic	170,841	169,136	(2,464)	166,672	0.088%	(898)	165,774
Ecuador	167,167	178,746	(2,604)	176,142	0.093%	(438)	175,704
Egypt	455,576	505,486	(7,364)	498,122	0.263%	(1,994)	496,128
El Salvador	99,198	98,022	(1,428)	96,594	0.051%	(5)	96,589
Estonia	161,656	180,668	(2,632)	178,036	0.094%	(1,282)	176,754
European Union	0	0	0	0	0.000%	0	0
Fiji	27,555	28,830	(420)	28,410	0.015%	(183)	28,227
Finland	1,173,843	1,241,612	(18,088)	1,223,524	0.646%	(10,212)	1,213,312
Former Yugoslav Republic	44,088	49,972	(728)	49,244	0.026%	(388)	48,856

[1] The 2008 Surplus is distributed on the same basis as the Members' assessed contributions for 2010.

[2] Interest earned in 2008 under the Early Payment Encouragement Scheme (L/6384) to be deducted from the 2010 contributions.

2010 REVISED DRAFT SCALE OF CONTRIBUTIONS
(in Swiss francs with a minimum contribution of 0.015%)

MEMBER	2009 Contributions after Redistribution Surplus	2010 Contribution before Surplus	Refund Surplus 2008	Contribution after Redistribution Surplus 2008[1]	2010 Contribution %	Interest[2] earned in 2008 for 2010	2010 net Contribution
of Macedonia							
France	8,663,292	8,891,172	(129,528)	8,761,644	4.626%	(70,478)	8,691,166
Gabon	44,088	44,206	(644)	43,562	0.023%	0	43,562
Gambia	27,555	28,830	(420)	28,410	0.015%	0	28,410
Georgia	36,740	44,206	(644)	43,562	0.023%	(245)	43,317
Germany	16,169,274	17,169,226	(250,124)	16,919,102	8.933%	(137,433)	16,781,669
Ghana	77,154	84,568	(1,232)	83,336	0.044%	(41)	83,295
Greece	887,271	953,312	(13,888)	939,424	0.496%	(5,145)	934,279
Grenada	27,555	28,830	(420)	28,410	0.015%	0	28,410
Guatemala	123,079	136,462	(1,988)	134,474	0.071%	(850)	133,624
Guinea	27,555	28,830	(420)	28,410	0.015%	0	28,410
Guinea-Bissau	27,555	28,830	(420)	28,410	0.015%	0	28,410
Guyana	27,555	28,830	(420)	28,410	0.015%	(104)	28,306
Haiti	27,555	28,830	(420)	28,410	0.015%	(146)	28,264
Honduras	64,295	99,944	(1,456)	98,488	0.052%	0	98,488
Hong Kong, China	5,228,102	5,289,344	(77,056)	5,212,288	2.752%	(48,305)	5,163,983
Hungary	1,115,059	1,214,704	(17,696)	1,197,008	0.632%	(9,796)	1,187,212
Iceland	84,502	92,256	(1,344)	90,912	0.048%	(629)	90,283
India	2,283,391	2,066,150	(30,100)	2,036,050	1.075%	(3,277)	2,032,773
Indonesia	1,363,054	1,420,358	(20,692)	1,399,666	0.739%	(9,868)	1,389,798
Ireland	2,301,761	2,354,450	(34,300)	2,320,150	1.225%	(15,878)	2,304,272
Israel	878,086	889,886	(12,964)	876,922	0.463%	(7,609)	869,313
Italy	7,101,842	7,384,324	(107,576)	7,276,748	3.842%	(117,838)	7,158,910
Jamaica	80,828	80,724	(1,176)	79,548	0.042%	(353)	79,195
Japan	9,734,263	9,823,342	(143,108)	9,680,234	5.111%	(63,786)	9,616,448
Jordan	130,427	140,306	(2,044)	138,262	0.073%	(779)	137,483
Kenya	82,665	88,412	(1,288)	87,124	0.046%	(76)	87,048
Korea, Republic of	4,755,993	5,072,158	(73,892)	4,998,266	2.639%	(31,183)	4,967,083
Kuwait	475,783	545,848	(7,952)	537,896	0.284%	0	537,896
Kyrgyz Republic	27,555	28,830	(420)	28,410	0.015%	(15)	28,395
Latvia	124,916	144,150	(2,100)	142,050	0.075%	(979)	141,071
Lesotho	27,555	28,830	(420)	28,410	0.015%	0	28,410
Liechtenstein	44,088	46,128	(672)	45,456	0.024%	(409)	45,047
Lithuania	224,114	251,782	(3,668)	248,114	0.131%	(1,559)	246,555
Luxembourg	718,267	791,864	(11,536)	780,328	0.412%	(5,720)	774,608
Macao, China	137,775	149,916	(2,184)	147,732	0.078%	(1,080)	146,652
Madagascar	27,555	28,830	(420)	28,410	0.015%	(122)	28,288
Malawi	27,555	28,830	(420)	28,410	0.015%	0	28,410
Malaysia	2,208,074	2,266,038	(33,012)	2,233,026	1.179%	(17,906)	2,215,120
Maldives	27,555	28,830	(420)	28,410	0.015%	(162)	28,248
Mali	27,555	28,830	(420)	28,410	0.015%	0	28,410
Malta	77,154	78,802	(1,148)	77,654	0.041%	(669)	76,985
Mauritania	27,555	28,830	(420)	28,410	0.015%	0	28,410
Mauritius	60,621	61,504	(896)	60,608	0.032%	(534)	60,074
Mexico	3,686,859	3,699,850	(53,900)	3,645,950	1.925%	(17,273)	3,628,677
Moldova	29,392	32,674	(476)	32,198	0.017%	(215)	31,983
Mongolia	27,555	28,830	(420)	28,410	0.015%	(22)	28,388
Morocco	299,431	326,740	(4,760)	321,980	0.170%	(1,729)	320,251
Mozambique	36,740	38,440	(560)	37,880	0.020%	(292)	37,588
Myanmar, Union of	51,436	46,128	(672)	45,456	0.024%	(38)	45,418
Namibia	38,577	42,284	(616)	41,668	0.022%	(236)	41,432
Nepal	29,392	28,830	(420)	28,410	0.015%	0	28,410
Netherlands	6,036,382	6,292,628	(91,672)	6,200,956	3.274%	(50,769)	6,150,187
New Zealand	459,250	467,046	(6,804)	460,242	0.243%	(3,981)	456,261
Nicaragua	38,577	42,284	(616)	41,668	0.022%	0	41,668
Niger	27,555	28,830	(420)	28,410	0.015%	0	28,410
Nigeria	433,532	507,408	(7,392)	500,016	0.264%	(1,535)	498,481

2010 REVISED DRAFT SCALE OF CONTRIBUTIONS
(in Swiss francs with a minimum contribution of 0.015%)

MEMBER	2009 Contributions after Redistribution Surplus	2010 Contribution before Surplus	Refund Surplus 2008	Contribution after Redistribution Surplus 2008[1]	2010 Contribution %	Interest[2] earned in 2008 for 2010	2010 net Contribution
Norway	1,589,005	1,687,516	(24,584)	1,662,932	0.878%	(12,861)	1,650,071
Oman	224,114	244,094	(3,556)	240,538	0.127%	(835)	239,703
Pakistan	323,312	344,038	(5,012)	339,026	0.179%	(1,575)	337,451
Panama	159,819	165,292	(2,408)	162,884	0.086%	(1,175)	161,709
Papua New Guinea	38,577	36,518	(532)	35,986	0.019%	(20)	35,966
Paraguay	62,458	67,270	(980)	66,290	0.035%	0	66,290
Peru	249,832	282,534	(4,116)	278,418	0.147%	0	278,418
Philippines	806,443	793,786	(11,564)	782,222	0.413%	(3,987)	778,235
Poland	1,662,485	1,872,028	(27,272)	1,844,756	0.974%	(13,816)	1,830,940
Portugal	951,566	989,830	(14,420)	975,410	0.515%	(1,563)	973,847
Qatar	288,409	347,882	(5,068)	342,814	0.181%	(437)	342,377
Romania	523,545	616,962	(8,988)	607,974	0.321%	(33)	607,941
Rwanda	27,555	28,830	(420)	28,410	0.015%	(204)	28,206
Saint Kitts and Nevis	27,555	28,830	(420)	28,410	0.015%	(159)	28,251
Saint Lucia	27,555	28,830	(420)	28,410	0.015%	(93)	28,317
Saint Vincent and the Grenadines	27,555	28,830	(420)	28,410	0.015%	(133)	28,277
Saudi Arabia, Kingdom of	1,702,899	1,912,390	(27,860)	1,884,530	0.995%	(12,060)	1,872,470
Senegal	33,066	46,128	(672)	45,456	0.024%	0	45,456
Sierra Leone	27,555	28,830	(420)	28,410	0.015%	0	28,410
Singapore	3,962,409	4,172,662	(60,788)	4,111,874	2.171%	(34,463)	4,077,411
Slovak Republic	551,100	641,948	(9,352)	632,596	0.334%	(2,853)	629,743
Slovenia	328,823	361,336	(5,264)	356,072	0.188%	(2,643)	353,429
Solomon Islands	27,555	28,830	(420)	28,410	0.015%	(117)	28,293
South Africa	971,773	1,060,944	(15,456)	1,045,488	0.552%	(6,402)	1,039,086
Spain	4,812,940	5,091,378	(74,172)	5,017,206	2.649%	(28,779)	4,988,427
Sri Lanka	139,612	140,306	(2,044)	138,262	0.073%	(153)	138,109
Suriname	27,555	28,830	(420)	28,410	0.015%	0	28,410
Swaziland	33,066	32,674	(476)	32,198	0.017%	(134)	32,064
Sweden	2,432,188	2,565,870	(37,380)	2,528,490	1.335%	(20,406)	2,508,084
Switzerland	2,533,223	2,629,296	(38,304)	2,590,992	1.368%	(22,110)	2,568,882
Chinese Taipei	3,313,948	3,353,890	(48,860)	3,305,030	1.745%	(808)	3,304,222
Tanzania	51,436	55,738	(812)	54,926	0.029%	(177)	54,749
Thailand	1,903,132	2,014,256	(29,344)	1,984,912	1.048%	(16,516)	1,968,396
Togo	27,555	28,830	(420)	28,410	0.015%	0	28,410
Tonga	27,555	28,830	(420)	28,410	0.015%	(17)	28,393
Trinidad and Tobago	97,361	128,774	(1,876)	126,898	0.067%	(709)	126,189
Tunisia	222,277	234,484	(3,416)	231,068	0.122%	(1,447)	229,621
Turkey	1,544,917	1,733,644	(25,256)	1,708,388	0.902%	(4,319)	1,704,069
Uganda	29,392	32,674	(476)	32,198	0.017%	(29)	32,169
Ukraine	626,417	705,374	(10,276)	695,098	0.367%	(959)	694,139
United Arab Emirates	1,489,807	1,720,190	(25,060)	1,695,130	0.895%	(10,395)	1,684,735
United Kingdom	9,721,404	9,811,810	(142,940)	9,668,870	5.105%	(258,175)	9,410,695
United States	24,773,782	24,912,964	(362,936)	24,550,028	12.962%	(14,545)	24,535,483
Uruguay	67,969	74,958	(1,092)	73,866	0.039%	(150)	73,716
Venezuela	580,492	645,792	(9,408)	636,384	0.336%	(1,949)	634,435
Viet Nam	453,739	622,728	(9,072)	613,656	0.324%	(3,753)	609,903
Zambia	36,740	44,206	(644)	43,562	0.023%	(139)	43,423
Zimbabwe	31,229	28,830	(420)	28,410	0.015%	0	28,410
TOTAL	**183,700,000**	**192,200,000**	**(2,800,000)**	**189,400,000**	**100.00%**	**(1,327,420)**	**188,072,580**

WAIVERS CURRENTLY IN FORCE
(As at 31 December 2009)

WAIVERS	GRANTED	EXPIRY	DECISION
LDCs – Article 70.9 of the TRIPS Agreement with respect to pharmaceutical products	8 July 2002	1 January 2016	WT/L/478
European Communities – European Communities' preferences for Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, and the Former Yugoslav Republic of Macedonia	28 July 2006	31 December 2011	WT/L/654
Canada – CARIBCAN	15 December 2006	31 December 2011	WT/L/677
Cuba – Article XV:6 of GATT 1994	15 December 2006	31 December 2011	WT/L/678
Australia, Botswana, Brazil, Canada, Croatia, India, Israel, Japan, Korea, Mauritius, Mexico, Norway, Philippines, Sierra Leone, Chinese Taipei, Thailand, United Arab Emirates, United States, Venezuela - Kimberley Process Certification Scheme for rough diamonds – Extension of waiver	15 December 2006	31 December 2012	WT/L/676
United States – Former Trust Territory of the Pacific Islands	27 July 2007	31 December 2016	WT/L/694
Mongolia - Export duties on raw cashmere	27 July 2007	29 January 2012	WT/L/695
European Communities – Application of Autonomous Preferential Treatment to Moldova	7 May 2008	31 December 2013	WT/L/722

WAIVERS	GRANTED	EXPIRY	DECISION
Argentina, Australia, Brazil, China, Costa Rica, Croatia, El Salvador, European Communities, Iceland, India, Republic of Korea, Mexico, New Zealand, Norway, Thailand, United States and Uruguay- Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2010	WT/L/786
Argentina, Australia, Brazil, Canada, China, Costa Rica, Croatia, El Salvador, European Communities, Guatemala, Honduras; Hong Kong, China; India, Korea; Macao, China; Malaysia, Mexico, New Zealand, Nicaragua, Norway, Pakistan, Singapore, Switzerland, Thailand, United States and Uruguay- Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions	18 December 2008	31 December 2010	WT/L/787
United States - Caribbean Basin Economic Recovery Act	27 May 2009	31 December 2014	WT/L/753
United States – African Growth and Opportunity Act	27 May 2009	30 September 2015	WT/L/754
United States – Andean Trade Preference Act	27 May 2009	31 December 2014	WT/L/755
Argentina - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 May 2009	30 April 2010	WT/L/757
Panama - Introduction of Harmonized System 1996 Changes into WTO Schedules of Tariff Concessions	27 May 2009	30 April 2010	WT/L/758
Preferential Tariff Treatment for Least-Developed Countries	27 May 2009	30 June 2019	WT/L/759

Number of WTO Staff Members by Job Category on 1 January 2010 (as per information available on 15 December 2009)				
Country	**Senior**	**Professional**	**Support**	**Total**
Argentina		3	5	8
Australia		8	2	10
Austria		5		5
Bangladesh		1		1
Barbados		1		1
Belgium		3	2	5
Benin		1		1
Bolivia		3		3
Brazil		8	2	10
Bulgaria		3		3
Burundi		1		1
Canada		21	3	24
Chile	1	1	2	4
China		8	1	9
Colombia		8	2	10
Congo, The Democratic Republic of the		1		1
Costa Rica		2		2
Cote d'Ivoire			1	1
Cuba			1	1
Denmark		1	1	2
Ecuador		2		2
Egypt		6		6
Estonia		1		1
Finland		3	3	6
France	1	53	131	185
Germany		18	3	21
Ghana		2		2
Greece		4	2	6
Guatemala		1		1
Guinea		1		1
Honduras			1	1
Hong Kong, China		1		1
Hungary		1		1
India	1	11	2	14
Ireland		5	7	12
Italy		12	3	15
Japan		3		3
Korea, Republic of		4		4
Lesotho		1		1
Malawi		1		1
Malaysia		2	1	3
Mauritius		1	1	2
Mexico		5		5

Number of WTO Staff Members by Job Category on 1 January 2010
(as per information available on 15 December 2009)

Country	Senior	Professional	Support	Total
Morocco		2	1	3
Netherlands		6	1	7
New Zealand		4	1	5
Nigeria		1		1
Norway		1	1	2
Pakistan		2		2
Paraguay			1	1
Peru		1	6	7
Philippines		7	2	9
Poland		2	2	4
Portugal			1	1
Romania		1	2	3
Rwanda	1	1		2
Saint Lucia		1		1
Senegal		1	1	2
South Africa		1		1
Spain		24	22	46
Sri Lanka		1	2	3
Sweden		3	1	4
Switzerland		17	18	35
Tanzania		1		1
Thailand		1		1
Trinidad and Tobago		1		1
Tunisia		4	2	6
Turkey		3		3
Uganda		2		2
United Kingdom		26	42	68
United States	1	23	5	29
Uruguay		3	4	7
Venezuela		4		4
Zambia		1		1
Zimbabwe		1	1	2
Total	5	363	292	660

Note: Senior Management includes the Director-General and Deputies Director-General

	Annual Average Base Salary
Senior Management	**273,637 CHF**
Professional staff	**162,232 CHF**
Support staff	**97,994 CHF**

Source: WTO Secretariat as of December 31, 2009

WTO ACCESSION APPLICATIONS AND STATUS (as of 01-01-10)[1]

Applicant	Status of Multilateral and Bilateral Work
Afghanistan* (2004)	Submitted initial documentation to activate the accession negotiations in April 2009. WTO Members have submitted questions and comments on that documentation. First Working Party (WP) meeting likely after Afghanistan provides written responses. The United States is providing technical assistance through the United States Agency for International Development (USAID), including drafting documentation, training, legal drafting, and institution building.
Algeria (1987)	Most recent WP meeting held in January 2008 to review draft WP report and status of market access negotiations. No WP meetings held in 2009.
Andorra (1997)	Inactive. Last WP meeting held on October 13, 1999, reviewed legislative implementation schedule and goods and services market access offers.
Azerbaijan (1997)	Seventh WP meeting held in July 2009 to review additional documentation (including a factual summary), discuss domestic market support and subsidies in agriculture, and conduct market access negotiations for goods and services based on April 2009 offers. The United States continues to provide technical assistance (through USAID) in the form of a resident advisor for drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures, to facilitate the accession process.
Bahamas (2001)	Submitted initial documentation to activate the accession negotiations in April 2009. WTO Members have submitted questions and comments on that documentation. First WP meeting likely after written responses are provided
Belarus (1993)	Inactive. Chairman's Consultations in June 2009 confirmed willingness of WP Members to resume Working Party deliberations, if Belarus can demonstrate that it intends to implement WTO provisions. Belarus also will need to provided updated documentation on its trade regime as well as substantially improved offers on goods and services market access. Next meeting not scheduled.
Bhutan * (1999)	Fourth WP held in January 2008 to review additional documentation and conduct market access negotiations for goods and services. Bhutan did not seek further work on its WTO accession in 2009, and no further meetings are scheduled at this time.
Bosnia and Herzegovina (1999)	Seventh WP meeting held July 2009 to review elements of a draft WP report, revised data on agricultural supports and a revised legislative action plan, and to conduct market access negotiations based on April 2009 offers. Next meeting planned for February 2010. The United States is providing technical assistance through the Commercial Law Development Program (CLDP) in drafting documentation, training, legal drafting, and institution building.

* Designates "least developed country" applicant.

1 "Applicant" column includes date the Working Party was formed. Pre-1995 dates indicate that the original WP was formed under the GATT 1947, but was reformed as a WTO Working Party in 1995.

Comoros * (2007)	Application accepted at October 2007 General Council meeting, but Comorros has not yet submitted initial documentation to activate the accession negotiations.
Equatorial Guinea (2008)	Application accepted at February 2008 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Ethiopia* (2003)	Ethiopia circulated its responses to questions and comments from Members submitted at the first WP meeting and related documentation in April and June 2009. A second WP meeting could be scheduled in 2010 once a new WP Chair is designated. No market access offers have been circulated to date. The United States provides technical assistance through USAID in the form of a resident advisor for drafting documentation, training, legal drafting, and institution building in the areas of customs, licensing, intellectual property, standards and sanitary measures.
Iraq (2004)	I raq's last WP meeting was held in April 2008. A third meeting will be scheduled following Iraq's submission of initial market access offers for goods and services and written responses to questions and comments from the previous meeting. The United States provides technical assistance in the form of a team of resident advisors funded through USAID, to help with drafting documentation, training, legal drafting, and institution building.
Iran (2005)	Submitted initial documentation to activate the accession negotiations in November 2009. WTO Members are developing questions and comments and consulting on the designation of a WP Chair.
Kazakhstan (1996)	Kazakhstan suspended bilateral and multilateral work on its WTO accession in June 2009 after announcing the establishment of a customs union with Russia and Belarus, including the adoption of a common external tariff (CXT) on January 1, 2010 and a common Customs Code in July 2010. Informal consultations with WTO Members in June and October 2009 did not fully clarify the implications of these changes for Kazakhstan's WTO accession process. The next WP meeting will be scheduled following Kazakhstan's submission of responses to questions from the previous WP meeting in July 2008, and additional information on the changes being made to their trade regimes and to tariff and other commitments made in the WTO accession process to date. Next WP will also review the revised draft WP report text and legislative implementation in legislative action plan. Bilateral negotiations were advanced but now must be reopened to address Kazakhstan's stated intent to substantially change the tariff commitments already made in order to align its prospective WTO commitments with those of Russia and Belarus after accession. Revised services market access offer also is expected prior to next Working Party, reflecting progress achieved in bilaterals with United States and other WTO Members during 2008. Through USAID, the United States provides technical assistance in the form of an advisor resident in Bishkek, Kyrgyz Republic, for drafting documentation, training, legal drafting, and institution building. Specific assistance has been provided in the areas of customs, licensing, intellectual property, standards and sanitary measures.

Lao PDR * (1998)	Fifth WP meeting held in July 2009 to continue review of the trade regime (including a revised factual summary). Next WP meeting possible in first half of 2010. The United States is providing technical assistance to help train Lao officials.
Lebanon (1999)	Sixth and Seventh WP meetings held in February and September 2009 respectively. Next WP meeting to be scheduled based on progress on legislative implementation and provision of improved offers on goods and services market access. Through USAID, the United States continues to provide technical assistance in the form of long terms advisors and short term specific assistance. Assistance provided in drafting documentation, training, legal drafting, and institution building, with focus on customs procedures, intellectual property rights protection, services, and standards.
Liberia* (2007)	Application accepted at December 2007 General Council meeting. No documentation or market access offers circulated to date.
Libya (2004)	Application accepted at July 2004 General Council meeting. No documentation or market access offers circulated to date.
Montenegro (2005)	Multilateral negotiations are substantially completed; Montenegro is still negotiating bilateral market access commitments with one WP Member (Ukraine). A final WP meeting to adopt the report and the consolidated goods and services market access Schedules will occur only after bilateral negotiations are closed and schedules are verified.
Russia (1993)	Russia suspended bilateral and multilateral work on its WTO accession in June 2009 after announcing the establishment of a customs union with Kazakhstan and Belarus, including the adoption of a common external tariff (CXT) on January 1, 2010 and a common Customs Code in July 2010. Informal consultations with WTO Members in June and October 2009 did not fully clarify the implications of these changes for Russia's WTO accession process. Multilateral work may resume in 2010 after submission by Russia and its customs union partners of information on the changes being made to their trade regimes and to tariff and other commitments made in the WTO accession process to date. Draft WP report text circulated in 2008 will need revision based on new information. Russia's bilateral market access negotiations with WTO Members largely completed (Georgia outstanding), but further tariff negotiations likely as Russia intends to establish harmonized goods market access commitments in WTO with Kazakhstan and Belarus. Negotiations continue on level of agricultural supports and subsidies as well as other issues. Russia's legislative implementation ongoing.

Samoa * (1998)	Informal WP meeting held in May and October 2009 to review revised draft WP report and continue negotiations on revised market access offers on goods and services. Substantial progress recorded in both areas, and completion of these negotiations is contemplated in 2010 after Samoa provides revised goods and services offers reflecting progress achieved in negotiations in 2009, and revised action plans on implementation of WTO Agreements and the removal of certain WTO-inconsistent nontariff barriers.
Sao Tome and Principe * (2005)	Application accepted at May 2005 General Council meeting; has not yet submitted initial documentation to activate the accession negotiations.
Serbia (2005)	Seventh WP meeting held in July 2009 to review revised draft WP report and other new documentation and to assess status of legislative implementation. Next WP meeting likely during first quarter of 2010, depending upon legislative activity (including amendments to problematic Serbian "GMO law"). Bilateral negotiations on goods and services are continuing.
Seychelles (1995)	Submitted revised documentation in May 2009 to resume negotiations for accession. WTO Members have submitted questions and comments. Next WP meeting likely after the Seychelles provides written responses and revised goods and services offers.
Sudan* (1995)	Inactive. Second WP meeting held March 10, 2004. Revised market access offers for goods and services were tabled in October 2006.
Syria	Application for accession to the WTO first circulated in October 2001. No Council review to date.
Tajikistan (2001)	Fourth WP meeting held in September 2009 to continue review of the trade regime (including a revised factual summary) and the status of legislative implementation of WTO provisions. Bilateral market access negotiations were held as well. Scheduling of next meeting may occur in mid-to-late 2010 after Tajikistan responds to WP Members' comments and questions and provides revised market access offers on goods and services. WTO Secretariat intends to circulate elements of a draft WP report prior to the next meeting. The United States provides technical assistance through USAID in the form of an advisor resident in Bishkek, for drafting documentation, training, legal drafting, and institution building.
Uzbekistan (1995)	Third WP meeting held in October 2005 to review additional documentation and initial market access offers. No further meetings are scheduled at this time.

Vanuatu * (1995)	Consulted in 2009 with WTO Secretariat and with selected WTO delegations to renegotiate the accession package approved by the Working Party but not adopted by the Ministerial Conference in 2001 and to update the draft WP report. Revised accession package may be circulated for WTO Member review during 2010.
Yemen * (2000)	Sixth WP meeting held in July 2009 to continue to review the trade regime and conduct bilateral negotiations on revised market access offers on goods and services. Bilateral engagement continued via digital video conferences throughout 2009. Next WP meeting scheduled for January 26, 2010. The United States has provided help with orientation and the development of documentation through USAID and the United States - Middle East Partnership Initiative.

WORLD TRADE ORGANIZATION

WT/DSB/44/Rev.7
23 November 2009

(09-5814)

INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

Revision

To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of governmental and non-governmental individuals.

In accordance with the proposals for the administration of the indicative list of panelists approved by the DSB on 31 May 1995, the list should be completely updated every two years. For practical purposes, the proposals for the administration of the indicative list approved by the DSB on 31 May 1995 are reproduced as an Annex to this document.

The attached is a revised consolidated list of governmental and non-governmental panelists.[1] The list is based on the previous indicative list issued on 26 June 2009 (WT/DSB/44/Rev.6). It includes additional names approved by the DSB at its meeting on 20 July 2009.[2] Any future modifications or additions to this list submitted by Members will be circulated in periodic revisions of this list.

Please note that the format for the Summary Curriculum Vitae form in the annex to the attachment has been slightly modified to include a new item on language capabilities. In addition, a footnote has been added to the form requesting Members to transmit the Summary Curricula Vitae electronically to the Secretariat and also to provide separately the contact details of the individuals being put forward for inclusion on the indicative list.

[1] Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (Council & TNC Division).
[2] See document: WT/DSB/W/408.

WORLD TRADE ORGANIZATION

WT/DSB/W/417
11 December 2009

(09-6461)

Dispute Settlement Body
21 December 2009

PROPOSED NOMINATIONS FOR THE INDICATIVE LIST OF GOVERNMENTAL AND NON-GOVERNMENTAL PANELISTS

The following additional names have been proposed for inclusion on the Indicative List of Governmental and Non-Governmental Panelists in accordance with Article 8.4 of the DSU.[1]

NOMINATING MEMBER	NAME	SECTORAL EXPERIENCE
AUSTRALIA	GOSPER, Mr. Bruce	Trade in Goods
	HOLMES, Ms. Patricia Ann	Trade in Goods
	MULGREW, Mr. Michael	Trade in Goods

Note: These nominations were approved by the DSB on December 21, 200
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[1] The Curricula Vitae containing more detailed information are available on request from the WTO Secretariat (Council and TNC Division).

MEMBER	NAME	SECTORAL EXPERIENCE
ARGENTINA	BARDONESCHI, Mr. Rodrigo C.	Trade in Goods
	CHIARADIA, Mr. Alfredo Vicente	Trade in Goods
	DUMONT, Mr. Alberto Juan	Trade in Goods
	LUNAZZI, Mr. Gustavo Nerio	Trade in Goods
	MAKUC, Mr. Adrían Jorge	Trade in Services
	MÉNDEZ, Mr. Gustavo Héctor	Trade in Goods
	MORELLI, Mr. Esteban Andrés	Trade in Goods
	NEGRO, Ms. Sandra Cecilia	Trade in Goods
	NISCOVOLOS, Mr. Luis Pablo	Trade in Goods and Services
	PAN, Ms. Julia Adriana Gabriela	Trade in Goods
	PÉREZ GABILONDO, Mr. José Luis	Trade in Goods; TRIPS
	PETRI, Mr. Gerardo Luis	Trade in Goods
	PIÑEIRO, Mr. Martín Enrique	Trade in Goods
	RAITERI, Ms. María Valeria	Trade in Goods
	REGÚNAGA, Mr. Marcelo	Trade in Goods
	RIABOI, Mr. Jorge B.	Trade in Goods
	STANCANELLI, Mr. Néstor Edgardo	Trade in Goods
AUSTRALIA	CHESTER, Mr. Douglas Owen	TRIPS
	CHURCHE, Mr. Milton	Trade in Goods
	DEADY, Mr. Stephen	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	FARBENBLOOM, Mr. Simon	Trade in Goods and Services
AUSTRALIA (cont'd)	GALLAGHER, Mr. Peter	Trade in Goods; TRIPS
	JENNINGS, Mr. Mark	Trade in Goods; TRIPS
	McCARTHY, Ms. Caroline	TRIPS
	MITCHELL, Mr. Andrew	Trade in Goods and Services; TRIPS
	MORETTA, Mr. Remo	Trade in Goods and Services
	MYLER, Mr. Paul	Trade in Goods and Services
	O'CONNOR, Mr. Paul Richard	Trade in Goods
	RAPER, Ms. Cathy	Trade in Goods and Services
	SIN FAR LEE, Ms. Stephanie	Trade in Goods
	SPENCER, Mr. David	Trade in Goods
	VOON, Ms. Tania Su Lien	Trade in Goods and Services; TRIPS
	WITBREUK, Ms. Trudy	Trade in Goods and Services
	YOUNG, Ms. Elizabeth	Trade in Goods
BOLIVIA	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
BRAZIL	ABREU, Mr. Marcelo de Paiva	Trade in Goods and Services
	BARRAL, Mr. Welber Oliveira	Trade in Goods
	BARTHEL-ROSA, Mr. Paulo	Trade in Goods
	BASSO, Ms. Maristela	Trade in Goods; TRIPS
	LEMME, Ms. Marta Calmon	Trade in Goods
	MAGALHÃES, Mr. José Carlos	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
BRAZIL (cont'd)	MARCONINI, Mr. Mario	Trade in Services
	MOURA ROCHA, Mr. Bolívar	Trade in Services
	NAIDIN, Ms. Leane Cornet	Trade in Goods
	RIOS, Ms. Sandra Polônia	Trade in Goods
	THORSTENSEN, Ms. Vera Helena	Trade in Goods
CANADA	BERNIER, Mr. Ivan	Trade in Goods and Services
	BRADFORD, Mr. Meriel V. M.	Trade in Goods and Services
	BROWN, Ms. Catherine Anne	Trade in Goods and Services; TRIPS
	CLARK, Mr. Peter James	Trade in Goods and Services
	CLOSE, Ms. Patricia Margaret	Trade in Goods
	DE MESTRAL, Mr. Armand	Trade in Goods
	EYTON, Mr. Anthony T.	Trade in Goods
	GHERSON, Mr. Randolph	Trade in Goods
	GOODWIN, Ms. Kirsten M.	Trade in Goods and Services; TRIPS
	HALLIDAY, Mr. Anthony L.	Trade in Goods and Services
	HERMAN, Mr. Lawrence L.	Trade in Goods
	HINES, Mr. Wilfred Roy	Trade in Goods
	MACMILLAN, Ms. Kathleen E.	Trade in Goods
	MCRAE, Mr. Donald Malcolm	Trade in Goods
	OSTRY, Ms. Sylvia	Trade in Goods
	RITCHIE, Mr. Gordon	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	THOMAS, Mr. Christopher	Trade in Goods and Services
	WINHAM, Mr. Gilbert R.	Trade in Goods
CHILE	BIGGS, Mr. Gonzalo	Trade in Goods
	ERNST, Mr. Felipe	Trade in Goods and Services
	ESPINOZA, Mr. Alvaro	Trade in Goods
	MATUS, Mr. Mario	Trade in Goods
	MLADINIC, Mr. Carlos	Trade in Goods
	PEÑA, Ms. Gloria	Trade in Goods
	SAEZ, Mr. Sebastián	Trade in Goods and Services
	SATELER, Mr. Ricardo	TRIPS
	TIRONI, Mr. Ernesto	Trade in Goods
CHINA	DONG, Mr. Shizhong	Trade in Goods and Services; TRIPS
	LI, Mr. Enheng	Trade in Goods and Services
	ZENG, Mr. Lingliang	Trade in Goods
	ZHANG, Mr. Yuqing	Trade in Goods and Services; TRIPS
	ZHU, Ms. Lanye	Trade in Services; TRIPS
COLOMBIA	BARBERI, Mr. Fernando	Trade in Goods
	CÁRDENAS, Mr. Manuel Jose	Trade in Goods and Services; TRIPS
	IBARRA PARDO, Mr. Gabriel	Trade in Goods
	JARAMILLO, Mr. Felipe	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	LEAL ANGARITA, Mr. Manuel	Trade in Goods and Services
	OROZCO GOMEZ, Ms. Angela María	Trade in Goods
	OROZCO, Ms. Claudia	Trade in Goods
	TANGARIFE, Mr. Marcel	Trade in Goods; TRIPS
CÔTE D'IVOIRE	GOSSET, Ms. Marie	Trade in Goods; TRIPS
CROATIA	ŠARČEVIĆ, Mr. Petar	Trade in Goods and Services
CUBA	CABALLERO RODRÍGUEZ, Mr. Eumelio	Trade in Goods and Services
	HERNÁNDEZ, Mr. Arnaldo	Trade in Goods and Services
	MARZIOTA DELGADO, Mr. Ernesto Antonio	Trade in Goods and Services
ECUADOR	PINOARGOTE CEVALLOS, Mr. Alfredo	Trade in Goods
EGYPT	ABOUL-ENEIN, Mr. Mohamed Ibrahim Mostafa	Trade in Goods and Services
	FAWZY, Mr. Abdelrahman	Trade in Goods and Services
	HATEM, Mr. Samy Affify	Trade in Goods
	RIAD, Mr. Tarek Fouad	Trade in Goods and Services; TRIPS
	SHAHIN, Ms. Magda	Trade in Goods and Services; TRIPS
	SHARAF ELDIN, Mr. Ahmed	Trade in Goods; TRIPS
	ZAHRAN, Mr. Mohamed Mounir	Trade in Goods and Services; TRIPS
EUROPEAN COMMUNITIES		
AUSTRIA	BENEDEK, Mr. Wolfgang	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	MARTINS, Mr. Rudolf	Trade in Goods
	REITERER, Mr. Michael G. K.	Trade in Goods and Services; TRIPS
	WAAS, Mr. Gerhard	Trade in Goods and Services; TRIPS
	WEISS, Mr. Johann Friedrich	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. Franz	Trade in Goods
BELGIUM	DASSESSE, Mr. Marc Paul Albert	Trade in Goods and Services
	DIDIER, Mr. Pierre	Trade in Goods
	VAN DER BORGHT, Mr. Kim	Trade in Goods
	VANDER SCHUEREN, Ms. Paulette	Trade in Goods and Services
	WOUTERS, Mr. Jan	Trade in Goods and Services
	ZONNEKEYN, Mr. Geert A.	Trade in Goods
CZECH REP.	JUNG, Mr. Zdeněk	Trade in Goods and Services
	PALEĈKA, Mr. Peter	Trade in Goods and Services
	PRAVDA, Mr. Miroslav	Trade in Goods
	ŠRONĚK, Mr. Ivan	TRIPS
DENMARK	BOESGAARD, Mr. Hendrik	Trade in Goods
	CARL, Mr. Mogens Peter	Trade in Goods and Services; TRIPS
	KUIJPER, Mr. Pieter Jan	Trade in Goods and Services; TRIPS
	WHITE, Mr. Eric	Trade in Goods and Services; TRIPS
FINLAND	BERGHOLM, Mr. Kari Axel	Trade in Goods
	JULIN, Mr. Jorma Kari Johannes	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
	LUOTONEN, Mr. Yrjö Kim David	Trade in Goods
	PULLINEN, Mr. Matti Johannes	Trade in Goods
	RANTANEN, Mr. Paavo	Trade in Goods
FRANCE	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS
	BOISSON DE CHAZOURNES, Mrs. Laurence	Trade in Goods and Services
	COMBALDIEU, Mr. Jean Claude	TRIPS
	DELLEUR, Mr. Philippe	Trade in Services
	JENNY, Mr. Frédéric Yves	Trade in Goods and Services; TRIPS
	METZGER, Mr. Jean-Marie	Trade in Goods
	STERN, Ms. Brigitte	Trade in Goods
	VAN PHI, Mr. Phan	Trade in Goods and Services
GERMANY	DELBRÜCK, Mr. Kilian	Trade in Goods
	HERRMANN, Mr. Christoph Walter	Trade in Goods; TRIPS
	HILF, Mr. Meinhard	Trade in Goods and Services
	MENG, Mr. Werner	Trade in Goods, TRIPS
	OPPERMANN, Mr. Thomas	Trade in Goods; TRIPS
	PETERSMANN, Mr. Ernst-Ulrich	Trade in Goods and Services; TRIPS
	TANGERMANN, Mr. Stefan	Trade in Goods
GREECE	MYROGIANNIS, Mr. George	Trade in Goods
	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS
HUNGARY	FURULYÁS, Mr. Ferenc	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	HALGAND DANI, Ms. Virág	Trade in Goods and Services; TRIPS
	LAKATOS, Mr. Andrés	Trade in Goods and Services
IRELAND	LONG, Mr. Ronald	Trade in Goods; TRIPS
	MATTHEWS, Mr. Alan Henry	Trade in Goods
	MOCKLER, Mr. Thomas F.	Trade in Goods
ITALY	GERBINO, Mr. Mario	Trade in Goods
	GIARDINA, Mr. Andrea	Trade in Goods and Services
	MENSI, Mr. Maurizio	Trade in Goods
	SCHIRATTI, Mr. Giampiero	Trade in Goods
NETHERLANDS	BLOKKER, Mr. Nicolaas Max	Trade in Goods
	BRINKHORST, Mr. Laurens Jan	Trade in Goods and Services
	BRONCKERS, Mr. Marco	Trade in Goods and Services; TRIPS
	ENGERING, Mr. Franciscus Aloysius	Trade in Goods and Services
	HOEKMAN, Mr. Bernard Marco	Trade in Goods and Services; TRIPS
POLAND	PIETRAS, Mr. Jaroslaw	Trade in Services
PORTUGAL	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS
ROMANIA	BERINDE, Mr. Mihai	Trade in Goods
	CAMPEANU, Ms. Victoria	Trade in Goods
	FLORINA, Ms. Fratita Carmen	Trade in Goods
	RADU, Mr. Vasile	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
SPAIN	CASTILLO URRUTIA, Mr. Juan Antonio	Trade in Goods
	DÍAZ MIER, Mr. Miguel Ángel	Trade in Services
	LÓPEZ DE SILANES MARTÍNEZ Mr. Juan Pablo	Trade in Goods and Services
	PÉREZ SANCHEZ, Mr. José Luis	Trade in Goods and Services; TRIPS
	RIGO, Mr. Andrés	Trade in Services
SWEDEN	AHNLID, Mr. Anders Gustav Ragnar	Trade in Goods and Services; TRIPS
	ANDERSSON, Mr. Thomas Martin	Trade in Goods
	ANELL, Mr. Lars	Trade in Goods; TRIPS
	BÄVERBRANT, Mr. Johan C.	Trade in Goods and Services; TRIPS
	BECKER, Ms. Gunnela Marianne	Trade in Goods and Services; TRIPS
	DAHLIN, Ms. Karin Elisabeth	Trade in Goods and Services; TRIPS
	FALLENIUS, Mr. Christer H.	Trade in Goods
	HÅKANSSON, Mr. Gösta PER-Olov	Trade in Services
	HOLGERSSON, Mr. Jörgen	Trade in Goods and Services
	KLEEN, Mr. Peter	Trade in Goods
	LINDSTRÖM, Mr. Jan Mikael	Trade in Goods
	MANHUSEN, Mr. Christer	Trade in Goods and Services
	OLOFSGÅRD, Ms. Eva-Kajsa Buzaglo	Trade in Goods and Services; TRIPS
	RAHLÉN, Ms. Christina	Trade in Goods and Services; TRIPS
	RISINGGÅRD, Mr. Axel Börje	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
SWEDEN (cont'd)	RODIN, Mr. Arne	Trade in Goods; TRIPS
	STÅLBERG, Mr. Lars	Trade in Goods
	TAURIAINEN, Mr. Teppo Markus	Trade in Goods and Services; TRIPS
UNITED KINGDOM	ARKELL, Mr. Julian	Trade in Services
	BETHLEHEM, Mr. Daniel	Trade in Goods and Services; TRIPS
	CROFT, Mr. Roy Henry Francis	Trade in Services
	HINDLEY, Mr. Brian Vernon	Trade in Goods and Services
	JOHNSON, Mr. Michael David Clarke	Trade in Goods
	MUIR, Mr. Tom	Trade in Goods and Services; TRIPS
	PLENDER, Mr. Richard	Trade in Goods
	QURESHI, Mr. Asif Hasan	Trade in Goods
	ROBERTS, Mr. Christopher William	Trade in Goods and Services
	ROBERTS, Mr. David F.	Trade in Goods
	SAROOSHI, Mr. Dan	Trade in Services
	TOULMIN, Mr. John Kelvin	Trade in Services
GHANA	OPOKU AWUKU, Mr. Emmanuel	Trade in Goods and Services; TRIPS
HONG KONG, CHINA	CARTLAND, Mr. Michael David	Trade in Goods and Services
	CHEUNG, Mr. Peter Kam Fai	TRIPS
	LEUNG, Ms. Ada Ka Lai	TRIPS
	LITTLE, Mr. David	Trade in Goods and Services
	MILLER, Mr. Tony J.A.	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
ICELAND	BJÖRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANNSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
INDIA	AGARWAL, Mr. Vinod Kumar	Trade in Goods; TRIPS
	AGRAWAL, Mr. Rameshwar Pal	Trade in Goods and Services; TRIPS
	BHATTACHARYA, Mr. G. C.	Trade in Goods
	CHANDRASEKHAR, Mr. Kesava Menon	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. Sumanta	Trade in Goods and Services; TRIPS
	DAS, Mr. Bhagirath Lal	Trade in Goods
	DASGUPTA, Mr. Jayant	Trade in Goods
	GOPALAN, Mr. Rajarangamani	Trade in Goods
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services
	MOHANTY, Mr. Prasant Kumar	Trade in Goods
	MUKERJI, Mr. Asoke Kumar	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. Srinivasan	Trade in Goods; TRIPS
	PRABHU, Mr. Pandurang Palimar	Trade in Goods; TRIPS
	PRASAD, Ms. Anjali	Trade in Goods and Services; TRIPS
	RAI, Mr. Pushpendra	TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
INDIA (cont'd)	RAO, Mr. Pemmaraju Sreenivasa	Trade in Goods
	REGE, Mr. Narayan Vinod	Trade in Goods
	SAJJANHAR, Mr. Ashok	Trade in Goods
	SHARMA, Mr. Lalit	Trade in Goods and Services; TRIPS
	VENUGOPAL, Mr. Krishnan	Trade in Goods; TRIPS
	ZUTSHI, Mr. B. K.	Trade in Goods and Services; TRIPS
ISRAEL	ALTUVIA, Mr. Magen	Trade in Goods
	GABAY, Mr. Mayer	TRIPS
	HARAN, Mr. Ephraim F.	Trade in Services
	HOROVITZ, Mr. Dan	Trade in Goods and Services
	POLINER, Mr. Howard Zvi	TRIPS
	SEMADAR, Mr. Moshe	Trade in Goods
	SHATON, Mr. Michael Marcel	Trade in Goods and Services
	TALBAR, Mr. Michael Adin	Trade in Goods
	WEILER, Mr. Joseph H.H.	Trade in Goods
JAPAN	ARAKI, Mr. Ichiro	Trade in Goods and Services; TRIPS
	ASAKAI, Mr. Kazuo	Trade in Goods
	ASAKURA, Mr. Hironori	Trade in Goods
	HASEBE, Mr. Masamichi	Trade in Goods and Services
	ISHIGURO, Mr. Kazunori	Trade in Goods and Services; TRIPS
	IWASAWA, Mr. Yuji	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	KANDA, Mr. Hideki	Trade in Services
	KEMMOCHI, Mr. Nobuaki	Trade in Goods and Services
	KOTERA, Mr. Akira	Trade in Goods and Services
	OHARA, Mr. Yoshio	Trade in Goods; TRIPS
	SANO, Mr. Tadakatsu	Trade in Goods
	SHIMIZU, Mr. Akio	Trade in Goods
	SUZUKI, Mr. Masabumi	Trade in Goods; TRIPS
	TSURUOKA, Mr. Koji	Trade in Services
	YAMANE, Ms. Hiroko	Trade in Goods; TRIPS
KOREA	AHN, Mr. Dukgeun	Trade in Goods
	AHN, Mr. Ho-Young	Trade in Goods
	AHN, Mr. Myung-soo	Trade in Goods
	CHANG, Mr. Seung Wha	Trade in Goods
	CHO, Mr. Tae-Yul	Trade in Goods
	CHOI, Mr. Byung-il	Trade in Services
	CHOI, Mr. Won-Mog	Trade in Goods and Services; TRIPS
	KIM, Mr. Jong Bum	Trade in Goods
	LEE, Mr. Jaemin	Trade in Goods
	PARK, Mr. Nohyoung	Trade in Goods
	WOO, Mr. Jooha	Trade in Goods and Services
LIECHTENSTEIN	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
MADAGASCAR	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
MAURITIUS	BEEKARRY, Mr. Navin	Trade in Goods and Services
	BHUGLAH, Mr. Achad	Trade in Goods and Services
MEXICO	AGUILAR ÁLVAREZ, Mr. Guillermo	Trade in Goods and Services; TRIPS
	AMIGO CASTAÑEDA, Mr. Jorge	TRIPS
	BOLÍVAR, Ms. Gisela	Trade in Goods and Services
	DE LA PEÑA, Mr. Alejandro	Trade in Goods and Services; TRIPS
	DELGADO, Mr. Sergio	Trade in Goods and Services
	DE MATEO VENTURINI, Mr. Fernando	Trade in Services
	JASSO TORRES, Mr. Humberto	Trade in Goods
	ORTEGA, Mr. Armando	Trade in Goods and Services; TRIPS
	PEREZCANO DÍAZ, Mr. Hugo Manuel	Trade in Goods and Services; TRIPS
	POBLANO, Mr. José F.	Trade in Services; TRIPS
	REYES, Ms. Luz Elena	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS
NEPAL	PANDEY, Mr. Posh Raj	Trade in Goods and Services
	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS
NEW ZEALAND	ARMSTRONG, Mr. Wade Mowatt Valentine	Trade in Goods; TRIPS
	CARSON, Mr. Christopher Barr	Trade in Goods
	FALCONER, Mr. Crawford Dunlop	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	FALCONER, Mr. William John	Trade in Goods and Services; TRIPS
	GROSER, Mr. Tim	Trade in Goods
	HAMILTON, Mr. Peter William	Trade in Goods
	HARVEY, Mr. Martin Wilfred	Trade in Goods
	HIGGIE, Ms. Dell Clark	Trade in Goods
	KENNEDY, Mr. Peter Douglas	Trade in Goods
	MACEY, Mr. Adrian	Trade in Goods; TRIPS
	MCPHAIL, Mr. Alexander Hugh	Trade in Goods
	NOTTAGE, Mr. Richard Frederick	Trade in Goods
	SLADE, Ms. Michelle	Trade in Goods and Services; TRIPS
	TRAINOR, Mr. Mark Julian	Trade in Goods; TRIPS
	WALKER, Mr. David John	Trade in Goods and Services
	WOODFIELD, Mr. Edward A	Trade in Goods
NIGER	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
NIGERIA	NNONA, Mr. George C.	Trade in Goods and Services; TRIPS
NORWAY	GLENNE, Mr. Eirik	Trade in Goods and Services
	HOLTEN, Ms. Inger	Trade in Goods; TRIPS
	LILLERUD, Mr. Kjell	Trade in Goods and Services
	LUNDBY, Mr. Ole	Trade in Goods and Services; TRIPS
	SELAND, Mr. Helge A.	Trade in Goods and Services; TRIPS
	TØNSETH, Mr. Didrik	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
PAKISTAN	ARIF, Mr. Muhammad Ikram	Trade in Goods
	BASHIR, Mr. Shahid	Trade in Goods
	HAMID ALI, Mr. Muhammad	Trade in Goods; TRIPS
	HUSAIN, Mr. Ishrat	Trade in Services
	KHAN, Mr. Mujeeb Ahmed	Trade in Goods; TRIPS
	MALIK, Mr. Riaz Ahmad	Trade in Goods
PANAMA	FERRER, Mr. Alejandro	Trade in Goods and Services
	FRANCIS LANUZA, Ms. Yavel Mireya	Trade in Goods and Services
	GONZALEZ, Mr. Carlos Ernesto	Trade in Goods and Services
	HARRIS ROTKIN, Mr. Norman	Trade in Goods and Services
	SALAZAR FONG, Ms. Diana Alejandrina	Trade in Goods
	SHEFFER MONTES, Mr. Leroy Jhon	Trade in Goods and Services
PERU	BELAÚNDE G., Mr. Victor Andres	TRIPS
	DIEZ LIZARDO, Mr. Juan	Trade in Goods
	LEÓN-THORNE, Mr. Raúl	Trade in Goods and Services
QATAR	MAKKI, Mr. Fadi	Trade in Goods and Services
SRI LANKA	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS
SWITZERLAND	ADDOR, Mr. Felix	TRIPS
	BREINING, Ms. Christine	Trade in Services
	CHAMBOVEY, Mr. Didier	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	COTTIER, Mr. Thomas	Trade in Goods and Services; TRIPS
	GETAZ, Mr. Henri Alexandre	Trade in Services
	HÄBERLI, Mr. Christian	Trade in Goods
	INEICHEN-FLEISCH, Ms. Marie-Gabrielle	Trade in Goods and Services
	KRAFFT, Mr. Mathias-Charles	Trade in Goods
	LEGLER, Mr. Thomas	TRIPS
	MEYER, Mr. Matthias	Trade in Goods and Services; TRIPS
	PANNATIER, Mr. Serge Nicolas	Trade in Goods
	TSCHÄENI, Mr. Hanspeter	Trade in Goods
	WASESCHA, Mr. Luzius	Trade in Goods and Services; TRIPS
	WEBER, Mr. Rolf H.	Trade in Services
THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU	LO, Mr. Chang-Fa	Trade in Goods and Services
	YANG, Ms. Guang-Hwa	Trade in Goods and Services
TURKEY	GÜRAKAN, Ms. Tulû	Trade in Goods
	KAÇAR, Mr. Bayram	Trade in Goods
	YENAL, Mr. Aytaç	Trade in Goods
UNITED STATES	BIRENBAUM, Mr. David E.	Trade in Goods
	BROWN-WEISS, Ms. Edith	Trade in Goods and Services
	CONNELLY, Mr. Warren	Trade in Goods
	GANTZ, Mr. David A.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
	GORDON, Mr. Michael Wallace	Trade in Goods
	HODGSON, Ms. Mélida	Trade in Goods and Services
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	KHO, Mr. Stephen	Trade in Goods and Services; TRIPS
	KIRK, Mr. Michael K.	TRIPS
	LAYTON, Mr. Duane	Trade in Goods
	LICHTENSTEIN, Ms. Cynthia Crawford	Trade in Services
	McGINNIS, Mr. John Oldham	Trade in Goods; TRIPS
	PARTAN, Mr. Daniel G.	Trade in Goods
	POWELL, Mr. Stephen J.	Trade in Goods
	REYNA, Mr. Jimmie V.	Trade in Goods and Services
	SANDSTROM, Mr. Mark R.	Trade in Goods and Services
	THOMPSON, Mr. George W.	Trade in Goods
	TROSSEVIN, Ms. Marguerite	Trade in Goods
	VERRILL, Jr. Mr. Charles Owen	Trade in Goods
URUGUAY	AMORÍN, Mr. Carlos	Trade in Goods; TRIPS
	CAYRÚS, Mr. Hugo	Trade in Goods and Services
	EHLERS, Mr. William	Trade in Goods
	ROSSELLI, Mr. Elbio	Trade in Goods
	VANERIO, Mr. Gustavo	Trade in Goods and Services
	WHITELAW, Mr. James A.	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
VENEZUELA	ESCOBAR, Mr. José Benjamín	Trade in Services
	MARQUEZ, Mr. Guillermo	Trade in Services
	ROJAS PENSO, Mr. Juan Francisco	Trade in Goods and Services

ANNEX

Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

General DSU requirements

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements." The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

Submission of information

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list

could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

Updating of indicative list

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

Other rosters

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns." It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council." A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that “the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU.” The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8 A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached as an Annex.

Summary Curriculum Vitae
for Persons Proposed for the Indicative List[1]

1.	**Name:**	full name
2.	**Sectoral Experience**	
	List here any particular sectors of expertise: (e.g. technical barriers, dumping, financial services, intellectual property, etc.)	
3.	**Nationality(ies)**	all citizenships
4.	**Nominating Member:**	the nominating Member
5.	**Date of birth:**	full date of birth
6.	**Current occupations:**	year beginning, employer, title, responsibilities
7.	**Post-secondary education**	year, degree, name of institution
8.	**Professional qualifications**	year, title
9.	**Trade-related experience in Geneva in the WTO/GATT system**	
	a. Served as a panelist	year, dispute name, role as chairperson/member
	b. Presented a case to a panel	year, dispute name, representing which party
	c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof	year, body, role
	d. Worked for the WTO or GATT Secretariat	year, title, activity
10.	**Other trade-related experience**	
	a. Government trade work	year, employer, activity
	b. Private sector trade work	year, employer, activity
11.	**Teaching and publications**	
	a. Teaching in trade law and policy	year, institution, course title
	b. Publications in trade law and policy	year, title, name of periodical/book, author/editor (if book)
12.	**Language capabilities**	
	a. English	
	b. French	ability to work as a panelist in WTO-official languages and any other language capability
	c. Spanish	
	d. Other language(s)	

[1] Members putting forward an individual for inclusion on the indicative list are requested to provide full contact details for this individual separately. The Summary Curriculum Vitae and the contact details should be sent electronically to the Secretariat.

MEMBERSHIP OF THE WTO APPELLATE BODY

From January 1, 2009, to February 10, 2009, the membership of the WTO Appellate Body was as follows:

Professor Luiz Olavo Baptista (Brazil),
Ms. Jennifer Hillman (United States),
Professor Giorgio Sacerdoti (Italy),
Ms. Yuejiao Zhang (China)
Ms. Lilia R. Bautista (Philippines),
Mr. Shotaro Oshima (Japan),
Mr. David Unterhalter (South Africa),

From February 11, 2009, to June 30, 2009, the membership of the WTO Appellate Body was as follows:

Ms. Lilia R. Bautista (Philippines),
Mr. Shotaro Oshima (Japan),
Mr. David Unterhalter (South Africa),
Ms. Jennifer Hillman (United States),
Professor Giorgio Sacerdoti (Italy),
Ms. Yuejiao Zhang (China)

From July 1, 2009, to December 11, 2009, the membership of the WTO Appellate Body was as follows:

Ms. Lilia R. Bautista (Philippines),
Mr. Shotaro Oshima (Japan),
Professor Giorgio Sacerdoti (Italy),
Ms. Yuejiao Zhang (China)
Ms. Jennifer Hillman (United States),
Mr. Ricardo Ramírez Hernández (Mexico),
Mr. David Unterhalter (South Africa),

From December 12, 2009, to December 31, 2009, the membership of the WTO Appellate Body was as follows:

Ms. Lilia R. Bautista (Philippines),
Mr. Shotaro Oshima (Japan),
Mr. David Unterhalter (South Africa),
Ms. Yuejiao Zhang (China)
Ms. Jennifer Hillman (United States),
Mr. Ricardo Ramírez Hernández (Mexico),
Mr. Peter Van den Bossche (Belgium),

BIOGRAPHICAL NOTES:

Luiz Olavo Baptista

Born in Brazil in 1938, Luiz Olavo Baptista is currently Professor of International Trade Law at the University of São Paulo Law School.

He has been a Member of the Permanent Court of Arbitration at The Hague since 1996, and of the International Chambre of Commerce (ICC) Institute for International Trade Practices and of its Commission on Trade and Investment Policy, since 1999. In addition, he has been one of the arbitrators designated under Mercosur's Protocol of Brasilia since 1993.

Professor Baptista is also senior partner at the L.O. Baptista Law Firm, in São Paulo, Brazil, where he concentrates his practice on corporate law, arbitration and international litigation. He has been practicing law for almost 40 years advising governments, international organizations and large corporations in Brazil and in other jurisdictions. Professor Baptista has been an arbitrator at the United Nations Compensation Commission (E4A Panel) in several private commercial disputes and State-investor proceedings, as well as in disputes under Mercosur's Protocol of Brasilia. In addition, he has participated as a legal advisor in

diverse projects sponsored by the World Bank, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Center on Transnational Corporations (UNCTC), and the United Nations Development Programme (UNDP).

He obtained his law degree from the Catholic University of São Paulo, pursued post-graduate studies at Columbia University Law School and The Hague Academy of International Law, and received a Ph.D in International Law from the University of Paris II. He was Visiting Professor at the University of Michigan (Ann Arbor) in 1978-1979, and at the University of Paris I and the University of Paris X between 1996 and 2000. Professor Baptista has published extensively on various issues in Brazil and abroad.

Lilia R. Bautista

Born in the Philippines on 16 August 1935, Ms. Lilia R Bautista is currently Consultant to the Philippine Judicial Academy which is the training school for Philippine justices, judges and lawyers. She is also a member of several corporate boards.

Ms. Bautista was the Chairperson of the Securities and Exchange Commission of the Philippines from 2000 to 2004. Between 1999 and 2000, she served as Senior Undersecretary and Special Trade Negotiator at the Department of Trade and Industry in Manila. From December 1992 to June 1999, Ms. Bautista was the Philippine Permanent Representative in Geneva to the United Nations, WTO, WHO, ILO and other international organizations. During her assignment in Geneva, she chaired several bodies, including the WTO Council for Trade in Services. Her long career in the Philippine Government also included posts as Legal Officer in the Office of the President, Chief Legal Officer of the Board of Investments, and acting Trade Minister from February to June 1992.

Ms. Bautista earned her Bachelor of Laws Degree and a Masters Degree in Business Administration from the University of the Philippines. She was conferred the degree of Master of Laws by the University of Michigan as a Dewitt Fellow.

Jennifer Hillman

Born in the United States on 29 January 1957, Ms. Jennifer Hillman serves as a Fellow and Adjunct Professor of Law at the Georgetown University Law Center's Institute of International Economic Law. Her work focuses on the WTO dispute settlement system, the WTO agreements related to trade remedies, and the WTO jurisprudence related to trade remedies.

From 1998 to 2007, Ms. Hillman served as a member of the US International Trade Commission — an independent, quasi-judicial agency responsible for making determinations in anti-dumping and countervailing proceedings, and conducting safeguard investigations.

From 1995 to 1997, Ms. Hillman served as the chief legal counsel to the USTR, overseeing the legal developments necessary to complete the implementation of the Uruguay Round Agreement

From 1993 to 1995, Ms. Hillman was responsible for negotiating all US bilateral textile agreements prior to the adoption of the Agreement on Textiles and Clothing.

Ms. Hillman has a Bachelor of Arts and Master of Education from Duke University, North Carolina, and a Juris Doctor degree from Harvard Law School in Cambridge, Massachusetts.

Shotaro Oshima

Born in Japan on 20 September 1943, Mr. Shotaro Oshima is a law graduate from the University of Tokyo, with almost 40 years experience as a diplomat in Japan's Foreign Service, most recently as Ambassador to the Republic of Korea.

From 2002 to 2005, Mr Oshima was Japan's Permanent Representative to the WTO, during which time he served as Chair of the General Council and the Dispute Settlement Body.

Prior to his time in Geneva, Mr Oshima served as Deputy Foreign Minister responsible for economic matters and was designated as Prime Minister Koizumi's Personal Representative to the G8 Summit in Canada in June 2002. In the same year he served as the Prime Minister's Personal Representative to the UN World Summit on Sustainable Development in South Africa.

Ricardo Ramírez Hernández

Born in Mexico on 17 October 1968, Ricardo Ramírez is Counsel and Head of the International Trade Practice for Latin America at the law firm of Chadbourne & Parke in Mexico City. His practice has focused on issues related to NAFTA and trade across Latin America, including international trade dispute resolution. He holds the Chair of International Trade Law at the Mexican National University (UNAM) in Mexico City.

Prior to practicing with a law firm, Mr. Ramírez was Deputy General Counsel for Trade Negotiations of the Ministry of Economy in Mexico for more than a decade. In this capacity, he provided advice on trade and competition policy matters related to 11 Free Trade Agreements signed by Mexico, as well as with respect to multilateral agreements, including those related to the WTO, the Free Trade Area of the Americas (FTAA), and the Latin American Integration Association (ALADI).

Mr. Ramírez also represented Mexico in complex international trade litigation and investment arbitration proceedings. He acted as lead counsel to the Mexican government in several WTO disputes. He has also served on NAFTA panels.

Mr. Ramírez holds an LL.M. degree in International Business Law from the Washington College of Law of the American University, and a law degree from the Universidad Autónoma Metropolitana.

Giorgio Sacerdoti

Born on 2 March 1943, Giorgio Sacerdoti is Professor of International Law and European Law at Bocconi University, Milan, Italy, since 1986.

Professor Sacerdoti has held various posts in the public sector including Vice-Chairman of the Organisation for Economic Cooperation and Development (OECD) Working Group on Bribery in International Business Transactions until 2001 where he was one of the drafters of the "Anticorruption Convention of 1997". He has acted as consultant to the Council of Europe, the United Nations

Conference on Trade and Development (UNCTAD) and the World Bank in matters related to foreign investments, trade, bribery, development and good governance. In the private sector, he has often served as arbitrator in international commercial disputes and at the International Centre for Settlement of Investment Disputes.

Professor Sacerdoti has published extensively on international trade law, investments, international contracts and arbitration.

After graduating from the University of Milan with a law degree summa cum laude in 1965, Professor Sacerdoti gained a Master in Comparative Law from Columbia University Law School as a Fulbright Fellow in 1967. He was admitted to the Milan bar in 1969 and to the Supreme Court of Italy in 1979. He is a Member of the Committee on International Trade Law of the International Law Association.

Peter Van den Bossche

Born in Belgium on 31 March 1959, Peter Van den Bossche is currently Professor of International Economic Law and Head of the Department of International and European Law at Maastricht University, the Netherlands. He also serves as the Academic Director of Maastricht University's Institute for Globalization and International Regulation and is on the faculty of the World Trade Institute in Berne, and the Institute of European Studies of Macau.

Mr. Van den Bossche has extensive experience in academia and has published extensively in the field of international economic law. The second edition of his textbook The Law and Policy of the World Trade Organization was published by Cambridge University Press in 2008. Mr. Van den Bossche is a Member of the Board of Editors of the Journal of International Economic Law. He has also acted as a consultant to many developing countries.

From 1997 to 2001, Mr. Van den Bossche was Counsellor and subsequently Acting Director of the WTO Appellate Body Secretariat. From 1990 to 1992, he served as a Référendaire of Advocate General W. van Gerven at the European Court of Justice in Luxembourg.

Mr. Van den Bossche holds a Doctorate in Law from the European University Institute, Florence, an LL.M. from the University of Michigan Law School, and a Licentiaat in de Rechten magna cum laude from the University of Antwerp.

David Unterhalter

Born in South Africa on 18 November 1958, David Unterhalter holds degrees from Trinity College, Cambridge, the University of the Witwatersrand, and University College Oxford. David Unterhalter has been a Professor of Law at the University of the Witwatersrand in South Africa since 1998, and from 2000 – 2006, he was the Director of the Mandela Institute, University of the Witwatersrand, an institute focusing upon global law.

Mr. Unterhalter is a member of the Johannesburg Bar; as a practicing advocate he has appeared in a large number of cases in the fields of trade law, competition law, constitutional law, and commercial law. His experience includes representing different parties in anti-dumping and countervailing duty cases. He has acted as an advisor to the South African Department of Trade and Industry. In addition, he has served on a number of WTO dispute settlement panels.

Mr. Unterhalter has published widely in the fields of public law and competition law.

Yuejiao Zhang

Born in China on 25 October 1944, Ms. Yuejiao Zhang is Professor of Law at Shantou University in China. She is an Arbitrator on China's International Trade and Economic Arbitration Commission and practices law as a private attorney. Ms. Zhang also serves as Vice President of China's International Economic Law Society.

Between 1998 and 2004, Ms. Zhang held various positions at the Asian Development Bank. Prior to this, Ms. Zhang held several positions in government and academia in China, including as Director-General of Law and Treaties at the Ministry of Foreign Trade and Economic Cooperation (1984-1997) where she was involved in drafting many of China's trade laws, such as the Foreign Trade Law, the Anti-Dumping Regulation and the Anti-Subsidy Regulation.

From 1987 to 1996, Ms. Zhang was one of China's chief negotiators on intellectual property and was involved in the preparation of China's patent law, trade mark law, and copyright law. She also served as the chief legal counsel for China's GATT resumption and WTO accession. Between 1982 and 1985, Ms. Zhang worked as legal counsel at the World Bank.

Ms. Zhang was a Member of UNIDROIT from 1987-1999. She has a Bachelor of Arts from China High Education College and a Master of Laws from Georgetown University Law Center.

Source: WTO Secretariat

Where to Find More Information on the WTO

Information about the WTO and trends in international trade is available to the public at the following websites:

The USTR home page: http://www.ustr.gov

The WTO home page: http://www .wto.org

U.S. submissions are available electronically on the WTO website using Documents Online, which can retrieve an electronic copy by the "document symbol". Electronic copies of U.S. submissions are also available at the USTR website.

Examples of information available on the WTO home page include:

Descriptions of the Structure and Operations of the WTO, such as:

- WTO Organizational Chart
- Biographic backgrounds
- Membership
- General Council activities

WTO News, such as:

- Status of dispute settlement cases
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- Schedules of future WTO meetings
- Summaries of Trade Policy Review Mechanism reports on individual Members' trade practices

Resources including Official Documents, such as:

- Notifications required by the Uruguay Round Agreements
- Working Procedures for Appellate Review
- Special Studies on key WTO issues
- On-line document database where one can find and download official documents
- Legal Texts of the W TO agreements
- WTO Annual Reports

Community/Fora, such as:

- Media and NGOs
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Trade Topics, such as:

- Briefing Papers on WTO activities in individual sectors, including goods, services, intellectual property, other topics
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WTO publications may be ordered directly from the following sources:

1. The World Trade Organization
   Publications Services
   Centre William Rappard
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ANNEX III

ANNEX III: U.S. Trade-Related Agreements and Declarations

I. Agreements That Have Entered Into Force

Following is a list of trade agreements entered into by the United States since 1984 and monitored by the Office of the United States Trade Representative for compliance.

Multilateral and Plurilateral Agreements

- Marrakesh Agreement Establishing the World Trade Organization (WTO) (signed April 15, 1994), the Ministerial Decisions and Declarations adopted by the Uruguay Round Trade Negotiations Committee on December 15, 1993, and subsequent WTO agreements.

  a. Multilateral Agreements on Trade in Goods

     i. General Agreement on Tariffs and Trade 1994
     ii. Agreement on Agriculture
     iii. Agreement on the Application of Sanitary and Phytosanitary Measures
     iv. Agreement on Technical Barriers to Trade
     v. Agreement on Trade-Related Investment Measures
     vi. Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
     vii. Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
     viii. Agreement on Preshipment Inspection
     ix. Agreement on Rules of Origin
     x. Agreement on Import Licensing Procedures
     xi. Agreement on Subsidies and Countervailing Measures
     xii. Agreement on Safeguards

  b. General Agreement on Trade in Services (GATS)
     i. Fourth Protocol to the GATS (Basic Telecommunications Services) (February 5, 1998)
     ii. Fifth Protocol to the GATS (Financial Services) (March 1, 1999)

  c. Agreement on Trade-Related Aspects of Intellectual Property Rights

  d. Plurilateral Trade Agreements

     i. Agreement on Trade in Civil Aircraft (April 12, 1979; amended in 1986)
     ii. Agreement on Government Procurement (April 15, 1994)

- WTO Ministerial Declaration on Trade in Information Technology Products (Information Technology Agreement (ITA)) (Match 26, 1997)

- International Tropical Timber Agreement (successor to the 1983 International Tropical Timber Agreement, January 1, 1997)

- International Coffee Agreement (successor to the 1994 International Coffee Agreement; entered into force provisionally October 1, 2001 and definitively May 17, 2005; U.S. Instrument of accession deposited February 3, 2005)

- North American Free Trade Agreement (January 1, 1994)

  i. Agreement with Mexico and Canada to a first round of NAFTA Accelerated Tariff Elimination (March 26, 1997)

  ii. Agreement with Mexico and Canada to a second round of NAFTA Accelerated Tariff Elimination (July 27, 1998)

  iii. Agreement with Mexico to a third round of NAFTA Accelerated Tariff Elimination (November 29, 2000)

  iv. Agreement with Mexico to a fourth round of NAFTA Accelerated Tariff Elimination (December 5, 2001)

  v. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (November 27, 2002)

  vi. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (October 8, 2004)

  vii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (March 8, 2006)

  viii. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 11, 2008)

  ix. Agreement with Mexico and Canada on adjustments to the NAFTA Rules of Origin (April 9, 2009)

- North American Agreement on Environmental Cooperation (January 1, 1994)

- North American Agreement on Labor Cooperation (January 1, 1994)

- Statement Concerning Semiconductors by the European Commission and the Governments of the United States, Japan, and Korea (June 10, 1999)

- Agreement on Mutual Acceptance of Oenological Practices (December 18, 2001)

- The Dominican Republic-Central America-United States Free Trade Agreement (Costa Rica (January 1, 2009); the Dominican Republic (March 1, 2007); El Salvador (March 1,

2006); Guatemala (July 1, 2006); Honduras (April 1, 2006); and Nicaragua (April 1, 2006)

i. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Article 22.5 (March 29, 2006)

ii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Textiles Matters (August 15, 2008)

iii. Amendment to the Dominican Republic-Central America-United States Free Trade Agreement relating to Guatemala Tariffs on Beer (February 4, 2009)

- Agreement Establishing a Secretariat for Environmental Matters Under the Dominican Republic-Central America-United States Free Trade Agreement (August 25, 2006)

- Agreement on Duty-Free Treatment of Multi-Chips Integrated Circuits (MCPs) (January 18, 2006) (Korea, Taiwan, Japan, European Union and the United States)

- Agreement on Requirements for Wine Labeling (January 23, 2007) (Australia, Argentina, Canada, Chile, New Zealand and the United States)

<u>Bilateral Agreements</u>

Albania

- Agreement on Bilateral Trade Relations (May 14, 1992)

- Bilateral Investment Treaty (January 4, 1998)

Argentina

- Private Courier Mail Agreement (May 25, 1989)

- Bilateral Investment Treaty (October 20, 1994)

Armenia

- Agreement on Bilateral Trade Relations (April 7, 1992)

- Bilateral Investment Treaty (March 29, 1996)

Australia

- Settlement on Leather Products Trade (November 25, 1996)

- Understanding on Automotive Leather Subsidies (June 20, 2000)

- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 19, 2002)
- United States -Australia Free Trade Agreement (January 1, 2005)

Azerbaijan

- Agreement on Bilateral Trade Relations (April 21, 1995)
- Bilateral Investment Treaty (August 2, 2001)

Bahrain

- Bilateral Investment Treaty (May 30, 2001)
- United States-Bahrain Free Trade Agreement (August 1, 2006)

Bangladesh

- Bilateral Investment Treaty (July 25, 1989)

Belarus

- Agreement on Bilateral Trade Relations (February 16, 1993)

Bolivia

- Bilateral Investment Treaty (June 6, 2001)

Brazil

- Memorandum of Understanding between the Government of Brazil and the Government of the United States Concerning Trade Measures in the Automotive Sector (March 16, 1998)

Bulgaria

- Agreement on Trade Relations (November 22, 1991)
- Bilateral Investment Treaty (June 2, 1994; amended January 1, 2007)
- Agreement Concerning Intellectual Property Rights (July 6, 1994)

Cambodia

- Agreement between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection (October 8, 1996)

Cameroon

- Bilateral Investment Treaty (April 6, 1989)

Canada

- Agreement on Salmon & Herring (May 11, 1993)
- Agreement Regarding Tires (May 25, 1993)
- Memorandum of Understanding on Provincial Beer Marketing Practices (August 5, 1993)
- Agreement on Ultra-High Temperature Milk (September 1993)
- Agreement on Beer Market Access in Quebec and British Columbia Beer Antidumping Cases (April 4, 1994)
- Agreement on Salmon & Herring (April 1994)
- Agreement on Barley Tariff-Rate Quota (September 8, 1997)
- Record of Understanding on Agriculture (December 1998)
- Agreement on Magazines (Periodicals) (May 1999)
- Agreement on Implementation of the WTO Decision on Canada's Dairy Support Programs (December 1999)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 17, 2002)
- Agreement to Implement Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (January 28, 2003)
- United States-Canada Understanding on Implementation of the Decision of the WTO General Council of August 30, 2003, on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" as Interpreted by the Accompanying Statement of the Chairman of the General Council of the Same Date (July 16, 2004)

- Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada (SLA 2006) (October 12, 2006)
- Technical Arrangement between the United States and Canada concerning Trade in Potatoes (November 1, 2007)

Chile

- United States-Chile Free Trade Agreement (January 1, 2004)
- United States-Chile Agreement on Accelerated Tariff Elimination (November 14, 2008)
- United States-Chile Agreement on Trade in Table Grapes (November 21, 2008)
- United States-Chile Agreement on Beef Grade Labeling (March 26, 2009)

China

- Accord on Industrial and Technological Cooperation (January 12, 1984)
- Memorandum of Understanding on the Protection of Intellectual Property Rights (January 17, 1992)
- Memorandum of Understanding on Prohibiting Import and Export in Prison Labor Products (June 18, 1992)
- Memorandum of Understanding Concerning Market Access (October 10, 1992)
- Agreement on Trade Relations between the United States of America and the People's Republic of China (February 1, 1980)
- Agreement on Providing Intellectual Property Rights Protection (February 26, 1995)
- Report on China's Measures to Enforce Intellectual Property Protections and Other Measures (June 17, 1996)
- Interim Agreement on Market Access for Foreign Financial Information Companies (Xinhua) (October 24, 1997)
- Bilateral Agriculture Agreement (April 10, 1999)
- Memorandum of Understanding between China and the United States Regarding China's Value-Added Tax on Integrated Circuits (July 14, 2004)
- Memorandum of Understanding between the Governments of the United States of

America and the People's Republic of China Concerning Trade in Textile and Apparel Products (November 8, 2005)

- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Granting Refunds, Reductions, or Exemptions from Taxes or Other Payments (November 29, 2007)

- Memorandum of Understanding between the United States of America and the People's Republic of China Regarding Certain Measures Affecting Foreign Suppliers of Financial Information Services (November 13, 2008)

Colombia

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

- Exchange of Letters between the United States and Colombia on Sanitary and Phyto-sanitary Measures and Technical Barriers to Trade Issues (February 27, 2006)

- Exchange of Letters between United States and Colombia on Beef Sanitary and Phyto-sanitary Issues (August 21, 2006)

Congo, Democratic Republic of the (formerly Zaire)

- Bilateral Investment Treaty (July 28, 1989)

Congo, Republic of the

- Bilateral Investment Treaty (August 13, 1994)

Costa Rica

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)

Croatia

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)

- Bilateral Investment Treaty (June 20, 2001)

Czech Republic

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Dominican Republic

- Exchange of Letters on Trade in Textile and Apparel Goods (October 21, 2006)

Ecuador

- Agreement on Intellectual Property Rights Protection (October 15, 1993)
- Bilateral Investment Treaty (May 11, 1997)

Egypt

- Bilateral Investment Treaty (June 27, 1992)

Estonia

- Bilateral Investment Treaty (February 16, 1997; amended May 1, 2004)

European Economic Area – European Free Trade Association (EEA EFTA States -- Norway, Iceland, and Liechtenstein)

- Agreement on Mutual Recognition between the United States of America and the EEA EFTA States (March 1, 2006).
- Agreement between the United States of America and the EEA EFTA States on the Mutual Recognition of Certificates of Conformity for Marine Equipment (March 1, 2006)

European Union

- Wine Accord (July 1983)
- Agreement for the Conclusion of Negotiations between the United States and the European Community under GATT Article XXIV:6 (January 30, 1987)
- Agreement on Exports of Pasta with Settlement, Annex and Related Letter (September 15, 1987)
- Agreement on Canned Fruit (updated) (April 14, 1992)
- Agreement on Meat Inspection Standards (November 13, 1992)
- Corn Gluten Feed Exchange of Letters (December 4 and 8, 1992)
- Malt-Barley Sprouts Exchange of Letters (December 4 and 8, 1992)
- Oilseeds Agreement (December 4 and 8, 1992)
- Agreement on Recognition of Bourbon Whiskey and Tennessee Whisky as Distinctive U.S. Products (March 28, 1994)
- Memorandum of Understanding on Government Procurement (April 15, 1994)

- Letter on Financial Services Confirming Assurances to Provide Full MFN and National Treatment (July 14, 1995)
- Agreement on EU Grains Margin of Preference (signed July 22, 1996; retroactively effective December 30, 1995)
- Exchange of Letters Concerning Implementation of the Marrakesh Agreement Establishing the World Trade Organization and Related Matters (June 26, 1996)
- Exchange of Letters between the United States of America and the European Community on a Settlement for Cereals and Rice, and Accompanying Exchange of Letters on Rice Prices (July 22, 1996)
- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (signed July 22, 1996; retroactively effective December 30, 1995)
- Tariff Initiative on Distilled Spirits (February 28, 1997)
- Agreement on Global Electronic Commerce (December 9, 1997)
- Agreed Minute on Humane Trapping Standards (December 18, 1997)
- Agreement on Mutual Recognition between the United States of America and the European Community (December 1, 1998)
- Agreement between the United States and the European Community on Sanitary Measures to Protect Public and Animal Health in Trade in Live Animals and Animal Products (July 20, 1999)
- Understanding on Bananas (April 11, 2001)
- Agreement on the Mutual Acceptance of Oenological Practices (December 18, 2001)
- Agreement between the United States of America and the European Community on the Mutual Recognition of Certificates of Conformity for Marine Equipment (July 1, 2004)
- Agreement in the Form of an Exchange of Letters between the United States and the European Community Relating to the Method of Calculation of Applied Duties for Husked Rice (June 30, 2005; retroactively effective March 1, 2005)
- Agreement between the United States and European Community on Trade in Wine (March 10, 2006)

- Agreement for the Conclusion of Negotiations between the United States of America and the European Community under GATT Article XXIV:6, and Accompanying Exchange of Letters (March 22, 2006)

- Joint Letter from the United States and the European Communities on implementation of GATS Article XXI procedures relating to the accession to the European Communities of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Austria, Poland, Slovenia, the Slovak Republic, Finland, and Sweden (August 7, 2006)

- Memorandum of Understanding Between the United States and European Commission Regarding the Importation of Beef from Animals Not Treated with Certain Growth-Promoting Hormones and Increased Duties Applied to Certain Products of the European Communities (May 13, 2009).

Georgia

- Agreement on Bilateral Trade Relations (August 13, 1993)

- Bilateral Investment Treaty (August 17, 1997)

Grenada

- Bilateral Investment Treaty (March 3, 1989)

Haiti

- Exchange of Letters on Trade in Textile and Apparel Goods (September 18, 2008)

Hong Kong

- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (April 4, 2005)

- Memorandum of Understanding between the United States of America and the Hong Kong Special Administrative Region Concerning Cooperation in Trade in Textile and Apparel Goods (August 1, 2005)

Honduras

- Memorandum of Understanding on Worker Rights (November 15, 1995)

- Bilateral Investment Treaty (July 11, 2001)

Hungary

- Agreement on Trade Relations (July 7, 1978)
- Agreement on Intellectual Property Rights Protection (September 29, 1993)

India

- Agreement Regarding Indian Import Policy for Motion Pictures (February 5, 1992)
- Reduction of Tariffs on In-Shell Almonds (May 27, 1992)
- Agreement on Intellectual Property Rights Protection (March 1993)
- Agreement on Import Restrictions (December 28, 1999)
- Agreement on Textile Tariff Bindings (September 15, 2000)

Indonesia

- Conditions for Market Access for Films and Videos into Indonesia (April 19, 1992)
- Memorandum of Understanding with Indonesia Concerning Cooperation in Trade in Textile and Apparel Goods (September 26, 2006)

Israel

- United States-Israel Free Trade Agreement (August 19, 1985)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters December 10, 2008)
- United States-Israel Agreement Concerning Certain Aspects of Trade in Agricultural Products (July 27, 2004; extended by Exchange of Letters (December 6, 2009).

Jamaica

- Agreement on Intellectual Property (February 1994)
- Bilateral Investment Treaty (March 7, 1997)

Japan

- Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals (January 9, 1986)

- Exchange of Letters Regarding Tobacco (October 6, 1986)
- Foreign Lawyers Agreement (February 27, 1987)
- Science and Technology Agreement (June 20, 1988; extended June 16, 1993)
- Procedures to Introduce Supercomputers (June 15, 1990)
- Measures Relating to Wood Products (June 15, 1990)
- Policies and Procedures Regarding Satellite Research and Development/Procurement (June 15, 1990)
- Policies and Procedures Regarding International Value-Added Network Services and Network Channel Terminating Equipment (July 31, 1990)
- Joint Announcement on Amorphous Metals (September 21, 1990)
- Measures Further to 1990 Policies and Procedures regarding International Value-Added Network Services (April 27, 1991)
- Measures Regarding International Value-Added Network Services Investigation Mechanisms (June 25, 1991)
- United States-Japan Major Projects Arrangement (July 31, 1991; originally negotiated 1988)
- Measures Related to Japanese Public Sector Procurement of Computer Products and Services (January 22, 1992)
- United States-Japan Framework for a New Economic Partnership (July 10, 1993)
- Exchange of Letters Regarding Apples (September 13, 1993)
- United States-Japan Public Works Agreement (January 18, 1994)
- Mutual Understanding on Intellectual Property Rights between the Japanese Patent Office and the U.S. Patent and Trademark Office (January 20, 1994)
- Rice (April 15, 1994)
- Harmonized Chemical Tariffs (April 15, 1994)
- Copper (April 15, 1994)

- Market Access (April 15, 1994)
- Actions to be Taken by the Japanese Patent Office and the U.S. Patents and Trademark Office pursuant to the January 20, 1994, Mutual Understanding on Intellectual Property Rights (August 16, 1994)
- Measures by the Government of the United States and the Government of Japan Regarding Insurance (October 11, 1994)
- Measures on Japanese Public Sector Procurement of Telecommunications Products and Services (November 1, 1994)
- Measures Related to Japanese Public Sector Procurement of Medical Technology Products and Services (November 1, 1994)
- Measures Regarding Financial Services (February 13, 1995)
- Policies and Measures Regarding Inward Direct Investment and Buyer-Supplier Relationships (June 20, 1995)
- Exchange of Letters on Financial Services (July 26 and 27, 1995)
- Interim Understanding for the Continuation of Japan-U.S. Insurance Talks (September 30, 1996)
- United States-Japan Insurance Agreement (December 24, 1996)
- Japan's Recognition of U.S.-Grade marked Lumber (January 13, 1997)
- Resolution of WTO dispute with Japan on Sound Recordings (January 13, 1997)
- National Policy Agency Procurement of VHF Radio Communications System (March 31, 1997)
- United States-Japan Enhanced Initiative on Deregulation and Competition Policy (June 19, 1997)
- United States-Japan Agreement on Distilled Spirits (December 17, 1997)
- First Joint Status Report on Deregulation and Competition Policy (May 29, 1998)
- United States-Japan Joint Report on Investment (April 28, 1999)
- Second Joint Status Report on Deregulation and Competition Policy (May 3, 1999)
- United States-Japan Agreement on NTT Procurement Procedures (July 1, 1999)

- Third Joint Status Report on Deregulation and Competition Policy (July 19, 2000)
- Fourth Joint Status Report on Deregulation and Competition Policy (June 30, 2001)
- United States-Japan Economic Partnership for Growth (June 30, 2001)
- First Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 25, 2002)
- Second Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (May 23, 2003)
- Third Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 8, 2004)
- Fourth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (November 2, 2005)
- Fifth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 29, 2006)
- Sixth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (June 6, 2007)
- Agreement on Mutual Recognition of Results of Conformity Assessment Procedures between the United States of America and Japan (U.S.-Japan Telecom MRA) (January 1, 2008)
- Seventh Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 5, 2008)
- Eighth Report to the Leaders on the U.S.-Japan Regulatory Reform and Competition Policy Initiative (July 6, 2009)
- Memorandum Between the Relevant Authorities of the United States and the Ministry of Health, Labour and Welfare of Japan Concerning Enforcement of Japan's Pesticide Maximum Residue Levels (July 28, 2009)

Jordan

- Agreement between the United States and Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (December 17, 2001)
- Bilateral Investment Treaty (June 12, 2003)

Kazakhstan

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Bilateral Investment Treaty (January 12, 1994)

Korea

- Record of Understanding on Intellectual Property Rights (August 28, 1986)
- Agreement on Access of U.S. Firms to Korea's Insurance Markets (August 28, 1986)
- Record of Understanding Concerning Market Access for Cigarettes (May 27, 1988; amended October 16, 1989)
- Agreement Concerning the Korean Capital Market Promotion Law (September 1, 1988)
- Agreement on the Importation and Distribution of Foreign Motion Pictures (December 30, 1988)
- Agreement on Market Access for Wine and Wine Products (January 18, 1989)
- Investment Agreement (May 19, 1989)
- Agreement on Liberalization of Agricultural Imports (May 25, 1989)
- Record of Understanding on Telecommunications (January 23, 1990)
- Record of Understanding on Telecommunications (February 15, 1990)
- Exchange of Letters Regarding the 1986 Intellectual Property Rights Agreement: Product Pipeline Protection (February 22, 1990)
- Record of Understanding on Beef (March 21, 1990)
- Exchange of Letters on Beef (April 26 and 27, 1990)
- Agreement on Wine Access (December 19, 1990)
- Record of Understanding on Telecommunications (February 7, 1991)
- Agreement on International Value-Added Services (June 20, 1991)
- Understanding on Telecommunications (February 17, 1992)
- Exchange of Letters Relating to Korea Telecom Company's Procurement of AT&T

Switches (March 31, 1993)

- Beef Agreements (June 26, 1993; December 29, 1993)
- Record of Understanding on Agricultural Market Access in the Uruguay Round (December 13, 1993)
- Exchange of Letters on Telecommunications Issues Relating to Equipment Authorization and Korea Telecom Company's Procurement (March 29, 1995)
- Agreement on Steel (July 14, 1995)
- Shelf-Life Agreement (July 20, 1995)
- Revised Cigarette Agreement (August 25, 1995)
- Memorandum of Understanding to Increase Market Access for Foreign Passenger Vehicles in Korea (September 28, 1995)
- Exchange of Letters on Implementation of the 1992 Telecommunications Agreement (April 12, 1996)
- Korean Commitments on Trade in Telecommunications Goods and Services (July 23, 1997)
- Agreement on Korean Motor Vehicle Market (October 20, 1998)
- Exchange of Letters Regarding Tobacco Sector Related Issues (June 14, 2001)
- Exchange of Letters on Data Protection (March 12, 2002)
- Record of Understanding between the Governments of the United States and the Republic of Korea Regarding the Extension of Special Treatment for Rice (February 2005)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (May 10, 2005)

Kyrgyzstan

- Agreement on Bilateral Trade Relations (May 8, 1992)
- Bilateral Investment Treaty (January 12, 1994)

Latvia

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Bilateral Investment Treaty (November 26, 1996; amended May 1, 2004)
- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)

Lithuania

- Bilateral Investment Treaty (November 22, 2001; amended May 1, 2004)

Laos

- Bilateral Trade Agreement (February 4, 2005)

Macao

- Memorandum of Understanding with Macao Concerning Cooperation in Trade in Textile and Apparel Goods (August 8, 2005)

Mexico

- Agreement with Mexico on Tire Certification (March 8, 1996)
- Memorandum of Understanding between the United States and Mexico Regarding Areas of Food and Agriculture Trade (April 4, 2002)
- United States-Mexico Exchange of Letters Regarding Mexico's NAFTA Safeguard on Certain Poultry Products (July 24-25, 2003)
- Understanding Regarding the Implementation of the WTO Decision on Mexico's Telecommunications Services (June 1, 2004)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Tequila (January 17, 2006)
- Agreement between the U.S. Trade Representative and Secretaria de Economia of the United Mexican State on Trade in Cement (April 3, 2006)
- United States-Mexico Exchange of Letters Regarding Trade in Sweetener Goods (July 27, 2006)
- Bilateral Agreement on Customs Cooperation regarding Claims of Origin Under FTA Cumulation Provisions (January 26, 2007)

- Customs Cooperation Agreement with Mexico relating to Textiles Matters (August 15, 2008)

Moldova

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Bilateral Investment Treaty (November 25, 1994)

Mongolia

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Bilateral Investment Treaty (January 1, 1997)

Morocco

- Bilateral Investment Treaty (May 29, 1991)
- United States- Morocco Free Trade Agreement (January 1, 2006)

Mozambique

- Bilateral Investment Treaty (March 2, 2005)

Nicaragua

- Bilateral Intellectual Property Rights Agreement with Nicaragua (December 22, 1997)
- Exchange of Letters on Trade in Textile and Apparel Goods (March 24, 2006)

Norway

- Agreement on Procurement of Toll Equipment (April 26, 1990)

Oman

- United States-Oman Free Trade Agreement (January 1, 2009)

Panama

- Bilateral Investment Treaty (May 30, 1991)
- Agreement on Bilateral Trade Relations (1994)
- Agreement on Cooperation in Agricultural Trade (December 20, 2006)

- Agreement regarding Certain Sanitary and Phytosanitary Measures and Technical Standards Affecting Agricultural Products (December 20, 2006)

Paraguay

- Memorandum of Understanding on Intellectual Property Rights (March 30, 2004; renewed May 2006, April 2008)

Peru

- United States-Peru Trade Promotion Agreement (February 1, 2009)
- Memorandum of Understanding on Intellectual Property Rights (May 23, 1997)
- Exchange of Letters on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (January 5, 2006)
- Additional Letter Exchange on Sanitary and Phytosanitary Measures and Technical Barriers to Trade Issues (April 10, 2006)

Philippines

- Protection and Enforcement of Intellectual Property Rights (April 6, 1993)
- Agreement regarding Pork and Poultry Meat (February 13, 1998)
- Memorandum of Understanding with the Philippines Concerning Cooperation in Trade in Textile and Apparel Goods (August 23, 2006)

Poland

- Business and Economic Relations Treaty (August 6, 1994; amended May 1, 2004)

Romania

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Bilateral Investment Treaty (January 15, 1994; amended January 1, 2007)

Russia

- Trade Agreement Concerning Most Favored Nation and Nondiscriminatory Treatment (June 17, 1992)
- Joint Memorandum of Understanding on Market Access for Aircraft (January 30, 1996)
- Agreed Minutes regarding exports of poultry products from the United States to Russia

(March 15, March 25, and March 29, 1996)

- Agreement on Russian Firearms & Ammunition (April 3, 1996; amended 2003)

- Protocol of the Negotiations between the Experts of Russia and the United States of America on the Issue of U.S. Poultry Meat Imports into the Russian Federation (March 31, 2002)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Trade in Certain Types of Poultry, Beef and Pork (June 15, 2005; amended December 29, 2008)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Protection and Enforcement of Intellectual Property Rights (November 19, 2006)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Market Access for Beef and Beef By-Products (November 16, 2006)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Importation of Pork and Pork By-Products into the Russian Federation (November 19, 2006)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Inspection of Facilities for Exporting Pork and Poultry to the Russian Federation (November 19, 2006)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Agricultural Biotechnology (November 19, 2006)

- Agreement between the Government of the United States of America and the Government of the Russian Federation on Establishment of Import licensing Procedures for Imports of Goods Containing Encryption Technology (November 19, 2006)

- Exchange of Letters between the Government of the United States of America and the Government of the Russian Federation on Tariff Treatment of Certain Aircraft Imported Under Operational Lease (November 19, 2006)

- Exchange of Letters between the Ministry of Economic Development and Trade of the Russian Federation and the Office of the U.S. Trade Representative on Tariff Treatment of Certain Combine Harvester-Threshers and Self-Propelled Forage Harvesters (November 19, 2006)

- Letter on Market Access between the United States and the Russian Federation for Service Suppliers in Certain Energy Related Sectors (November 19, 2006)

- Letter on Market Access between the United States and the Russian Federation for Certain Insurance Firms (November 19, 2006)

Senegal

- Bilateral Investment Treaty (October 25, 1990)

Singapore

- Agreement on Intellectual Property Rights Protection (April 27, 1987)
- Agreement to Implement Phase I and Phase II of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (October 8, 2003)
- United States-Singapore Free Trade Agreement (January 1, 2004)

Slovakia

- Bilateral Investment Treaty (December 19, 1992; amended May 1, 2004)

Sri Lanka

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Bilateral Investment Treaty (May 1, 1993)

Suriname

- Agreement on Bilateral Trade Relations (1993)

Switzerland

- Exchange of Letters on Financial Services (November 9 and 27, 1995)

Taiwan

- Agreement on Customs Valuation (August 22, 1986)
- Agreement on Export Performance Requirements (August 1986)
- Agreement Concerning Beer, Wine, and Cigarettes (1987)
- Agreement on Turkeys and Turkey Parts (March 16, 1989)
- Agreement on Beef (June 18, 1990)

- Agreement on Intellectual Property Protection (June 5, 1992)
- Agreement on Intellectual Property Protection (Trademark) (April 1993)
- Agreement on Intellectual Property Protection (Copyright) (July 16, 1993)
- Agreement on Market Access (April 27, 1994)
- Telecommunications Liberalization by Taiwan (July 19, 1996)
- Unite States-Taiwan Medical Device Issue: List of Principles (September 30, 1996)
- Agreement on Market Access (February 20, 1998)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (March 16, 1999)
- Understanding on Government Procurement (August 23, 2001)
- Protocol of Bovine Spongiform Encephalopathy (BSE)-Related Measures for the Importation of Beef and Beef Products for Human Consumption from the Territory of the Authorities Represented by the American Institute in Taiwan (November 2, 2009)

Tajikistan

- Agreement on Bilateral Trade Relations (November 24, 1993)

Thailand

- Agreement on Cigarette Imports (November 23, 1990)
- Agreement on Intellectual Property Protection and Enforcement (December 19, 1991)

Trinidad and Tobago

- Agreement on Intellectual Property Protection and Enforcement (September 26, 1994)
- Bilateral Investment Treaty (December 26, 1996)

Tunisia

- Bilateral Investment Treaty (February 7, 1993)

Turkey

- Bilateral Investment Treaty (May 18, 1990)
- WTO Settlement Concerning Taxation of Foreign Film Revenues (July 14, 1997)

Turkmenistan

- Agreement on Bilateral Trade Relations (October 25, 1993)

Ukraine

- Agreement on Bilateral Trade Relations (June 23, 1992)
- Bilateral Investment Treaty (November 16, 1996)
- Agreement between the Government of the United States of America and the Government of the Republic of Ukraine on Sanitary and Phytosanitary Measures (February 21, 2007)
- Agreement between the U.S. and the Ukraine on Export Duties on Ferrous and Non-Ferrous Scrap Metal (February 22, 2007)

Uruguay

- Bilateral Investment Treaty (November 1, 2006)

Uzbekistan

- Agreement on Bilateral Trade Relations (January 13, 1994)

Vietnam

- Agreement between the United States and Vietnam on Trade Relations (December 10, 2001)
- Copyright Agreement (June 27, 1997)
- Exchange of Letters on Equivalence of Food Safety Inspection Systems (May 31, 2006)
- Exchange of Letters on Beef (May 31, 2006)
- Exchange of Letters on Biotechnology (May 31, 2006)
- Exchange of Letters on Energy Services (May 31, 2006)
- Exchange of Letters on Elimination of Prohibited Subsidies to Textile and Garment Sector (May 31, 2006)

- Bilateral Agreement on Export Duties on Ferrous and Nonferrous Scrap Metals (May 31, 2006)
- Exchange of Letters on Shelf Life (May 31, 2006)
- Acceptance of U.S. Certificates for Exports of Poultry Meat and Meat Products (May 31, 2006)
- Agreement to Implement Phase I of the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment (June 19, 2008)

II. Agreements that have been Negotiated but have not yet Entered into Force

Following is a list of trade agreements concluded by the United States since 1984 that have not yet entered into force.

Multilateral Agreements

- OECD Agreement on Shipbuilding (December 21, 1994; interested parties evaluating implementing legislation)
- International Tropical Timber Agreement (concluded January 27, 2006; when enters into force, it will replace the International Tropical Timber Agreement, 1997)
- International Coffee Agreement (concluded September 28, 2007; when enters into force it will replace the International Coffee Agreement, 2001)

Bilateral Agreements

Belarus

- Bilateral Investment Treaty (signed January 15, 1994; pending exchange of instruments)

Colombia

- United States-Colombia Trade Promotion Agreement (signed November 22, 2006; entry into force pending); Protocol of Amendment (signed June 28, 2007)

El Salvador

- Bilateral Investment Treaty (signed March 10, 1999; pending exchange of instruments)

Estonia

- Trade and Intellectual Property Rights Agreement (April 19, 1994; requires approval by Estonian legislature)

Korea

- United States-Korea Free Trade Agreement (signed June 30, 2007; approval pending)

Lithuania

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

Nicaragua

- Bilateral Investment Treaty (signed July 1, 1995; pending ratification by United States and exchange of instruments of ratification.)

Panama

- United States-Panama Trade Promotion Agreement (signed June 28, 2007; entry into force pending)

Russia

- Bilateral Investment Treaty (signed June 17, 1992; pending approval by Russian Parliament and exchange of instruments of ratification)

Uzbekistan

- Bilateral Investment Treaty (signed December 16, 1994; pending exchange of instruments)

III. Other Trade-Related Agreements and Declarations

Following is a list of other trade-related agreements and declarations negotiated by the Office of the United States Trade Representative from January 1993 through December 2009. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property and other issues among the signatories.

Multilateral Agreements and Declarations

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Free Trade Area of the Americas
- First Summit of the Americas, Declaration of Principles and Plan of Action, Miami, Florida (December 11, 1994)
- Trade Ministerial Joint Declaration, Denver, USA (June 30, 1995)
- Second Ministerial Trade Meeting Joint Declaration, Cartagena, Colombia (March 21, 1996)
- Third Trade Ministerial Meeting Joint Declaration, Belo Horizonte, Brazil (May 16, 1997)
- Fourth Trade Ministerial Joint Declaration, San Jose, Costa Rica (March 19, 1998)
- Second Summit of the Americas Declaration of Principles and Plan of Action, Santiago, Chile (April 19, 1998)
- Fifth Trade Ministerial Meeting, Declaration of Ministers, Toronto, Canada (November 4, 1999)
- Sixth Meeting of Ministers of Trade of the Hemisphere Ministerial Declaration, Buenos Aires, Argentina (April 7, 2001)
- Third Summit of the Americas Declaration of Principles and Plan of Action, Quebec City, Canada (April 22, 2001)
- Seventh Meeting of Ministers of Trade of the Hemisphere Ministerial Declaration, Quito, Ecuador (November 1, 2002)
- Eighth Ministerial Meeting, Ministerial Declaration, Miami, USA (November 20, 2003)

- Fourth Summit of the Americas Declaration of Mar Del Plata and Plan of Action, Mar del Plata, Argentina (November 5, 2005)
- Fifth Summit of the Americas Declaration of Commitment of Port of Spain, Trinidad and Tobago (April 19, 2009)
  - Asia Pacific Economic Cooperation
- Declaration of Common Resolve (November 15, 1994)
- Declaration for Action (November 19, 1995)
- Declaration on an APEC Framework for Strengthening Economic Cooperation and Development (November 22-23, 1996)
- Declaration on Connecting the APEC Community (November 25, 1997)
- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Declaration: the Auckland Challenge (September 13, 1999)
- Declaration: Delivering to the Community (November 16, 2000)
- Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- Declaration: Leaders Declaration (October 27, 2002)
- Declaration: Partnership for the Future (October 21, 2003)

- Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)
- United States-Andean Community Trade and Investment Council Agreement (October 30, 1998)
- United States-Central American Regional Trade and Investment Framework Agreement (March 20, 1998)
  - United States-Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)

Bilateral Documents and Declarations

Afghanistan

- United States-Afghanistan Trade and Investment Framework Agreement (September 21, 2004)

Algeria

- United States-Algeria Trade and Investment Framework Agreement (July 13, 2001)

Angola

- United States-Angola Trade and Investment Framework Agreement (May 19, 2009)

Argentina

- Bilateral Council on Trade and Investment (February 2002)

Association of Southeast Asian Nations (ASEAN)

- United States-Asean Trade and Investment Framework Agreement (August 5, 2006)

Bolivia

- Agreement between the Government of the United States of America and the Government of the Republic of Bolivia concerning a United States-Bolivia Council on Trade and Investment (May 8, 1990)

Brazil

- Bilateral Consultative Mechanism (June 25, 2001)

Brunei Darussalam

- United States-Brunei Darussalam Trade and Investment Framework Agreement (December 16, 2002)

Cambodia

- United States-Cambodia Trade and Investment Framework Agreement (July 14, 2006)

Caribbean Common Market

- United States-Caribbean Common Market Trade and Investment Framework Agreement (1991)

Central Asian Economies

- United States-Central Asian Trade and Investment Framework Agreement (June 1, 2004)

China

- United States-China Joint Commission on Commerce and Trade Agreements (April 21, 2004)
- United States-China Joint Commission on Commerce and Trade Agreements (July 11, 2005)

Common Market for Eastern and Southern Africa

- United States-Common Market for Eastern and Southern Africa Trade and Investment Framework Agreement (October 2001)

East African Community

- United States-East African Community Trade and Investment Framework Agreement (July 16, 2008)

Ecuador

- Agreement between the Government of the United States of America and the Government of the Republic of Ecuador concerning a United States-Ecuador Council on Trade and Investment (July 23, 1990)

Egypt

- United States-Egypt Trade and Investment Framework Agreement (July 1, 1999)

European Union

- United States-EU Transatlantic Economic Partnership (May 18, 1998)
- United States-EU Joint Action Plan for the Transatlantic Economic Partnership (November 9, 1998)

Georgia

- United States-Georgia Trade and Investment Framework Agreement (June 20, 2007)

Ghana

- United States-Ghana Trade and Investment Framework Agreement (February 26, 1999)

Iceland

- United States-Iceland Trade and Investment Cooperation Forum Agreement (January 15, 2009)

Indonesia

- United States-Indonesia Understanding on a Trade and Investment Council (July 16, 1996)
- Memorandum of Understanding on Combating Illegal Logging and Associated Trade (November 16, 2006)

Iraq

- United States-Iraq Trade and Investment Framework Agreement (July 11, 2005)

Japan

- United States-Japan Joint Statement on the Bilateral Steel Dialogue (September 24, 1999)
- Exchange of Letters between the United States and Japan—Letters Regarding Electro-Magnetic Compatibility (EMC) Testing of Unintentional Radiators and Industrial Scientific and Medical (ISM) Equipment (February 26, 2007)

Kuwait

- United States-Kuwait Trade and Investment Framework Agreement (February 6, 2004)

Lebanon

- United States-Lebanon Trade and Investment Framework Agreement (November 30, 2006)

Liberia

- United States-Liberia Trade and Investment Framework Agreement (February 15, 2007)

Malaysia

- United States-Malaysia Trade and Investment Framework Agreement (May 10, 2004)

Maldives

- United States-Maldives Trade and Investment Framework Agreement (October 17, 2009)

Mauritius

- United States-Mauritius Trade and Investment Framework Agreement (September 18, 2006)

Mongolia

- United States-Mongolia Trade and Investment Framework Agreement (July 15, 2004)

Mozambique

- United States-Mozambique Trade and Investment Framework Agreement (June 21, 2005)

New Zealand

- United States-New Zealand Trade and Investment Framework Agreement (October 2, 1992)

Nigeria

- United States-Nigeria Trade and Investment Framework Agreement (February 16, 2000)

Oman

- United States-Oman Trade and Investment Framework Agreement (July 7, 2004)

Pakistan

- United States-Pakistan Trade and Investment Framework Agreement (June 25, 2003)

Paraguay

- Joint Commission on Trade and Investment (September 26, 2003)

Philippines

- United States-Philippines Trade and Investment Framework Agreement (1989)

Qatar

- United States-Qatar Trade and Investment Framework Agreement (March 19, 2004)

Rwanda

- United States-Rwanda Trade and Investment Framework Agreement (June 7, 2006)

Saudi Arabia

- United States-Saudi Arabia Trade and Investment Framework Agreement (July 31, 2003)

South Africa

- United States-South Africa Trade and Investment Framework Agreement (February 18, 1999)

Southern Africa Customs Union

- United States-Southern Africa Customs Union Trade, Investment, and Development Cooperative Agreement (July 16, 2008)

Sri Lanka

- United States-Sri Lanka Trade and Investment Framework Agreement (July 25, 2002)

Switzerland

- United States-Switzerland Trade and Investment Cooperation Forum Agreement (May 25, 2006)

Taiwan

- United States-Taiwan Trade and Investment Framework Agreement (September 19, 1994)

Thailand

- United States-Thailand Trade and Investment Framework Agreement (October 23, 2002)

Tunisia

- United States-Tunisia Trade and Investment Framework Agreement (October 2, 2002)

Turkey

- United States-Turkey Trade and Investment Framework Agreement (September 29, 1999)

United Arab Emirates (UAE)

- United States-United Arab Emirates Trade and Investment Framework Agreement (March 15, 2004)

Uruguay

- United States-Uruguay Bilateral and Commercial Trade Review (May 20, 1999)
- Joint Commission on Trade and Investment (January 25, 2007)
- United States-Uruguay Trade and Investment Framework Agreement (January 25, 2007)
    - i. United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade and Environment Public Participation (October 2, 2008)
    - ii. United States-Uruguay Trade and Investment Framework Agreement Protocol Concerning Trade Facilitation (October 2, 2008)

Vietnam

- United States-Vietnam Trade and Investment Framework Agreement (June 21, 2007)

West African Economic and Monetary Union

- United States-West African Economic and Monetary Union Trade and Investment Framework Agreement (April 24, 2002)

Yemen

- United States-Yemen Trade and Investment Framework Agreement (February 6, 2004)